Mr S Hearse
Chief Executive
Torridge District Council
Riverbank House
Bideford
Devon
EX39 2QG

Tel : Bideford (01237) 428700

Date: 25 August 2023
Quorum: 6

MEETING OF PLANS COMMITTEE

Town Hall - Bridge Street, Bideford, EX39 2HS

Thursday 7 September 2023 at 9.30 am

NOTICE OF MEETING

The meeting will be able to watch through the Council's YouTube Channel
https://tinyurl.com/TorridgeYouTube

To: Councillor R Lock (Chair)
Councillor P Hames (Vice-Chair)
Councillors: C Leather, P Christie, K Hepple, P Pennington, D Smith, C Wheatley and J Whittaker

Members are requested to turn off their mobile phones for the duration of the Meeting

AGENDA

1.	**Apologies For Absence**
	To receive apologies of absence from the meeting.
2.	**Minutes** (Pages 4 - 11)
	To receive the Minutes from the meeting held on 20 July 2023.
3.	**Declaration of Interest**
	Members with interests to declare should refer to the Agenda item and describe the nature of their interest when the item is being considered. Elected Members of Devon County Council and Town/Parish Councils who have considered a planning application by virtue of their membership of that Council hold a personal interest and are deemed to have considered the application separately and the expressed views of that Council do not bind the Members concerned who consider the application afresh.

4.	**Agreement of Agenda between Parts I and II**
5.	**Urgent Matters**
	Information to be brought forward with the permission of the Chair.
6.	**Public Participation**
	The Chair to advise the Committee of any prior requests to speak made by members of the public and to advise of the details of the Council's public participation scheme.
7.	**Planning Applications**
	The information, recommendations and advice contained in the reports are correct as at the date of preparation which is more than ten days in advance of the Committee meeting. Due to these time constraints any changes or necessary updates to the reports will be provided in writing or orally at the Committee meeting.
(a)	**Application No. 1/0574/2023/FUL** (Pages 12 - 17)
	Ground floor extension to side of property - 12 Pincombe Road, Bideford, Devon.
(b)	**Application No. 1/1292/2022/FUL** (Pages 18 - 33)
	Extensions and alterations to existing commercial business units to incorporate office and storage on the ground floor and 1no. dwelling at first floor - Cherrywood Park Business Centre, Langtree, Torrington.
(c)	**Application No. 1/0378/2023/FUL** (Pages 34 - 41)
	Change of use of land to domestic and erection of summer house/orangery - Sanctuary Lodge, Bridgerule, Holsworthy.
8.	**Appeal Decisions Summary** (Pages 42 - 87)
	Appeal Decision Summary and Reports of Planning Inspectorate Summary Appeal Decision – Application No. 1/0573/2022/OUT Appeal Decision – Application No. 1/0734/2021/FUL Appeal Decision – Application No. 1/1118/2021/FUL Enforcement Appeal Decision – E/21/0080/UMOB Enforcement Appeal Decision – E/20/0206/UND Enforcement Appeal Decision – E/20/0004/UCU
9.	**Costs on Appeals**
	There are no Costs on Appeals

10.	**Delegated Decisions - AGMB Applications** (Page 88)
	AGMB Decisions from 10.07.2023 and 23.08.2023
11.	**Planning Decisions** (Pages 89 - 102)
	List of Delegated Planning Decisions, Consultee Abbreviations and Application Types enclosed 10.07.2023 to 23.08.2023.
12.	**Exclusion of Public**
	The Chair to move:- That the public be excluded from the remainder of the meeting because of the likely disclosure of exempt information by virtue of Part 1 Schedule 12A of the Local Government Act 1972.
13.	**Part II - Closed Session**
	There are no Part II items.

The background papers are considered to comprise the following documents:

- The individual planning application file (reference number quoted in each case)
- North Devon and Torridge Local Plan 2011-2031 (Adopted October 2018)
- Current Government guidance contained in Circulars, the National Planning Policy Framework, Planning Policy for Traveller Sites and Ministerial Statements
- Any other documents specifically referred to in the report.

All background papers referred to are available for examination during normal office hours.

NOTE TO MEMBERS

All letters of representations are readily available for inspection on the files or through the website and public access. If any Member requires assistance in using this facility, please contact the Development Enabling Manager directly.

Members of the Committee only will receive hard copies of representations received.

Meeting Organiser: Sandra Cawsey

For those wishing to speak at Plans Committee please contact:

Planning Support - Tel: 01237 428778 or 428711
Email: speak.planning@torridge.gov.uk
Website: www.torridge.gov.uk/speakplanning

TORRIDGE DISTRICT COUNCIL

PLANS COMMITTEE MEETING

Town Hall - Bridge Street, Bideford, EX39 2HS

Thursday, 20 July 2023 - 9.30 am

PRESENT Councillor R Lock (Chair)
Councillor P Hames (Vice-Chair)

Councillors C Leather, P Christie, K Hepple, D Smith, C Wheatley and J Whittaker

ALSO PRESENT
S Kearney - Head of Communities & Place
H Smith - Planning Manager
K Evely - Development Management Team Leader
T Vanstone - Senior Electoral & Democratic Services Officer
S Cawsey - Democratic Services Officer
K Brown - Democratic Services Officer

Councillors K James, S Newton

97. MINUTES

It was proposed by Councillor Leather, seconded by Councillor Pennington and -

Resolved:

That the Minutes of the meeting held on 8 June 2023 be agreed and signed as a correct record.

A recorded vote was taken.

Councillor	For	Against	Abstain
Cllr P Christie	X		
Cllr K Hames	X		
Cllr K Hepple			X
Cllr C Leather	X		
Cllr R Lock	X		
Cllr P Pennington	X		
Cllr D Smith	X		
Cllr C Wheatley	X		
Cllr J Whittaker			X

(Vote: For 7, Abstentions 2)

98. DECLARATION OF INTEREST

The Chair reminded Members to declare their interests when the relevant item was up for discussion. Declarations of interest were made as indicated below and in accordance with the previously agreed arrangements for "dual-hatted" Members.

