

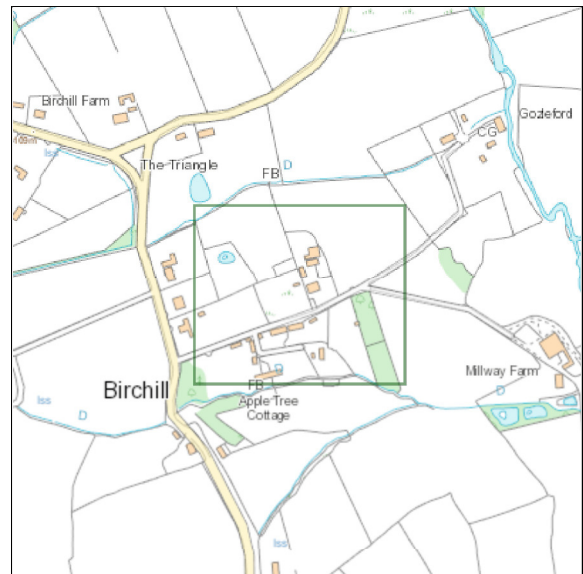
Ward Yarty

Reference 19/2700/FUL

Applicant Mr Michael Summerhayes

Location Land Adjacent Sunnyside Birchill

Proposal Construction of building for the storage of forestry equipment and machinery



RECOMMENDATION: Approval with conditions

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		Committee Date: 18th May 2020
Yarty (Chardstock)	19/2700/FUL	Target Date: 09.03.2020
Applicant:	Mr Michael Summerhayes	
Location:	Land Adjacent Sunnyside Birchill	
Proposal:	Construction of building for the storage of forestry equipment and machinery	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

The application is before the Committee as the recommendation differs from the views of the Ward Member.

The proposed storage building is to provide improved storage arrangements for equipment and machinery for a local tree management company, the owner of which lives near the site. The site is a small agricultural field in the settlement of Birchill which is located amongst a small group of dwellings and accessed via a private lane, along which runs a public footpath. It is in a countryside location within the Blackdowns AONB. The storage building would be set back from the lane in a corner of the field, adjacent to a dwelling known as Sunnyside.

Objections from the Parish Council, Ward Member and several neighbours raise concerns about the impact of the proposal on the character of the area, neighbouring amenity, wildlife, landscape, surface water drainage and the condition and safety of the footpath, which runs over an unbound surface. There are also concerns that waste associated with tree management would be processed on the site with resultant noise and smell impacts and fire risk.

Strategy 7 of the Local Plan resists development in the countryside unless specific policy support for it exists. Policy E5 (Small Scale Economic Development in Rural areas) supports economic development where it is small scale, provides local jobs near where people live and reduces out-commuting, subject to a number of other provisos. The proposal is considered to be small scale and likely to reduce out-commuting because the application site is closer to the company owner's home than his current storage facility and also because he has no security of tenure at that facility, so potentially he may have to relocate his store to another location in future, which could be further away. In addition, through supporting a local business, the proposal potentially makes jobs available to local people.

The private lane already serves 9 dwellings and a farm and it is considered that with conditional controls in place to prevent sales at and deliveries to the site, traffic movements to and from the application site would be unlikely to significantly add to existing traffic movements or to impact on highway safety or the amenity of the footpath. Vehicles leaving the site would be slowed due to having to turn and are unlikely to be travelling at speed, so it is considered that their inter-visibility with pedestrian traffic on the footpath is adequate for safety.

With conditions imposed to limit the use of the site to the storage and to prohibit waste processing/waste storage, in addition to conditions controlling external materials of the building, light pollution, drainage, wildlife protection and the protection and enhancement of the landscape, it is considered that the proposal would not have unduly harmful impacts on neighbouring amenity, wildlife or the character and appearance of the area of the AONB.

Overall it is considered that the economic and sustainability benefits of reducing out-commuting and supporting a small scale business outweigh any other considerations such that overall the proposal represents sustainable development.

CONSULTATIONS

Local Consultations

Parish/Town Council

31.1.20

Council's recommendation of refusal remains unaltered especially as the new application proposes a building with a footprint some 90% larger than the previous proposal. Council also questions the veracity of the answers provided in the application as no details have been given in relation to the surface water soak-away, nor the issue of trade waste disposal which will inevitably arise when the site is used as a commercial base for chipping, burning and other activities relating to tree surgery, that have already been notified to Council.

Council also wishes to query the definition of forestry in relation to the classification of agricultural use as this appears to be a commercial tree surgery operation and Council is somewhat concerned that this is a rather tenuous interpretation of Forestry, being "the science of planting and taking care of large areas of trees" as opposed to the selective maintenance of individual trees in multiple locations for multiple clients.

Council reiterates its earlier comments regarding potential for noise and nuisance from fumes, increased traffic volumes due to staff and materials movement and the issues of pedestrian safety on the adjacent public footpath.

