

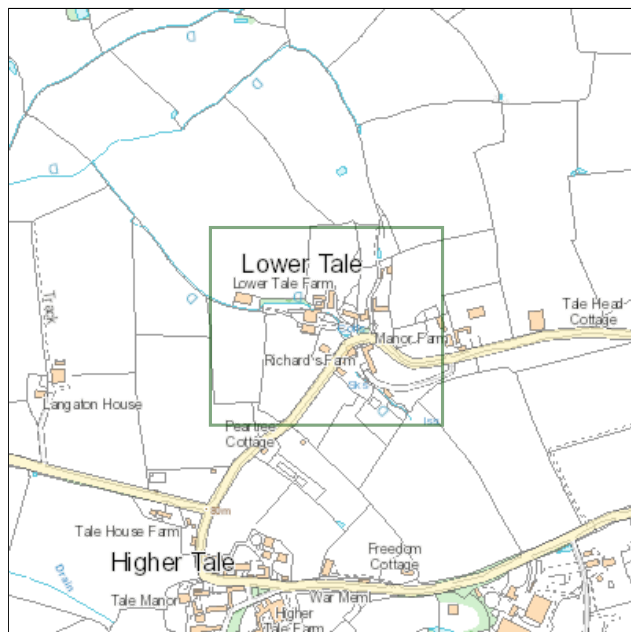
Ward Tale Vale

Reference 20/1185/FUL

Applicant T & MJ Scarrott

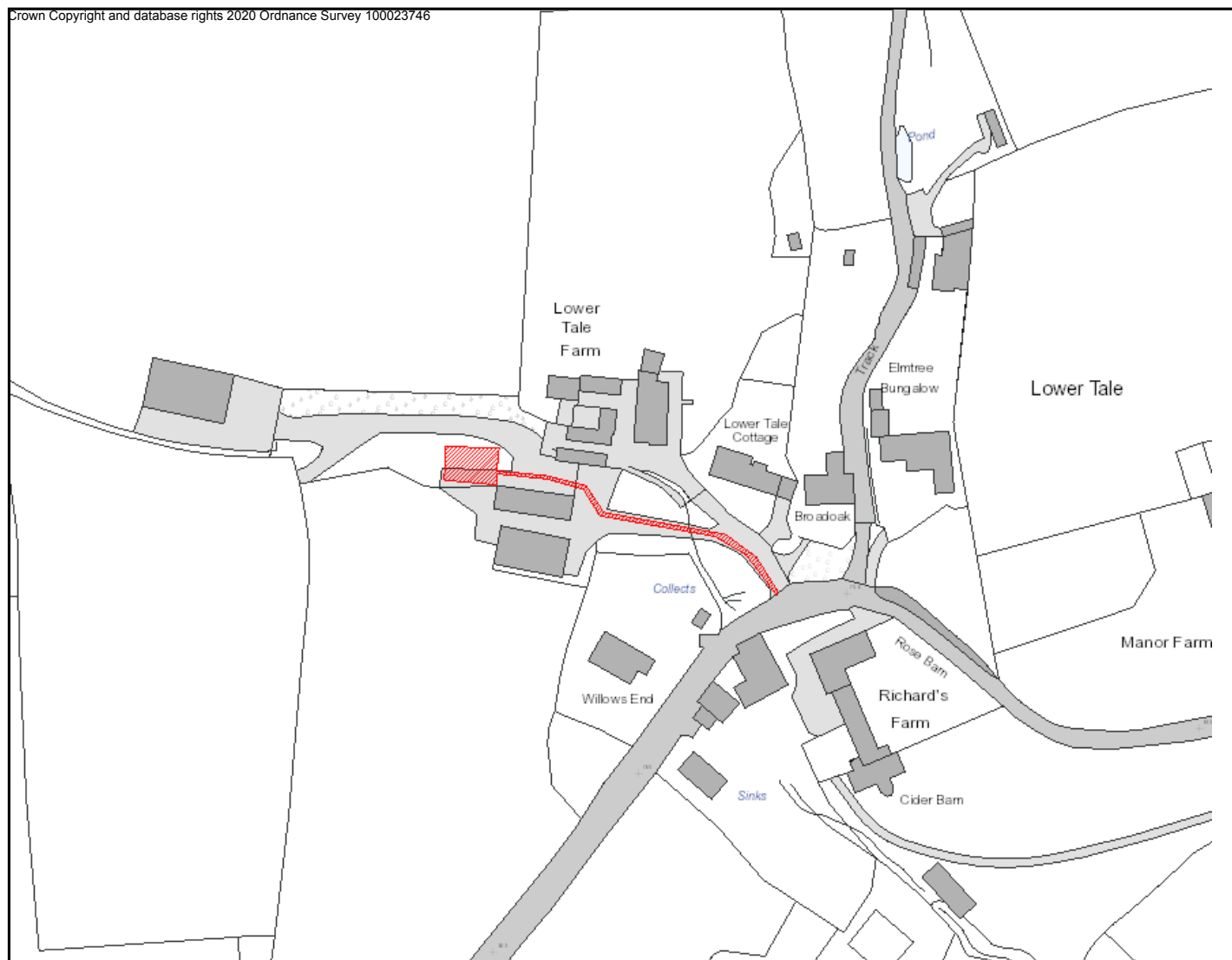
Location Tale End Payhembury Honiton EX14 3HL