99. AGREEMENT OF AGENDA BETWEEN PARTS I AND II

That the Agenda as circulated be agreed.

100. URGENT MATTERS

With the permission of the Chair, Councillor Christie raised concerns in relation to the new Local Plan and whether the Plan would be ratified by the Inspector without a travellers site.

101. PUBLIC PARTICIPATION

The Chair advised the Committee and members of the public of the details in respect of the Council's public participation scheme.

102. PLANNING APPLICATIONS

(a) Application No. 1/0482/2022/FULM

The following Councillors had attended the site visit listed below:

Councillors: R Lock, K Hepple, C Leather, C Wheatley, P Pennington,
J Whittaker, D Smith, P Hames and P Christie

Application No. 1/0482/2022/FULM - Residential development comprising 71 no. dwellings and associated works - Land At Grid Reference 263212 108395, Winkleigh, Devon

Interests: None

Officer recommendation: Grant

The application had been called into Plans Committee by Councillor Newton for Members to consider:

- No justification for the increase in houses from 55 – 71 as noted in the policy
- No local input into the application
- Unimaginative design
- Impact on the Scheduled Monument

The Development Manager presented the report and advised Members of the main planning considerations.

During the debate of the application concerns and issues raised included the following:

- The scheme does not confirm to Policy WIN02 of the Local Plan which states up to 55 dwellings, this application is for 71 dwellings.
- Does not comply with WIN02 (h) which states an investigation to produce and confirm the capacity of the offsite sewer network - South West Water had no objections and no investigation had been carried out.
- Overdevelopment of Winkleigh.
- Sustainability – people having to travel long distances to work which goes against the Councils Climate Emergency Plan.
- Affordable Housing should be indistinguishable from open market dwellings and intermixed throughout the development. Plans do not show this.
- It is not clear if refuse vehicles have access to all dwellings which will mean that residents will have to carry refuse to a collection point.
- It does not accord with the Winkleigh Neighbourhood Plan.
- Neighbourhood Plan works alongside the Local Plan and carries equal weight.
- Density of the site.
- The design of the development does not fit in with the countryside, the character, the setting of Winkleigh village and the suggestions to protect the setting of the Scheduled National Monument, Court Castle, are inadequate.
- The comments of Historic England who have strong reservations regarding the level of harm to Court Castle.

It became evident that Members were looking to refuse the application, and for this reason the Planning Manager advised that robust refusal reasons would be required.

The Development Manager reminded Members that the site is within the development boundary and clarified the reasoning for the recommendation of approval and why the application is acceptable.

Councillor Leather cited the following policies to support refusal of the application:

“DM07, ST04, WIN02 & 04, ST15, DM04, ST17 and non-compliance with HEDNA.”

The Planning Manager advised that in addition to citing policies, there was a requirement to identify in what way the proposal conflicts with those policies.

Advice and guidance was given by the Planning Manager on Polices and refusal reasons suggested by Members.

The Development Manager highlighted the key points to defend approval of the application. The officer recommendation considers that the public benefits would significantly outweigh the heritage harm. The public benefits the proposal would provide were summarised as:

- 71 houses – 30% will be affordable housing which will contribute to the Council's housing need
- A pedestrian crossing linking the site and the wider public footpath network to Winkleigh sports facilities
- Benefits to the local economy and community in respect of contributing to the sustainability and viability of Winkleigh
- Interpretation Boards to help raise awareness of Court Castle and its importance
- Increased permeability/linkage between the estate to the West and the Sports Hall
- The provision of a new car park to serve Winkleigh Centre

The following amendment was proposed by Councillor Hames and seconded by Councillor Smith:

"The development fails to take account the impacts of climate change and minimising the risk of climate change with regard to Policy ST03 paragraphs g), h) and i) of the Local Plan".

Advice given by the Development Manager and the Chair recommended not to proceed with the amendment.

A recorded vote was taken.

Councillor	For	Against	Abstain
Cllr P Christie	X		
Cllr K Hames	X		
Cllr K Hepple		X	
Cllr C Leather		X	
Cllr R Lock		X	
Cllr P Pennington		X	
Cllr D Smith	X		
Cllr C Wheatley		X	
Cllr J Whittaker		X	

(Vote: For 2, Against 7).

The motion was lost.

It was proposed by Councillor Leather, seconded by Councillor Hepple that the application be refused for the following reasons (exact wording to be delegated to Planning Manager in consultation with Chair and Vice):

1. Harm to the scheduled monument (ST15 and DM07 of the North Devon and Torridge Local Plan, ENV3 of the Winkleigh Neighbourhood Plan,
2. Poor design contrary to policies ST04 and DM04 of the North Devon and Torridge Local Plan and The Winkleigh Neighbourhood Plan (Policies ENV2, ENV3, ENV4, ENV5).
3. Housing mix is inconsistent with the Council's Housing and Economic Needs Assessment and affordable housing is visually distinguishable from the market housing and not well intermixed throughout the site. Contrary to Policies ST17 and ST18(8) of the North Devon and Torridge Local Plan.

A recorded vote was taken.