Further comments 19.3.20:

Clerk To Chardstock Parish Council

Council does NOT support this application as amended.

Yarty - Cllr Paul Hayward

31.1.20

In accordance with the guidance laid down in the LGA "Probity in Planning" advice, and as a current member of the Development Management Committee (DMC), I must state that I will only be in a position to take a final decision after having heard all the relevant arguments and having taken into account all relevant material and planning considerations if this application ultimately comes before the DMC for their decision.

However, at this point in time, and upon review of the papers associated with the application, and the comments made by the parish council and residents nearby, I would recommend refusal on the grounds that the harm to the landscape, the enjoyment of land nearby and the potential commercialisation of this piece of land far outweighs the benefits of permitting this development to proceed. Like the parish council, I too have reservations as to whether the current commercial activities of the applicant fall under the specific definition of forestry and thus allow this application to be considered under the grounds of agricultural use; this area of land previously having been a garden to a neighbouring property.

Further comments 26.3.20:

I feel unable to support this application at the present time, given the location of the site within the AONB, the nature of the commercial activities proposed and the significant local opposition to the proposals from residents and parish councillors alike. I would ask that the decision for this application be referred to the DMC for their consideration and decision.

In accordance with the guidance laid down in the LGA "Probity in Planning" advice, and as a current member of the Development Management Committee (DMC), I must state that I will only be in a position to take a final decision after having heard all the relevant arguments and having taken into account all relevant material and planning considerations if this application ultimately comes before the DMC for their decision.

Technical Consultations

Devon County Highway Authority

Observations:

Due to the current Covid-19 pandemic conditions the County Highway Authority (CHA) has not been able to visit the site and the following comments are made from a desktop review and digital information available to it.

The junction of the C134 Birchill Road/Unnamed Access Track would appear from Google Street View to be suitable for the proposed development and the traffic it would attract.

It would appear from Google Aerial View that the existing access to the development site is adequate for the proposed development and the traffic it would attract.

It is noted from the Agents letter dated 11/03/2020 that the applicant is suggesting conditions as discussed with the Planning Officer to limit the amount of traffic attracted to the site to merely the storage of forestry equipment and machinery. The CHA agrees with these proposed conditions.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT THE FOLLOWING CONDITIONS SHALL BE INCORPORATED IN ANY GRANT OF PERMISSION

1. Use for Storage of forestry equipment and machinery only - as opposed to general B8 business use.
2. Restricting any sales from site.

Officer authorised to sign on behalf of the County Council

EDDC Trees

19.2.20:

I have no objection in principle to this development however I do have the following observations -

- there is a TPO'd tree on site and the removal of the old shed will require a AMS and then TPP during construction.
- to enhance the agricultural use of the site, it would be good to see an enhancement of the hedges around the boundary with native species and a few hedge row trees to off set the landscape implication

Further comments 17.3.20:

As previously noted the submission of a TPP and AMS will be required to address the tree and shrub species growing in the adjacent northern and western boundaries. The restoration of these boundaries with new shrub and tree planting will be needed to secure suitably robust screening between the proposed building and the neighbouring property to the east.

Blackdown Hills AONB Project Partnership

6.2.20:

Construction of building for the storage of forestry equipment and machinery, land adjacent Sunnyside, Birchill

Thank you for requesting comments from the Blackdown Hills AONB Partnership on this application.

The AONB Partnership supports its local planning authorities in the application of their development management policy framework in order to ensure that any development in the AONB conserves and enhances the natural beauty and special qualities of this nationally designated landscape. This is supported by the Blackdown Hills AONB

Management Plan 2019-24 which contains the following policy of particular relevance to development proposals:

Planning and development PD2

All necessary development affecting the AONB will conserve and enhance natural beauty and special qualities by:

Respecting landscape character, settlement patterns and local character of the built environment,

Being sensitively sited and of appropriate scale,

Reinforcing local distinctiveness, and

Seeking to protect and enhance natural features and biodiversity

Applications for commercial development in the AONB do require careful consideration to ensure that they contribute to conserving and enhancing the natural beauty of the area and are not detrimental to the AONB's special qualities. Particular considerations for this proposal in relation to conserving and enhancing the AONB include:

- o Clarity on intended use of proposed building and use of application site; the description refers to forestry equipment but the business seems to be tree surgery. There is reference to the plot being deemed agricultural, but local representations refer to chipping taking place on site, and the business website refers to chipping and logs supply.

- o Access to the site over a track which is a public footpath could cause conflict with people using the footpath and their enjoyment of the AONB

In order to conserve and enhance natural beauty and the special qualities of the area, if the planning authority is minded to approve this application the AONB Partnership would like to see conditions attached that would ensure the retention and management of trees and hedges around and within the site. In addition, external lighting should be carefully controlled alongside steps to minimise light spill from internal lighting, such as through the rooflights. Given the proximity to both residential properties and the public footpath, it is anticipated that the use of the building and the site should be appropriately controlled, thus also helping to conserve local character.