Proposal General purpose agricultural storage building



RECOMMENDATION: Approval with conditions

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		Committee Date: 7th October 2020
Tale Vale (Payhembury)	20/1185/FUL	Target Date: 06.08.2020
Applicant:	T & MJ Scarrott	
Location:	Tale End Payhembury	
Proposal:	General purpose agricultural storage building	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before members having been referred to Planning Committee at a Chairman's Delegation meeting given the issues raised by the Parish Council and objectors.

The application for the construction of an agricultural building at Tale End has caused concern amongst third parties with regards to the matters including the size of the building, housing of livestock and impact upon neighbours from this, impact on traffic and availability of other units/use of the Prior Approval process to reach this point.

Whilst the main body of the report addresses each of the issues raised, the primary material planning issues are considered to relate to the development's impact upon the character and appearance of the wider landscape, the functional need for the build and the impact upon the amenity of adjoining neighbours.

The proposed building would be used for the storage of machinery and dry fodder produced from maintenance of the holding. The applicant has stated that they own machinery including two tractors, fertiliser spinner, topper and other farming paraphernalia that require covered storage.

The applicant's appear to have purchased the land after two recent Prior Approval applications to convert agricultural buildings to dwellings were approved, and without the benefit of any storage buildings. As such there are no current buildings on the holding that could be used to store the equipment and the need for a further building is justified.

It is acknowledged that the barn would be sited right on the southern boundary of the application site where the owners of Foxhayes have sited a washing line and other various bits of domestic paraphernalia. However, the application building would be located as such to provide sufficient relief from the windows of

Foxhayes. Additionally the area of land where the building could be deemed as overbearing, where the occupants of Foxhayes had their washing line located, is not deemed to have lawful residential use. The area of land considered to have lawful use, approved under 16/1137/PDQ, is relatively small and immediately abuts the converted barn. Whilst the application building would be visible from the southern property of Foxhayes, this is not considered to amount to harm significant enough to warrant refusal of the application.

There is not considered to be any wider harm from the proposal.

As such, taking the above into consideration, the application is considered acceptable and recommended for approval subject to conditions.

CONSULTATIONS

Local Consultations

Parish/Town Council

Payhembury Parish Council objects to the building of an agricultural building on this site. The existing barn conversions were given planning approval in 2016 (16/1137/PDQ) to allow the conversion of redundant agricultural buildings into residential dwellings. The Town and Country Planning (General Permitted Development) (England) Order 2015 no. 596 Schedule 2 Part B says that no new agricultural buildings may be constructed until a period of 10 years has elapsed. The barn conversions have only been in place for a maximum of 4 years.

There are two other points that may be relevant to your considerations. As part of the original planning approval EDDC also stated that 'No intensive agricultural operation or use, including livestock housing or the storage of silage, dangerous machinery or chemicals shall take place within the barns to the immediate north of Barn 1 following the first occupation of Barn 1. (Reason ' to prevent adverse impacts on the living conditions of the future occupants of Barn 1 in accordance with policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013-2031.)' The proposed construction of a new barn on this site appears to be in conflict with this EDDC statement of 2016. The Parish Council has also been made aware that there are covenants in place, within the deeds of the barn conversions, preventing building within a defined area and the site for the proposed new barn appears to lie within this restricted area.