Councillor	For	Against	Abstain
Cllr P Christie	X		
Cllr K Hames	X		
Cllr K Hepple	X		
Cllr C Leather	X		
Cllr R Lock	X		
Cllr P Pennington	X		
Cllr D Smith	X		
Cllr C Wheatley	X		
Cllr J Whittaker	X		

(Vote: For - Unanimous)

RESOLVED

That the application be refused for the reasons stated above and for the wording of the reasons to be delegated to Officers in conjunction with the Chair and Vice Chair

The Planning Manager read out a statement from Angela Findlay on behalf of Winkleigh Parish Council, objecting to the application
Pauline Warner addressed the Committee objecting to the application
Pauline Odulinski addressed the Committee objecting to the application

Director of Walsingham Planning, Agent, addressed the Committee in support of the application
Councillor Newton, Ward Membr, addressed the Committee

(b) Application No. 1/1285/2022/OUTM

The following Councillors had attended the site visit listed below:

Councillors: R Lock, K Hepple, C Leather, C Wheatley, P Pennington,
J Whittaker, D Smith, P Hames and P Christie

Application No. 1/1285/2022/OUTM - Outline permission for up to 17 no. dwellings with all matters reserved except for access and layout - Land At Rydon Mill, Holsworthy, Devon

Interests: None

Officer recommendation: Refuse

The planning application had been called into Plans Committee by Councillor James, if the Officer is minded to recommend that planning permission should be refused. The reasons given for the call-in are as follows:

- It is an infill between Rydon village and Rydon 5 development (Holsworthy)
- It provides much needed local need affordable housing on a community basis
- By its design and layout, it provides an attractive development more in keeping with its setting
- It will add much needed appropriate housing

The Development Manager presented the report and informed Members of the main planning considerations and the reasoning for the recommendation of refusal.

When presenting the application, the Development Manager referred to the report which clearly sets out why the affordable housing is not acceptable in terms of tenure and mix. The Authority has its own Affordable Housing Supplementary Planning Document which sets out the approach to restricting the price of discount on open market dwellings. 20% discount is being offered whereas on this site it should be significantly more and should be 39% discount for a two-bed property for it to be considered as an affordable dwelling, otherwise it is just a discounted dwelling.

The following issues/concerns raised during the debate included:

- Site is outside the Development Boundary
- Affordable Housing unacceptable
- Loss of mature trees on the site
- Pedestrian cycle link – is there one?
- It was confirmed that SWW had been consulted and had not sent a response
- ST19 & 19a) affordable housing on exception sites and starter homes - this cannot be an exception site because it is adjacent to Holsworthy which is a Main Centre. The policy is specific in that is only enables exception sites via rural settlements etc. therefore cannot be allowed on that basis.

Councillor Leather asked if it would be considered as development within the curtilage of the existing dwelling rather than in the countryside. The Development Manager advised it is covered by the NPPF - he read to the meeting the relevant paragraph from the NPPF which basically states – "residential development should not be treated as developed land and should be treated as green field".

Councillor Lock referred to the comments in the report regarding the Landscape and Visual Impact Assessment and asked if it had been resubmitted or whether it is as it stands. The Development Manager confirmed it is as it stands and although not in accordance with the guidance, the Officer had no issues with the scope of the document.

It was proposed by Councillor Hames, seconded by Councillor Pennington that the application be refused.

A recorded vote was taken.

Councillor	For	Against	Abstain
Cllr P Christie	X		
Cllr K Hames	X		
Cllr K Hepple	X		
Cllr C Leather	X		
Cllr R Lock	X		
Cllr P Pennington	X		
Cllr D Smith	X		
Cllr C Wheatley	X		
Cllr J Whittaker	X		

(Vote: For - Unanimous)

RESOLVED

That the application be refused for the reasons as stated in the report.

Mr Brian Turner, Agent, addressed the Committee in support of the application
Councillor James, Ward Member, addressed the Committee

103. APPEAL DECISIONS SUMMARY

The Committee noted the Appeal Decisions.

104. COSTS ON APPEALS

There were no Costs on Appeals.

105. DELEGATED DECISIONS - AGMB APPLICATIONS

The Committee noted the Delegated Decisions (AGMB applications) for the period 30.05.2023 – 10.07.2023.

106. PLANNING DECISIONS

RESOLVED

That the Planning decisions for the period 30.05.2023 – 10.07.2023 be noted.

The meeting commenced at 9.30am and closed at 11.50am

Agenda Item 7a

Committee Report – 7th September 2023

Application Number:	1/0574/2023/FUL
Registration date:	19 June 2023
Expiry date:	14 August 2023
Applicant:	Mrs Emma Hooper
Agent:	The Mews Studio
Case Officer:	Mary-Ellen Whalley
Site Address:	12 Pincombe Road, Bideford, Devon, EX39 3FX,
Proposal:	Ground floor extension to side of property
Recommendation:	Grant

Reason for referral:

(c) Mrs Lorraine Inch, mother
(d) Mr Simon Inch, father, Torridge District and Bideford Town councillor
(d) Mr Tony Inch, Uncle, Bideford Town councillor
(d) Mrs Jude Gubb, Aunty, Bideford Town councillor

Relevant History:

Application No.	Description	Status	Closed
1/0313/2015/OUTM	Residential development for up to 100 dwellings, open space, landscaping, infrastructure and all associated development.	PER	20.10.2017
1/0008/2015/SCR	Residential development for up to 100 dwellings, open space, landscaping, infrastructure and all associated development.	SCRP	12.05.2015

Site Description & Proposal

Site Description
The application site is located within a residential area of Bideford to the south-west of the development boundary of Bideford. The two-storey detached dwellinghouse is constructed of red brickwork with interlocking Marley Mendip tiles, smooth grey finish with half round vented ridge tiles and a dry verge system. The fenestration is composed of white uPVC with a composite front door. The property benefits from a detached garage to the east of the dwelling as part of a block of two shared with the neighbouring property. There is parking for a vehicle to the front of the garage associated with the property.

Proposed Development
The application seeks full planning permission for the creation of a single storey extension to the north-west elevation of the property. The extension is proposed to measure approximately 4 metres in length by 4.5m in width with a window to the rear (north-eastern elevation) and a door to the side (north-western elevation). There is proposed to be a water butt installed as part of the proposal with the surface water connected into the existing soakaway within the rear garden to the north-east of the property. The extension is proposed to measure approximately 4.35m to the ridge and 2.3m to the eaves.

The proposals are to use the same materials as existing in the dwelling.

Consultee representations:

Bideford Town Council:
RESOLVED: That the application is approved.

Environmental Protection Officer:
The Environmental Protection Team has no in-principle objections to the proposed development. Due to the presence of existing neighbouring dwellings, there is the potential for disturbance to residential amenity from the associated construction works if control measures are not in place. Should planning consent be granted, the Environmental Protection Team recommends a condition restricting construction works and site deliveries to Monday to Friday 0700 to 1900 hours and 0800 to 1300

hours only with no works permitted on Sundays and Bank Holidays in order to protect residential amenity.