Further comments 31.3.20:

Thank you for advising the Blackdown Hills AONB Partnership of amended plans/additional information in respect of this application.

To add to our original observations, the reduction in site area is noted as helping to better define and control use of the site, and in this regard the suggested conditions are welcomed.

Other Representations

7 representation have been received raising the following issues:

- The proposal would detract from the rural, undeveloped and open character of the site, would fail to conserve the natural beauty of the AONB and would be at odds with the area, where development is only sporadic;

- Compared to the existing agricultural use of the site, a commercial use would be more intensive and intrusive and thus inappropriate, as it would impact on the undeveloped quiet rural character of the area and the Blackdowns AONB;
- The proposal development would be more appropriate on an industrial estate (sites are available);
- There is no justification for this new building in the countryside, which is significantly larger than the current shed and greenhouse, would have a greater visual impact than these buildings and would be visible from the lane, particularly as some vegetative screening has been removed;
- The building and the extensive use of concrete would be out of keeping with the rural nature of the area and the traditional thatched and stone dwellings around it;
- The building would be obtrusive to nearby dwellings, would block light reaching an adjacent property and impact on its privacy;
- The proposal would generate a need to travel to and from the site and would be unsustainable;
- Any increase in traffic on the lane (which could include employees and increase over the estimated 10 movements a week) would represent a significant increase and would damage the surface of the unmade public footpath and cause an increase in noise (including early in the mornings), which would be unacceptable in this area;
- the forecast traffic movements are unrealistic and could not be controlled by condition;
- Noise pollution and nuisance would be caused to neighbouring dwellings, including through the use of a chipper and chainsaws (which has already occurred);
- Burning at the site would pose a fire risk (there have already been fires on site which pose a risk to nearby thatched buildings);
- Air pollution and nuisance would be caused by burning of waste materials which would impact on local amenity;
- There are no toilet facilities proposed and the proposed use of the building would therefore be unsanitary;
- Due to the impermeable surfaces introduced, underlying clay at the site and the land gradient the proposal would cause flooding and drainage problems, with surface water flowing towards neighbouring properties and the lane, further damaging it;
- Due to the increased traffic on the lane, the proposal would impact on the safety of the users of a popular public right of way, particularly as the visibility from the site onto the footpath is obscured and the path is unlit;
- Wildlife would be harmed;
- Some hardstanding has already been placed near the site entrance without permission;
- The suggested conditions referred to in the additional information will not be enforceable.

The following concerns raised do not relate to material planning considerations for this proposal, for the reasons given in brackets:

- Vegetation clearance has already taken place (this does not constitute development for which planning permission is required);
- Fencing has been erected and the access and gates widened with various impacts (the fencing and widened gate are permitted development in this case and impacts arising from these works cannot be considered through this application);

- Uses have taken place at the site previously/and are currently taking place (where these are not part of the proposal they cannot be considered through this planning application);
- There is potential for damage to a privately owned access lane (this is a civil rather than a planning matter);
- Alteration of the view from private property (a view from private property is not a planning consideration);
- No information is provided on what is to happen to the land within the field adjacent to the site (this land and its use are not part of the proposed development so this was not required).
- The planning notice was not erected in an appropriate place as it was on the opposite side of the lane to the site (the notice was on public display near the site as required and included a plan indicating the location of the site).

PLANNING HISTORY

Reference	Description	Decision	Date
19/1715/FUL	Erection of equipment store and hardstanding to replace existing shed and greenhouse.	Withdrawn	2.10.2019
14/1597/FUL	Construction of a dwelling	Refuse (Appeal dismissed)	30.09.2014
99/P0386	Erection Of Cottage	Refused	15.4.1999

POLICIES

Adopted East Devon Local Plan 2013-2031 (LP)

Strategy 7 (Development in the Countryside)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

EN5 Wildlife Habitats and Features

EN14 (Control of Pollution)

EN22 (Surface Run-Off Implications of New Development)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

TC2 (Accessibility of New Development)

TC4 (Footpaths, Bridleways and Cycleways)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

E5 (Small Scale Economic Development in Rural Areas)

Chardstock Neighbourhood Plan (Made) (NP)

CPNP 01 Sustainable development

CPNP03 Protecting the built environment

CPNP 04 Protecting the natural environment

Government Planning Documents

NPPF (National Planning Policy Framework 2019)

National Planning Practice Guidance

Other Documents

The Blackdown Hills AONB Management Plan 2019-2024

Site Location and Description

The application area has been reduced in size since the application was first submitted so that it does not cover the whole of the field.