Technical Consultations

Environmental Health

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

Other Representations

11 Third party comments have been received with objections over the following;

- Structure is extremely large;

- Concerns over the rearing of livestock in the building;
- Impact through noise and smell;
- Visual impact of the building upon wider landscape;
- Restrictive Covenant on the site;
- Applicant had barns available to them but decided to convert them through 'Class Q';
- Impact of increased traffic on maintenance of highway;
- Impact upon the character of Lower Tale;
- Application exploiting 'loophole' within the General Permitted Development Order;
- Fears over the application building being converted.

PLANNING HISTORY

16/1137/PDQ - Prior approval for proposed change of use, conversion and associated works to 2no dwelling houses (use class C3) and for associated operational development. (Dwellings now known as Tale End and Foxhayes).

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D7 (Agricultural Buildings and Development)

EN14 (Control of Pollution)

Payhembury Neighbourhood Plan (Made)

National Planning Policy Framework

Site Location and Description

The application site relates to a small area of grassland associated with the agricultural unit run by the applicant. The holding is just North West of Payhembury and comprises of 35 acres of land to graze sheep that lamb each year.

The site is accessed off an informal track past Lower Tale Cottage and Broadoak. The hamlets of Higher and Lower Tale are inherently rural in character consisting of groups of agricultural buildings, many of which have been converted, and residential properties.

The immediate area has undergone significant change over the last 10 years. Granting of prior approval 16/1137/PDQ saw the conversion of two barns associated with Willows End into two dwellings. These properties are now known as Tale End and

Foxhayes. Prior to their respective conversions, a track ran through the group of agricultural buildings here, immediately to the north of the building now known as Foxhayes to serve the barn at Tale End. Now, after removal of a couple of barns the track runs further north and immediately to the south of Lower Tale Farm.

Proposed Development

The application seeks permission for the construction of an agricultural building to store various machinery and dry fodder. The build would measure approximately 14m x 9m and be located on the southern boundary. Timber cladding would be used to enclose all elevations with metal sheeted gates used for access. An anthracite grey fibre cement roof is also proposed.

ANALYSIS

Issues with the application concern the functional need and principle of development, the development's impact upon the character and appearance of the wider landscape, and the impact upon the amenity of adjoining neighbours.

Functional Need and principle of development

Proposals for new agricultural buildings are considered against Policy D7 of the Local Plan that supports such proposals subject to their being a genuine agricultural need for the development and subject to 5 criteria related to the following:

- Ensuring that the building is well integrated with its surroundings and closely related to existing buildings so as not to harm the character of the area;
- Not being detrimental to the amenity of neighbouring properties;
- There being no other suitable buildings on the holding or in the near vicinity;
- Not leading to an unacceptable increase in traffic; and
- Suitable drainage being in place to prevent pollution of the environment.

As assessment of whether there is a genuine agricultural need for the building and availability of other units are assessed below with assessment against the other criteria in the following sections of the report.

The applicants, who manage the holding, have identified the need for a general purpose storage building at the site. The applicant's appear to have purchased the land/farm from the previous owners who gained consent, and implemented, consent under the Prior Approval process for the conversion of two barns on the holding to residential use.

As a result of these buildings being converted to residential use, and in the absence of any other agricultural buildings in the ownership of the new managers of the farm, there are no current buildings on the holding that could serve the identified need. For information, the farm building adjoining the application site is understood to be in the ownership of the occupiers of Foxhayes and is not therefore available to the applicant.

The proposed building would be used for the storage of machinery and dry fodder produced from maintenance of the holding. The applicant is stated to own of

machinery including two tractors, fertiliser spinner, topper and other farming paraphernalia necessary to manage their flock.

The need to store stock and machinery under cover is adequate justification for a new building in the absence of other buildings and as such satisfy Policy D7 in terms of demonstrating a genuine need for the building and lack of other suitable buildings on the holding.