Representations:

Number of neighbours consulted:	5	Number of letters of support:	0
Number of representations received:	0	Number of neutral representations:	0
Number of objection letters:	0		

No representations received.

Policy Context:

North Devon and Torridge Local Plan 2011-2031:
DM01 (Amenity Considerations); DM02 (Environmental Protection); DM04 (Design Principles); DM05 (Highways); DM06 (Parking Provision); DM08 (Biodiversity and Geodiversity); DM25 (Residential Extensions and Ancillary Development); ST04 (Improving the Quality of Development); ST06 (Spatial Development Strategy for Northern Devon's Strategic and Main Centres); ST14 (Enhancing Environmental Assets);

Government Guidance:
NERC (Natural Environment & Rural Communities); WACA (Wildlife & Countryside Act 1981); NPPF (National Planning Policy Framework); NPPG (National Planning Practice Guidance);

Planning Considerations

The main planning considerations are the following:

1. Principle of Development
2. Character and Appearance
3. Neighbouring Amenity
4. Highways and Parking
5. Flooding and Drainage
6. Ecology

1. Principle of Development
The site is located in the development boundary of Bideford; Policy ST06 of the North Devon and Torridge Local Plan (NDTLP) must be applied. Policy ST06 permits development providing it is of a nature and scale which is appropriate to the function of the existing site.

Policy DM25 requires extensions to be in keeping in terms of scale and character of the 'host' dwelling, and to protect the amenity of adjacent properties.

In this instance the proposed single storey extension to the north-western elevation of the property is minor in scale measuring approximately 4m in length and 4.5m in width. There is proposed to be a window to the north-eastern elevation (rear) and a door to the north-western elevation (side). Permitted Development Rights were removed as part of application 1/0313/2015/OUTM and therefore an application for full planning permission is required.

The proposal accords with Policies ST06 and DM25. Therefore, proposal is acceptable in principle, subject to other Policy considerations.

2. Character and Appearance
Policy DM25 requires ancillary development to be in keeping in terms of scale and character of the 'host' dwelling, and to protect the amenity of adjacent properties.

Policy DM04 requires new development to be well related to existing buildings and their surroundings in terms of design, scale and materials, and to be sympathetic to the character and appearance of the local area.

The proposed materials to be used in the development are the same as those existing. It is therefore not considered to have a significant impact on the character and appearance of the area.

Therefore, it is considered that the proposal is in accordance with Policies DM25 and DM04.

3. Neighbouring Amenity

Policy DM01 requires development to maintain amenity appropriate to the locality and not to result in a significant loss of amenity for the occupiers of neighbouring dwellings.

Policy DM25 of the NDTLP seeks to support proposals for ancillary development where the form, scale and design of the proposal respects existing development, its context, setting and surroundings and that the alterations allow for the maintenance of adequate residential amenity space and parking provision and that it creates no significant adverse impact on the amenity of the occupants of neighbouring properties.

There were no comments received from any third parties and the Town Council recommended approval. The construction of a single storey side extension to the north-western elevation of the property with the installation of a window to the rear (north-eastern) elevation and a door to the north-western elevation is not considered to have an impact on neighbouring private amenity. There are no new windows on any elevations where not currently present. The nearest neighbouring properties are to the west and south of the property and there are no neighbouring residential properties to the north.

Therefore, it is considered that the proposed development will not result in significant amenity harm and thus accords with Policy DM01.

4. Highways and Parking

Policies DM05 and DM06 requires development to provide well designed, safe vehicular access that provides adequate parking and considers the needs for all highway users and safety.

There are no changes proposed to the available parking or the access to the highway from the dwelling. Therefore, it is considered to accord with Policies DM05 and DM06.

5. Flooding and Drainage

The site is outside of Flood Zone 2 and 3 but is within the Bideford Critical Drainage Area (CDA).

Policy ST03 of the NDTLP requires development to be designed and constructed to take account of the impacts of climate change and minimise the risk to and vulnerability of people, land, infrastructure, and property by locating and designing development to minimise flood risk.

Specifically, point (b) of the policy states that proposals can do this by:

(b) reducing existing rates of surface water runoff within Critical Drainage Areas.

The proposed extension will increase the footprint of the property by approximately 18m^2. A water butt is to be installed as part of the development and the surface water is to be connected to the existing drainage which is discharged to a soakaway in the rear garden to the north-east of the property.

Policy ST03 looks to take account the impacts of climate change and minimise the risk and vulnerability of people, land and infrastructure by, in this instance, reducing existing rates of surface water runoff within Critical Drainage Areas.

5. Ecology

Local Planning Authorities have a statutory duty to ensure that the impact of development on wildlife is fully considered during the determination of a planning application under the Wildlife and

Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, The Conservation of Habitats and Species Regulations 2010 (Habitats Regulations 2010).

This is further reinforced within the NDTLP through Policies ST14 and DM08, which require development to maintain or where possible enhance biodiversity and mitigate the potential loss of habitats. Policy ST14 promotes the addition of providing net gain where possible through management, expanded network of designated sites and green infrastructure.

The minor scale of the development means that it does not trigger the requirements for an Ecology report as indicated by the submitted Wildlife Trigger List. Therefore, the development is considered to not result in any harm to wildlife and thus is deemed to remain in accordance with the above policies.

Conclusion
In conclusion the proposed development would not cause significant harm to the character and appearance of the existing dwelling, amenities of nearby dwellings, highways and parking or ecology. Therefore, the proposal would be in accordance with the NDTLP Policies ST06, ST14, DM01, DM04, DM05, DM06, DM08 and DM25.

Human rights

Consideration has been given to the Human Rights Act 1998.

Conclusion

It is therefore considered that subject to the compliance with the attached conditions and taking into account all other material planning considerations, including the development plan the proposal would be acceptable.