The site is a rectangular area at the eastern end of a small field (rather than the whole field, as previously shown) and is understood to have previously been part of a garden. Its former residential use having ceased, it is considered to have reverted to agricultural use, given that land no longer within another use class reverts to agricultural/forestry use by default.

The land within the site slopes down to the east, is currently laid to grass and contains a greenhouse. The site lies immediately west of the dwelling known as Sunnyside and immediately east of the garden of the dwelling known as Mardale, although Mardale itself lies further away from the site at the western end of its large garden.

The site is located on the northern side of a shared access lane and has a double gated access opening on to it. The lane has an unbound surface and a public footpath runs over it. Further dwellings lie south of the lane. Within the small field to the immediate west of the site lies a small shed and a tree subject to a Tree Preservation Order. A hedge along the southern boundary of the field partially screens the application site from the lane. A post and wire fence encloses the small field within which the site is located. At the date of the site visit a caravan was also present within the site.

The wider context of the site is a small cluster of dwellings and a farm complex to the southeast, with agricultural land beyond.

The site is outside of any Built-Up Area Boundary and is in the countryside in planning terms. It lies within the Blackdowns AONB.

Proposal

The proposal is for the construction of a building for the storage of forestry equipment and machinery. The proposed building measures 4m to the ridge, 3m to eaves with a footprint of 5.46m by 14.4m. The walls will be steel clad with a fibre cement roof.

Comments have been made that the proposal is not within a forestry/woodland but the submitted planning statement makes clear that the applicant's business is Axe Tree Services and that the proposed storage use relates to the operation of that business, rather than the storage of equipment for maintaining the land within the site.

The application has been assessed on the basis that the existing land use is agricultural and that the proposal is for the erection of a building (and adjacent hardstanding) for a small scale commercial use, i.e. storage relating to a tree management business. It is noted that the proposed use is for storage rather than a workshop use or for processing forestry, woodland or other materials or waste arising in connection with the work undertaken by the business.

The removal of the shed and existing materials at the site do not require planning permission and are not within the scope of the application.

A planning statement, additional supporting information and an ecological assessment are provided in support of the application.

The application follows the withdrawal of a previous application for a similar proposal, albeit with a slightly smaller building of a slightly different design.

ANALYSIS

The main issues arising include the principle of the proposal and economic impact, travel, amenity, highway safety, public rights of way, impact on wildlife and visual impact.

Principle and economic impact

Although the site is in the countryside where development is restricted, LP Policy E5 and Chardstock Neighbourhood Plan Policy 01 supports small scale economic development in rural areas (excluding retail), which provides jobs for local people, in certain circumstances.

Where such proposals are on a greenfield site (i.e. it is not previously developed land, as in this case) it is supported in principle by Policy E5 of the Local Plan where it is well related in scale and form and in sustainability terms to the village and surrounding areas. The preamble to the policy explains that small scale economic development in

rural areas is needed to reduce out commuting and that this will provide sustainable employment growth and provide premises close to where people live.

The agent indicates that the business could provide work for the applicant and up to 3 other employees. From the applicant's address in Smallridge it is apparent that he lives approximately 2 miles from the site by road, and this is considered to be local to the site in terms of Policies E5 and 01 given the lack of any definition of 'local' in relation to these policies. At least 1 local job would therefore be supported by the proposal and several other jobs would potentially be available to local people.

The application explains that the proposed building would support the business through providing secure, adequate, under-cover storage and security of tenure, which are not provided by the premises he currently uses, which is rented. The applicant's business and the proposed storage building are considered to be small scale and through providing a better storage facility for the business, the proposal would support economic development in the local rural area. If permitted, a condition tying the building to the specific use applied for (i.e. storage of tree/forestry management equipment and machinery only) would ensure that permitted development rights, which might otherwise allow changes to alternative uses (which may not contribute to the local economy) do not apply.

The further requirements of Policy E5 relating to travel, visual impact, highway capacity and safety, amenity and wildlife are addressed under separate headings below.

Travel

The applicant currently travels to a site 3 miles from his home to a rented storage facility, used in connection with his tree management business. He has no security of tenure at that site and if that facility ceases to be available there is a risk that he would need to relocate his equipment to another facility further away. He lives 2 miles (by road) from the application site and relocating his store there would reduce his current out commuting, given that this site is closer to his home. Relocation to a site in his ownership would also eliminate the risk that the applicant may have to use a storage facility which is further away, in future, thus the proposal reduces the risk of the increased out-commuting in future.

The locations of the work sites where tree work is carried out by the business are likely to vary in their distance from the existing storage facility. It is unlikely to be economical for the business to take on work at sites far away from any store facility used by the business, due to the higher travel costs that would arise. Given the variability in the location of work sites and the economic constraint on the location of worksites, it is not considered that the proposed location of the store would be less sustainable than that of the existing store, in relation to travel between the storage facility and work sites.