Objections raised by the Town Council have raised concerns with regards to wording within the General Permitted Development Order (GPDO) 2015. It is acknowledged that Schedule 2, Part 6, Class B (agricultural development on units of less than 5 hectares) prevents the further construction of agricultural buildings, through the utilisation of Permitted Development Rights, if Class Q or S, has been carried out within 10 years. However, this does not prevent further planning applications being submitted, as is the case in this instance.

There is sympathy with local residents, and the Town Council, who clearly feel the construction of the barn is not in accordance with the spirit of the GPDO where conversions can be undertaken under Prior Approval rights converting barns to residential use, only for another barn to be constructed at a later date. However, taking the above into consideration the GPDO does not preclude the granting of planning permission for subsequent buildings and in this instant a genuine need for a further building has been justified. Additionally the Local Plan contains policy that is generally supportive of the construction of agricultural buildings where, amongst other requirement, there is an identified need, but can also be used to resist inappropriate proposals that may cause wider harm.

The Town Council, in addition to third party comments, have highlighted the presence of a restrictive covenant on site that restricts the construction of buildings within the application site. Whilst the applicant has been made aware of these comments, this is a legal matter that falls outside the scope of this planning application and therefore cannot be used to refuse planning permission. If there is a binding covenant, this may prevent the development from proceeding even if planning permission were granted, but this is a private legal matter outside of planning.

Visual Impact

Concerns have been raised by third parties regarding the visual impact of the application upon the wider landscape. However, in this instance, the application building would be sited immediately next to another dutch barn and set within an area characterised by agricultural buildings. Owing to the topography of the local area, in addition to the lack of nearby public footpaths, the application building would only be visible from adjoining private land and viewed in association with a farm holding and former agricultural buildings.

The proposed use of timber in addition to the rural scale, form and mass of the building are considered to result in a building that would not harm the character of the area. The proposal therefore complies with this criteria to Policy D7

Impact upon Neighbouring Amenity

Third party comments have raised concerns with regards to the potential for the building to be used by the applicant to rear and house livestock. Further correspondence with the applicants confirms that this is not their intention. It is acknowledged that the housing of livestock here could give rise to harmful impacts upon the amenity enjoyed by adjoining properties through noise, smell, flies etc. As such it is considered that a condition should be applied to restrict the use of the building preventing the housing and rearing livestock within the application building. This is also considered to be in line with a condition attached to 16/1137/PDQ for conversion of Foxhayes and Tale End that states the following:

'No intensive agricultural operation or use, including livestock housing or the storage of silage, dangerous machinery or chemicals shall take place within the barns to the immediate north of Barn 1 following the first occupation of Barn 1. (Reason - To prevent adverse impacts on the living conditions of the future occupants of Barn 1 in accordance with policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013-2031.)'

Further comments have taken issue with the developments impact upon the living conditions of Foxhayes through loss of view and overshadowing. It is acknowledged that the barn would be sited right on the southern boundary of the application site adjacent to where the owners of Foxhayes have sited a washing line and other various bits of domestic paraphernalia. However the application building would be located as such to provide sufficient relief from the windows of Foxhayes.

In addition, the area of land where the building could be deemed as overbearing, where the occupants of Foxhayes had their washing line located, is not deemed to have lawful residential use. The area of land considered to have lawful use, approved under 16/1137/PDQ, is relatively small and immediately abuts the converted barn and does not adjoining the application site. Whilst the application building would be visible from the southern property of Foxhayes, this is not considered to amount to harm significant enough to warrant refusal of the application.

The proposal therefore complies with this criteria to Policy D7.

Drainage

There are no water courses nearby and the roof of the proposal is suitably designed to capture rain water in a way that can ensure that there will be no harm to surface water run-off or risk of pollution. There is no objection to the proposal from Environmental Health.

The proposal therefore complies with the final criteria to Policy D7.

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 development hereby permitted shall be used for agricultural storage purposes only and shall not be used at any time for the housing of livestock.
(Reason - To reflect the permission sought and to protect the amenity enjoyed by adjoining neighbours in accordance with Strategies 7 - Development in the Countryside and Policies D7 - Agricultural Buildings and Development, of the adopted East Devon Local Plan) and EN14 (Control of Pollution).

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.

Plans relating to this application:

3332/01	Proposed Combined Plans	11.06.20
3332/02 : site plan	Combined Plans	11.06.20
SM1	Location Plan	11.06.20

List of Background Papers

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