Recommendation

GRANT subject to the following conditions

1 The development to which this permission relates must be begun no later than the expiration of three years beginning with the date on which this permission is granted.

Reason: The time limit condition is imposed in order to comply with the time requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

2 The development hereby permitted shall be carried out in accordance with the approved plans listed in the Plans Schedule.

Reason: To ensure the development is carried out in accordance with the approved plans.

3 Construction works (including deliveries of construction materials) shall not take place other than between 0700hrs and 1900hrs on Mondays to Fridays, Saturdays between 0800hrs and 1300hrs and at no time on Sundays and Bank Holidays.

Reason: To protect the amenities of neighbouring properties, in accordance with Policies DM01 and DM02 of the North Devon and Torridge Local Plan 2011-2031.

Plans Schedule

Reference	Received
024/01/23	13.06.2023
024/02/23	13.06.2023
024/07/23	13.06.2023

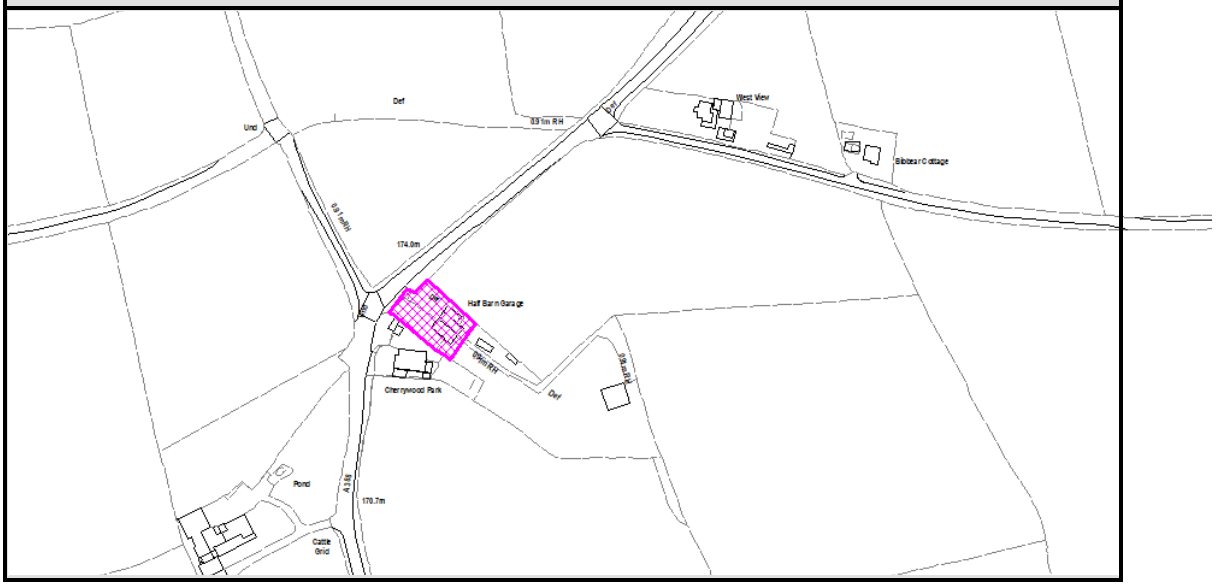
Statement of Engagement

In accordance with paragraphs 38 of the National Planning Policy Framework (NPPF) in dealing with this application, the Council has worked with the applicant in the following positive and proactive manner. In this instance there was no need for further engagement as the development as submitted is considered to accord with the development plan. In such ways the Council has demonstrated a positive and proactive manner in seeking solutions to problems arising in relation to the planning application.

Agenda Item 7b

Committee Report – 7th September 2023

Application Number:	1/1292/2022/FUL
Registration date:	6 March 2023
Expiry date:	1 May 2023
Applicant:	Mr. Gary Copp
Agent:	Charlotte Luckett
Case Officer:	Debbie Fuller
Site Address:	Cherrywood Park Business Centre, Langtree, Torrington, Devon, EX38 8LQ
Proposal:	Extensions and alterations to existing commercial business units to incorporate office and storage on the ground floor and 1no. dwelling at first floor
Recommendation:	Refuse



Reason for referral:

Councillor Hurley, (former Councillor) called the application in if the case officer is minded to refuse.

The reasons given are:-

To help expand a thriving local business, which helps support local employment.

On-site accommodation is essential for the increased security of stored goods.

NPPF [National Planning Policy Framework] encourages a prosperous local economy with a positive view to enabling.

Relevant History:

Application No.	Description	Status	Closed
1/0183/2002	CHANGE OF USE OF EXISTING GARAGE PREMISES TO COACH DEPOT	PER	25.04.2002
1/2045/2002	CHANGE OF USE TO RETAIL NURSERY	PER	20.12.2002
1/1225/2005/COU	Change of use from industrial to coffee shop and toilets, including 3 number additional openings	PER	13.03.2007
1/0809/2009/COU	Change of use from A1/A3 to B1 & B8	PER	20.11.2009
1/0965/2014/FUL	Retrospective change of use of land for A1/B1/B8	PER	14.01.2015
1/0614/2019/FUL	Change of use of A1/B1 workshop/office and extension to create a mixed use C3 supervisory (live/work) dwelling and A1/B1 use	REF	07.10.2019
1/0765/2020/COUPD	Prior notification for the change of use of office (B1(a)) to 1 dwelling (C3) under Class O	WDN	09.11.2020
1/1145/2021/FUL	Conversion of disused and redundant rural building to No.1 dwelling	WDN	25.01.2022

Site Description & Proposal

Site Description

The application site is used, as the offices and reception, in association with 'Copps Removal and Storage Company,' which is located on 'Cherrywood Business Park, Langtree.' The site is located within the open countryside, approximately 1km north of 'Stibbs Cross,' which is the closest

recognised settlement, and is designated as a 'Village' within the adopted North Devon and Torridge Local Plan. The site is accessed off the A388.