Taking all the points above into account it is considered that the proposal would be sustainably located in relation to the applicant's home/business and would reduce the need to travel and that the proposal accords with the requirements of LP Policy E5 and NP CPNP01 and LP Policy TC2 in relation to travel.

Amenity

The proposed storage use is considered unlikely to generate any overlooking of neighbouring dwellings that could not in any case arise from the site when used in connection with its existing agricultural use.

Noise could potentially arise from comings and goings or equipment being taken in or out of the building (and loading/unloading of vehicles), however the proposed storage use is likely to be sporadic, short lived and similar in nature to the noise generated in connection with the occupation of nearby dwellings.

The supporting statement indicates that equipment would be maintained at the site and whilst certain maintenance activities would have a negligible impact on local amenity, regular or prolonged operation of powered equipment would be likely to be disturbing and to alter the generally peaceful rural character of the area. In response to the Local Planning Authority's query regarding whether powered equipment would be run at the site, the agent has confirmed that this would only be likely to occur for a few minutes on rare occasions. It is considered unreasonable to prevent powered equipment being run at the site for occasional maintenance, as this would be unlikely to give rise to an unacceptable noise impact and it is important to note that the proposal is for a storage building rather than a workshop (where powered machinery could be used frequently and for long periods). The use of the building for storage could be secured through the imposition of a planning condition and the carrying out of occasional maintenance ancillary to the storage of equipment would be unlikely to breach such a condition. If the maintenance use were to evolve beyond storage to a mixed use or another use, however, this would be a breach of the condition/require planning permission and potentially enforcement action could be taken against it.

Whilst not part of the proposal, objectors raise concerns about waste storage and processing of forestry materials at the site e.g. chipping, burning vegetation/wood or producing logs, and the impacts that would arise from this e.g. noise, smell and fire risk. To ensure unassessed impacts from these activities could not arise, it is recommended that in the case that permission is granted, conditions be imposed to prevent the processing of wood, bark or vegetation at the site (including cutting, chopping, shredding and burning). The applicant has indicated he is agreeable to this approach.

An objector also raises a concern that the building would impact on the light reaching Sunnyside, the neighbouring dwelling, but due to the orientation, location (approximately 12m away) and scale of the proposed building (3m to eaves and 4m to ridge) relative to that dwelling, it is not considered that a significant impact on natural light reaching it (or its garden) would be likely to occur.

Taking the above points into account together with controls which can be imposed on any permission granted, it is not considered that unacceptable amenity impacts would be likely to arise from the proposal and that it would accord with LP strategy 46 and policies D1, E5 and EN14 and NP CPNP03.

Highway Issues

LP TC7 and NP CPNP01 require that the traffic generated by development is not detrimental to local highway infrastructure.

The agent indicates that there would be around 10 journeys to and from the site each week. Further details have been sought on the work pattern that would cause 10 journeys to arise, given that a daily collection and drop off of equipment from/to the site each weekday would generate a total of 20 journeys in a week. Information has also been sought on whether employees would also make journeys to the site.

In response, the agent has confirmed that 10 journeys a week is an anticipated average figure and that the actual number of journeys would differ from week to week, depending on the work being undertaken and the equipment needed e.g. for some jobs, equipment would not need to be returned to the store at the end of each workday. It has also been explained that much of the time, the site would just be accessed by the applicant, but on occasion another employee may also visit the site in a separate vehicle. It is acknowledged that precise information on the number of vehicle movements likely to be generated by this proposal has not been provided and that, given the nature of the applicant's business, this is difficult to accurately predict. It would similarly be difficult to control journeys to and from the site through a planning condition. Given the nature of the proposal, however, i.e. as a store for use by a small business which conducts its main work away from the site, with a small number of employees and without the need for customers to visit the site or deliveries to it, it is considered that traffic movements associated with it are unlikely to represent a significant increase on existing traffic movements on the lane and its access onto the public highway, noting that this is currently used by vehicles associated with 9 dwellings and a farm.

A condition could be imposed to prevent sales from the site or deliveries to it, to ensure traffic associated with the site is limited. The Highway Authority's comments agree with this view and the recommended conditions. It is therefore considered unlikely that the traffic movements to and from the site would harm the safety of the existing access onto the highway network or significantly add to traffic flows on that network and that as such that the proposal accords with the policies listed above.

Public Rights of Way

Traffic entering and leaving the site from the highway would travel over a length of public footpath (Chardstock 46) running along the aforementioned lane and objectors raise a concern regarding the potential impacts of this on the safety and condition of the footpath. LP Policy TC4 seeks to retain public footpaths, bridleways and cycleways and to protect their attractiveness and convenience. Devon County Council's Rights of Way officer has been consulted on the proposal however no comment had been received, although Devon County as Highway Authority have not raised a concern on this ground.