The site does not fall within any other allocated land designation and there are no designated heritage assets within close proximity. In addition to this, the landscape character type for the application site is 3A (upper farmed wooded valley slopes) and the site falls within a Zone 1 Flood Risk and therefore it has less than 1 in 1,000 annual probability of river flooding and is consider a low probability of flooding.

The site comprises of a detached, single storey commercial office and reception building; business storage; and vehicle paint spray facilities. The application building is two units that are attached and has previously been occupied by two separate businesses. The unit to the south being 'Copps Removals and Storage,' which, (according to the Planning Statement submitted with the application), has been operating from these premises for approximately 14 years, (since 2009), and the unit to the north, was for repairing vehicle paintwork. The two units are now to be considered as the 'application building,' and the Planning Statement clarifies, *'Mr. Copp purchased the adjoining property earlier this year in an attempt to secure the growth of his rural business.'*

It is worth noting that with regards to the unit to the north, an application has previously been made for *'Conversion of disused and redundant rural building to No.1 dwelling,'* (planning reference 1/1145/2021/FUL), which was withdrawn, following concerns from the case officer about the loss of employment, and from Environmental Protection about a dwelling being adjacent to a commercial building. The unit to the south has also had two previous applications - a *'Prior notification for the change of use of office (B1(a)) to 1 dwelling (C3) under Class O,'* which was withdrawn, (planning reference 1/0765/2020/COUPD), due to, again, concerns about commercial activity in proximity to a dwelling, and the other, *'Change of use of A1/B1 workshop/office and extension to create a mixed use C3 supervisory (live/work) dwelling and A1/B1 use,'* refused, (planning reference 1/0614/2019/FUL), for the same reasons as this current application is being recommended for refusal – it is not considered that an essential need has been demonstrated.

The existing 'application building,' measures approximately 14.5 metres in length by 11.2 metres in width with a total footprint of approximately 160 square metres. There is sufficient parking and turning space to the front of the building, with a steel gate to the site, which access the wider site. The wider site includes approximately 0.5 hectares of open storage, with numerous shipping storage containers, a steel storage building and Copps Removal Vehicles.

The 'Copps Removals and Storage' part of the site was granted retrospective change of use of land for A1/B1/B8, (planning reference: 1/0965/2014/FUL). This permission was subject to the following conditions to restrict the hours of the business and traffic movements on to the site:

1. *The storage/removal business use hereby approved shall operate only between the hours of 07.00- 19.00 Monday to Saturday with no operations on Sundays or Bank Holidays. Between the hours of 04.00 – 07.00 and 19.00 and 23.00 the use shall be restricted to vehicle movements only with no loading or unloading taking place on the site. No vehicle movements shall occur between the hours of 23.00 – 04.00 with no vehicle movements permitted on Sundays or Bank Holidays.*

   Reason: To enable the business to operate without detrimentally impacting the amenity of residents in Cherrywood Park.

2. *Apart from the existing retail unit/office on the site, as marking on the site which is hereby approved as a retail unit, the remainder of the premises and site shall be used only for self-storage and as a removal business/parking of delivery vehicles and for no other purposes (including any other purpose in Class B8; of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in the provision equivalent to the Class in any statutory instrument revoking or re-enacting that Order).*

Reason: To restrict the use of the premised to one which is compatible with the surrounding area, having regard to the adjacent neighbouring dwelling known as Cherrywood Park.

Proposed Development

The application seeks full planning permission for extensions and alterations to the existing commercial business units to incorporate office and storage on the ground floor and managers accommodation at first floor.

The proposed building will measure approximately 8.7 metres in width by 15.1 metres in length, with a maximum eaves' height of 4 metres and a ridge height of 6.9 metres.

The existing building is approximately 4 metres in height, so the proposal is to increase the height of the building by approximately 3 metres.

From a measurement of the internal floor areas on the proposed plans, the proposal includes approximately 100 square metres of business use on the ground floor including commercial storage and office space; and the same of residential space at first floor, providing a single bedroom and living space. The proposal includes a first-floor Juliet balcony on the east elevation.

The proposed materials are rendered blockwork with composite cladding features; slate roof tiles; and uPVC windows and doors.

Consultee representations:

Langtree Parish Council:
The Parish Council has no objections.

Designing Out Crime Officer - DC&D Police: (first response received 17th March 2023)
Thank you for this application, I have no objections in principle to the proposal from a designing out crime and ASB perspective.

It is recommended that any windows and doors, for example those providing access to office space and the attached dwelling, are compliant with PAS24:2022 as a minimum.

Designing Out Crime Officer - DC&D Police: (second response received 21st June 2023)
(email to the agent and sent to the LPA)

My role as the Police Designing out Crime Officer (DOCO) is to act as the single point of contact for the planning authority, architects, and developers to provide advice and guidance with regard to designing out opportunities for crime, fear of crime, antisocial behaviour (ASB) and conflict within the built environment.

The advice and recommendations provided by the DOCO usually follows a crime and ASB analysis (where appropriate) along with a demographic overview in relation to specific sites. This helps to ensure the elements of Crime Prevention through Environmental Design (CPTED) together with the principles and practices of Secured by Design (SBD), are considered and incorporated. Combined, these are an effective method in creating safe, secure, cohesive and sustainable communities where residents, visitors, businesses and legitimate business users are able to go about their daily routine without undue fear of crime, anti-social behaviour or insecurity.

With the above and your enquiry in mind I have reviewed our available log of crimes and incidents recorded since 2019 for the Beat Code CT2G (which covers the site post code EX38 8LQ) which details 1 related incident (neighbour dispute) in 2019 . A review of the wider beat area returned a total of 6 incidents over the same time period June 2019 – May 2023.

Whilst it remains there are no police objections in principle to the proposal, as detailed in my response of 17th March 2023, aside from recommending a review of current physical security measures and

standards, for example, monitored CCTV and intruder alarm, lighting, gates, doors, including roller shutters and windows, I can find no evidence to warrant additional support from a crime reduction perspective for the requirement of a permanent onsite presence. I note your concerns about alarms and false activations, but consultation with an accredited, for example, The National Security Inspectorate (NSI) & SSAIB, installer would enable a suitable monitored system to be identified, installed and maintained.

Devon County Council (Highways):
No representation received.

Environmental Protection Officer:
The following consultation response is provided by the Environmental Protection Team in relation to the above application.

The proposed development consists of a mixed residential and commercial use. Having regard for the existing commercial operations at or adjacent to the application site, there is the potential for the residential amenity of the proposed dwelling to be adversely affected. However, it is assumed that the proposed dwelling will be ancillary to the commercial operation and as such, amenity impact concerns are significantly negated. Should planning consent be granted, the Environmental Protection Team recommends the imposition of a condition stipulating that the proposed dwelling is ancillary to the commercial operation.

Due to the proximity of an existing neighbouring dwelling to the south, there is the potential for detriment to residential amenity from the construction works associated with the proposed development if control measures are not in place. Should planning consent be granted, the Environmental Protection Team recommends a condition restricting construction works and delivery times to 0700 to 1900 hours Monday to Friday and 0800 to 1300 hours on Saturdays only with no works permitted on Sundays and Bank Holidays in order to protect residential amenity.

The Phase 1 Preliminary Contamination Assessment Report is very detailed and has been undertaken in accordance with relevant guidance. Having regard for the historic use of the application site, the Environmental Protection Team concurs with the report in that potential sources of contamination may exist that pose a risk to human health. Subsequently, the Environmental Protection Team further concurs that an intrusive ground investigation is required in order to corroborate the presence and extent of any ground contamination. The outcome of the intrusive investigation will assist in formulating the remedial measures needed to ensure the site is suitable for its intended use. Should planning consent be granted, the Environmental Protection Team recommends the implementation of the Authority's full standard contaminated land condition.

It is noted that the proposed development will be served by an existing non-mains foul drainage provision. The applicant is responsible for ensuring the existing provision has sufficient capacity to accommodate any additional loading.

Representations:

Number of neighbours consulted:	6	Number of letters of support:	0
Number of representations received:	1	Number of neutral representations:	0
Number of objection letters:	1		

The public representation received is summarised below:
Objection
- Scale of development;
- Highway access;
- Lack of existing neighbours; and
- Impact on house value.

Policy Context:

North Devon and Torridge Local Plan 2011-2031:
ST01 (Principles of Sustainable Development); ST03 (Adapting to Climate Change and Strengthening Resilience); ST04 (Improving the Quality of Development); ST07 (Spatial Development Strategy for Northern Devon's Rural Area); ST10 (Transport Strategy); ST14 (Enhancing Environmental Assets); DM01 (Amenity Considerations); DM02 (Environmental Protection); DM04 (Design Principles); DM05 (Highways); DM06 (Parking Provision); DM08 (Biodiversity and Geodiversity); DM08A (Landscape and Seascape Character) and DM28 (Rural Worker Accommodation).

Supplementary Planning Documents:
Rural Workers Accommodation

Government Guidance:
NPPF (National Planning Policy Framework); NPPG (National Planning Practice Guidance); NERC (Natural Environment & Rural Communities) and WACA (Wildlife & Countryside Act 1981).

Planning Considerations

The main considerations in the determination of this application are:

1. Principle of Development;
2. Impact on Character and appearance;
3. Impact on Amenity;
4. Access, Parking and Highways;
5. Environmental Protection and Drainage;
6. Ecology; and
7. Conclusion

1.0 Principle of Development

1.1 Section 38 (6) of the Planning and Compulsory Act 2004 states that key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material planning considerations indicate otherwise. For the purpose of the development plan the statutory development plan is comprised of the North Devon & Torridge Local Plan 2011-2031 (NDTLP).

1.2 The site is located in the countryside; therefore, Policy ST07 of the NDTLP must be applied. Policy ST07 (4) sets out that development in the countryside should be limited to that *which is enabled to meet local economic and social needs, rural building reuse and development that is necessarily restricted to a countryside location*.

1.3 The NDTLP advises that live/work development will be considered as a form of residential development and will be afforded support where it accords with the relevant policies of the Local Plan.

1.4 Paragraph 80 of the National Planning Policy Framework (NPPF) states that *"planning decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:*

(a) There is an essential need for a rural worker, including those taking majority control of farm business, to live permanently at or near their place of work in the countryside;
(b) The development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
(c) The development would re-use redundant or disused buildings and enhance its immediate setting;
(d) The development would involve the subdivision of an existing residential building; or
(e) The design is of exceptional quality, in that it:

- *Is truly outstanding, reflecting the highest standards in architecture, and would help raise standards of design more generally in rural areas; and*
- *Would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area."*

1.5 Policy DM28 relates specifically to rural worker accommodation and notes that the provision of accommodation in the countryside for a rural worker will be supported in principle where a number of criteria can be met. These are set out below:

(1) Proposals for the provision of accommodation in the countryside for a rural worker will be supported where:

(a) *it can be demonstrated that there is an essential operational need for a full-time worker to be resident at or near the place of work;*

(b) *the size and nature of the development is such that it can be sustained by the scale of the operation, reflective of the location and setting and proportionate to the needs of the intended occupants;*

(c) *the accommodation needs cannot be met by any other means including:*

i. *accommodation in a nearby settlement; or*
ii. *by an existing dwelling at or near the site; or*
iii. *through the conversion of a suitable redundant or disused building on the site; and*

(d) *appropriate highway access can be provided.*

(2) Where the enterprise is well established, of a sufficient size to support a full-time worker, economically viable and has clear prospects of remaining so, support will be given to the provision of a permanent new dwelling.

(3) Where the enterprise does not meet the criterion set out to support the provision of a new permanent dwelling, the provision of temporary accommodation will be considered for an initial period of three years.

(4) New accommodation provided for rural workers will be, and all existing dwellings at the rural business may be, subject to occupancy restrictions and, where it is felt appropriate by the Local Planning Authority may be subject to a legal agreement tying its use to the specific rural business.