The proposal could impact on the views from the footpath or convenience of its use e.g. through users having to be extra vigilant or having to give way to traffic, but as there is already a field gate, the footpath is already crossed with vigilance required.

The impact on the attractiveness of the path due to the visual impact of the proposal is likely to be relatively minor, given that the site is in an area of scattered residential development and that limited views of the site and the proposed building would be available due to existing vegetative screening. Landscaping to improve the appearance of the site is however considered reasonable to mitigate for this minor impact and is discussed in detail under 'Visual Impact' below.

With regard to the convenience and safety of the footpath, the lane over which the footpath runs is used by vehicular traffic accessing 9 nearby dwellings and a farm to the southeast, and as discussed under 'Highways Issues' above, it is not considered that the traffic associated with the proposal represents a significant increase on the existing level of traffic. It is therefore not considered that path users would be unduly inconvenienced by traffic using the lane or that the level of traffic would make the path less attractive. Vehicles moving from the application onto the lane are likely to be moving slowly, given the degree of turn necessary and the unsurfaced nature of the lane, and considering the relative speed of footpath users and vehicles, it is considered that there would be reasonable inter-visibility them that the safety of the footpath would not be compromised. Overall therefore it is not considered that the proposal would adversely impact the public footpath.

The potential impact of surface water run-off from the site on the public footpath surface is discussed under 'other issues' below.

Impact on wildlife

The Ecological Assessment report has been criticised by an objector on the grounds that its assessment of risks to badgers, a protected species, was inadequate. The objector states that there are two setts near the site rather than one (as stated in the report) and that the post and wire fencing erected around the edges of the site prior to the assessment could restrict badger movements onto the site. The objector claims that that the effect of this is that the assessment's conclusion that the wider site has negligible value for badger foraging is flawed. The erection of the fencing was carried out as 'Permitted Development'.

It is accepted that the application site could have played a role for badger foraging before the fencing was erected, particularly given the proximity of the a sett (or setts), however whether it did or not is not known with certainty. The possibility that the fencing restricts badger foraging does not weigh against the proposal as the fencing is not part of it. If the fencing does not restrict badger foraging, the fact that the assessment found negligible evidence of badger foraging in the site area indicates that the proposed development on the site would have a negligible impact on foraging. If the fencing does restrict badger foraging, however, then as its presence is now a fact, the fencing would tend to negate any further impact on badger foraging that could result from the proposal. Due to this, it is not considered that reliance on the assessment's conclusion would lead to an oversight of the impact of the development on badger foraging.

The assessment identifies and maps sett entrances and recommends various mitigation in relation to badgers, including that the proposed development be located at least 20m away from the surveyed sett area and the summary and conclusions

section of the assessment indicates that location of the building relative to the sett would not contravene the Badger Act 1992. The further mitigation described in the report in relation to badgers is considered adequate irrespective of whether there is one sett or two, as the whole of the visible sett or setts area near the site has been surveyed and mapped and taken into account in the assessment.

The report also proposes mitigation with regard to other wildlife including bats, hedgehogs, breeding birds, great crested newts and reptiles. It is recommended that if permission is granted, a condition should require this mitigation to be carried out, as far as it relates to the proposed development (i.e. noting that the removal of the shed and any other equipment and materials from outside of the site area are not part of the development subject to this application). With conditions imposed as recommended above, it is considered that the proposal would accord with LP Policy EN5 and NP CPNP04.

Visual Impact

As pointed out by objectors, the proposed building would be visible from the lane although it would be partly screened from some viewpoints by the existing hedge along the southern edge of the field within which the site is located. It is acknowledged that the building would be larger than the existing greenhouse (which it would replace) and the shed at the site and that in conjunction with the proposed hardstanding, its erection would cause the site to appear more developed, however the building would be set back from the lane and it is relatively small scale.

It would also be experienced in the context of other scattered development nearby so the effect of it making the site appear developed is considered to be minor. The building would not have a domestic appearance, having instead a simple, utilitarian appearance similar to that of a small scale agricultural building. As a result it is not considered that the proposal would harm the AONB.

Whilst it would be located near the dwelling known as Sunnyside, it is not considered that it would appear particularly at odds with it due to its small scale and the fact that it would also be seen in the context of a small field, where it would not be unusual to see a small scale building of agricultural character. Due to its height and position, it is not considered that the building would be overbearing or overwhelming to the dwelling, as an objector suggests. A condition could be imposed to ensure that the appearance of the building is simple and visually recessive.

The Tree Officer and AONB Partnership recommend that tree and hedge vegetation around the site be retained, enhanced and managed and it is considered that this would be suitable mitigation for the slightly more developed appearance of the site which would result from the proposal. It is recommended that a condition be imposed to require necessary tree and hedge protection and the retention, enhancement and management of tree and hedge boundary vegetation, taking account of the relevant recommendations within the Ecological Assessment.

Although the tree officers suggest that measures be required to protect the TPO tree during the demolition of the shed and measures to protect tree and hedge vegetation at the western boundary of the field during construction works, it is not considered

reasonable to require these measures as the demolition of the shed does not require planning permission due to its small scale (and its demolition is not part of the application) and the western boundary is some distance away from the application site.

With controls on external materials and a requirement for a landscaping retention, enhancement and management scheme, it is considered that the visual impact of the development would be suitably mitigated so that it would be acceptable and in accordance with the requirements of LP Strategy 46 and policies D1, E5 and NP CPNP 03.

Other issues

Objectors have raised concerns regarding surface water drainage and it is noted that the proposal would introduce an area of impermeable roof and potentially an area of impermeable surfacing around the building which could generate run off. An objector also indicates that underlying clay would make drainage within the site difficult. It is considered that the attenuation of surface water flow should nevertheless be possible even if this is the case and that it is only reasonable to require that surface water drainage from the development be no worse than that which would arise from the site in its current state, with whatever underlying soil is present. To ensure that surface water flowing off proposed impermeable surfaces does not unduly impact on neighbouring land and the surface of the adjacent public footpath it is recommended that a condition be imposed to require details of surface water drainage measures in relation to those surfaces, in the case that permission is granted.

As indicated by the AONB team, the use of external and internal lighting at the site has the potential to harm the character of this rural area and the AONB. It is recommended that a scheme for the minimisation of light pollution be required if the application is approved, to ensure that the proposal accords with LP strategy 46 and policies E5 and EN14 and CPNP03.

Policy E5 requires on site renewable energy be produced in order for small scale business development in rural areas to be considered acceptable. However in this case it is considered that the development has a limited visual impact and that this could be compromised by the addition of renewable technologies to the building or within the site. Policy E5 also requires that buildings meet sustainable construction, although it does not stipulate the standard to be achieved. The proposed building would make use of natural light entering via rooflights and it is therefore considered that the building is sustainable with regard to reducing the energy demand for lighting. Given the proposed use of the building as a store for machinery, it is in any case considered that the energy demand associated with the building is likely to be low.

An objector indicates that the use of the building would be unsanitary as no toilet facilities are present, however it is not considered that such a facility would be necessary within the building as it is unlikely to be occupied by people for much of the time. In the event that the operator considers facilities are needed, portable or other facilities could be installed and it is not considered that a condition is necessary to address this issue.

CONCLUSION

Strategy 7 of the Local Plan resists development in the countryside unless specific policy support for it exists. Policy E5 of the Local Plan supports economic development where it is small scale, provides local jobs near where people live and reduces out-commuting, subject to a number of other provisos. Policy 01 of the Neighbourhood Plan also supports local businesses in rural areas. The proposal is considered to be small scale and likely to reduce out-commuting whilst supporting a local business. As such the principle of development is considered to be acceptable.

The access already serves 9 dwellings and a farm and it is considered that with conditional controls in place to prevent sales at and deliveries to the site, traffic movements to and from the application site would be unlikely to significantly add to existing traffic movements or to impact on highway safety or the amenity of the adjoining public footpath.

With conditions imposed to limit the use of the site to the storage and to prohibit waste processing/waste storage, in addition to conditions controlling external materials of the building, light pollution, drainage, wildlife protection and the protection and enhancement of the landscape, it is considered that the proposal would not have unduly harmful impacts on neighbouring amenity, wildlife or the character and appearance of the area of the AONB.

Overall it is considered that the economic and sustainability benefits of reducing out-commuting and supporting a small scale business outweigh any other matters such that overall the proposal represents sustainable development which should be approved.

RECOMMENDATION

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.)
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. The site and the building hereby permitted shall be used for storage of tree/forestry management equipment and machinery only and there shall be no storage of wastes generated by tree/forest management (e.g. bark, vegetation, chipped wood or logs) at the site. In addition, there shall be no processing of waste or timber associated with tree/forest management at the site (e.g. chipping, cutting, chopping, shredding or burning) and no sales shall take place from the site or deliveries to it (excepting deliveries relating to the construction of the development hereby permitted). Any external storage of equipment and

machinery shall accord with a scheme for external storage which shall have first been submitted to and approved by the Local Planning Authority in writing. That scheme shall set out how the visual impact of external storage will be minimised or mitigated.

(Reason - In the interest of neighbouring amenity, the conservation of the character of the area including the AONB and the preserving the amenity of the right of way, in accordance with Strategy 46 Landscape Conservation and Enhancement and AONBs and policies E5 (Small Scale Economic Development in Rural Areas), EN14 - Control of Pollution, D1 - Design and Local Distinctiveness and TC4 - Footpaths, Bridleways and Cycleways of the East Devon Local Plan and policy CPNP03 - Protecting the built environment of the Chardstock Neighbourhood Plan.)

4. The works to prepare the site for construction and the construction works to erect the building hereby permitted, together with the use of the site shall adhere to the recommendations of the Ecological Assessment produced by South West Ecology dated 2nd April 2019 with regard to protection of wildlife and habitats. (Reason: In the interests of the protected wildlife and the protection of wildlife habitats and features in accordance with Policies EN5 Wildlife Habitats and Features and E5 - Small Scale Economic Development in Rural Areas of the East Devon Local Plan and Policy CPNP 04 - Protecting the natural environment of the Chardstock Neighbourhood Plan.)
5. Prior to the erection of the building hereby permitted, details of arrangements for the drainage of surface water from its roof, shall have been submitted and approved in writing the Local Planning Authority. In addition, prior to the installation of the hard-surfacing illustrated on plan 02, details of the surfacing to be used and, if this surface is impermeable, details of arrangements to ensure drainage of water from that surface takes place within the site, shall have been submitted to and approved in writing by the Local Planning Authority. (Reason: To prevent the discharge of surface water from the site onto the neighbouring land or public right of way and in accordance with policies EN22 Surface Run-Off Implications of New Development and TC4 - Footpaths, Bridleways and Cycleways of the East Devon Local Plan.)
6. The roof of the building shall not be installed until a scheme for the minimisation of light pollution from rooflights has first been submitted to and agreed in writing by the Local Planning Authority. The scheme shall consider measures such as limiting the periods of illumination of internal lighting and light shielding to prevent direct glare through rooflights. In addition, no external lighting shall be installed until a scheme for the minimisation of light pollution and light spill outside of the site has been submitted to and approved in writing by the Local Planning Authority. Both schemes shall take account of the recommendations of the Ecological Assessment produced by South West Ecology dated 2nd April 2019 with regard to lighting. (Reason: In the interests of neighbouring residential amenity, the preservation of the character and appearance of the rural area and the AONB and the protection of wildlife interests in accordance with Strategy 46 - Landscape Conservation and Enhancement and AONBs and Policies EN5 Wildlife Habitats and Features, EN14 - Control of Pollution, E5 - Small Scale Economic Development in Rural Areas and D1 - Design and Local

Distinctiveness of the East Devon Local Plan and policies CPNP03 - Protecting the built environment and CPNP 04 - Protecting the natural environment of the Chardstock Neighbourhood Plan.)

7. There shall be no construction of the building hereby permitted above slab level until a schedule of the external materials to be used on the building and samples of those materials have been submitted to the Local Planning Authority and approved by them in writing. (Reason: In the interests of the conserving the character and appearance of the area in accordance with Strategy 46 - Landscape Conservation and Enhancement and AONBs and policies E5 - Small Scale Economic Development in Rural Areas and D1 Design and Local Distinctiveness of the East Devon Local Plan and Policy CPNP03 - Protecting the built environment of the Chardstock Neighbourhood Plan.)

8. Prior to the construction of the building hereby permitted above slab level a Tree Protection Plan and Arboricultural Method Statement relating to the protection of tree and hedge vegetation to the north of the application site, together with a scheme for the retention, enhancement and management of tree and hedge vegetation around the boundary of the land owned by the applicant (which for avoidance of doubt is taken to be the land within the blue and red lines on plan 05) shall have been submitted to and approved by the Local Planning Authority in writing. The scheme for the retention, enhancement and management of tree and hedge vegetation shall include new tree and hedge planting and shall demonstrate that it has taken account of the relevant recommendations of the Ecological Assessment produced by South West Ecology dated 2nd April 2019. Any new planting of trees or hedge along the eastern boundary of the site, and the management thereof, shall ensure that any impact on the daylight reaching the dwelling known as Sunnyside, including its garden, is minimal. (Reason: To enhance the landscaping around the site to mitigate for the slightly more developed appearance of the site which would arise due to the development, in accordance with Strategy 46 - Landscape Conservation and Enhancement and AONBs, and policies D2 - Landscape Requirements, E5 - Small Scale Economic Development in Rural Areas, TC4 - Footpaths, Bridleways and Cycleways of the East Devon Local Plan and policies CPNP03 - Protecting the built environment and CPNP 04 - Protecting the natural environment of the Chardstock Neighbourhood Plan)

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 positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

The applicant's attention is drawn to the recommended precautions and the requirements of wildlife protection law set out in the Ecological Assessment produced by South West Ecology dated 2nd April 2019, in relation to protected species and habitats and the land outside of the application site within the applicant's ownership.

Plans relating to this application:

02 rev B Proposed Site Plan 19.12.19

03 rev A : floor/roof Proposed Combined Plans 19.12.19

04 rev A Proposed Elevation 19.12.19

01 rev A (amended) Location Plan 27.02.20

05 (amended) Existing Site Plan 12.03.20

List of Background Papers

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