1.6 Policies ST07 and DM28 of the NDTLP are considered to be in harmony with more recent policy changes in the National Planning Policy Framework (NPPF), (in particular paragraph 80). Paragraph 80 of the NPPF provides that isolated homes in the countryside should be avoided unless there are special circumstances, which includes the essential need for a rural worker to live permanently at or near their place of work in the countryside. Paragraph 80 of the NPPF does not offer guidance for establishing what constitutes 'essential need.'

1.7 In addition to the above, the Councils 'Rural Workers' Dwellings' Supplementary Planning Document states 'New permanent dwellings will be supported on well-established rural enterprises subject to the demonstration of the following:

I. there is a clearly established existing functional need (see below);
II. the need for a full time worker throughout the year (an annual average of at least 37 hours per week) on the site of the enterprise, including a requirement for unsocial hours and being "on call" in case of emergencies;
III. the rural enterprise has been established for at least three years and has been profitable in at least one of those three years, is currently financially sound and has a clear prospect of remaining so (see paragraph 3.15 below);
IV. the functional need could not be fulfilled by another existing dwelling on the enterprise, or any other existing accommodation in the area which is suitable and available for the occupation of the worker(s) concerned; and

V. *other planning requirements, e.g. in relation to access, impact on the countryside, are satisfied.*

1.8 Paragraph 3.7 of the SPD, states to establish a functional need the following requirements must be satisfied:

I. *a genuine need to live on the site and to be available at short notice at all times rather than living in a nearby centre or village;*
II. *it is not possible for the rural enterprise to run effectively without having the worker living on site;*
III. *no one undertaking the essential functional work already lives at the rural enterprise, or insufficient provision exists if there is a functional need for more than one worker;*
IV. *there is no dwelling available at the rural enterprise for occupation by the worker and there is no possibility of adapting a building at the rural enterprise; and*
V. *there is no suitable and available dwelling in a nearby village available for occupation by a worker who is required to provide the functionally essential service.*

1.9 Functional Need

1.10 The current business enterprise has been operating for approximately 14 years and therefore is considered to be well established. The applicant currently lives in Torrington, approximately 5 miles from the site and a 10-minute drive.

1.11 The applicant seeks the provision of a residential property on the application site, primarily, for security reasons. With respect to existing security measures, the supporting statement advises CCTV has been installed, however, this is not considered to be sufficient because offenders will cover their faces with balaclavas. The agent has suggested that a dwelling in site could reduce the risk of crime occurring together with additional measures such as lighting and an alarm system.

1.12 There is currently no alarm system used on site as the agent considers this would disturb the neighbours on site, when activated by wildlife or power surges.

1.13 Although it is well documented through previous appeal decisions for dwellings in the open countryside that security against predation, theft, injury, or disease is not normally a justification for a permanent dwelling in the open countryside, it can contribute to an overall functional need where there is an overall essential operational need for the business for a full-time worker to be resident at or near their place of work. Security (in particular from theft) is very rarely considered to be an overriding reason purely on its own merits. For the avoidance of doubt, the Rural Workers' Dwellings' Supplementary Planning Document makes clear that *"the need for a security presence will not on its own normally form an acceptable basis to justify a new dwelling."*

1.14 It is noted by the Local Planning Authority that there is an existing residential dwelling adjacent to the site, which effectively overlooks the site and in particular the main access. Whilst it is noted the property is not in the ownership of the applicant, the presence of a residential dwelling does not appear to have put off criminals attempting to gain access and therefore the Local Planning Authority would question whether the further provision of a residential dwelling would reduce the potential of criminal activity being attempted.

1.15 The business appraisal also included the justification of the effective management of the business as a reason for a residential dwelling on the site. Stating that there is a need for a key worker to reside at, or in close proximity, to manage and organise the business prior to workers arriving in the morning, servicing, and attending to vehicle and equipment after the day's work.

1.16 The operational hours of the commercial enterprise are restricted through condition 1 of planning permission, (reference: 1/0965/2014/FUL), which states "*The storage/removal business use hereby approved shall operate only between the hours of 07.00- 19.00 Monday*

to Saturday with no operations on Sundays or Bank Holidays. Between the hours of 04.00 – 07.00 and 19.00 and 23.00 the use shall be restricted to vehicle movements only with no loading or unloading taking place on the site. No vehicle movements shall occur between the hours of 23.00 – 04.00 with no vehicle movements permitted on Sundays or Bank Holidays."

1.17 The security and effective management of business reasons provided do not demonstrate a functional need for a permanent rural workers dwelling on the site, given there would not be a genuine need to reside on the site and to be available at short notice at all times rather than living in a nearby centre or village (such as the applicant does); the business has operated effectively for a number of years without having a worker living on site; and no evidence has been provided to demonstrate that there is no suitable and available dwelling in a nearby village (closer than Torrington), on the contrary there are a number of dwellings available within the settlements of Frithelstockstone, Langtree, or Stibbs Cross.

1.18 Additionally, the Local Planning Authority considers there could be other security measures that could potentially be used at the site, including an alarm system. The agent considers this would be a nuisance to the adjacent neighbouring property. However, an alarm system linked to the applicant's home or to a UK monitoring centre where a team member will call the key holder and/or police depending on the level of cover offered could be potentially beneficial and is likely to deter criminal activity on the site.

1.19 Whilst living on site, adjacent to the business, may be desirable, there is no functional or essential need for the applicant to live at the place of their employment and to be readily available at most time of the day and night.

1.20 Financial Test

1.21 If a functional need has been established for a permanent dwelling, then it will be necessary to confirm that the operation, which has generated the need for a resident worker is economically viable and there is a realistic prospect of it remaining so.

1.22 Guidance contained within the Council's Rural Worker's Dwellings SPD notes that for a permanent dwelling a rural enterprise should have been established for at least three years and have been clearly profitable for at least one of them, is currently financially sound and has clear prospects of remaining so.

1.23 The financial accounts, which have been submitted with the application, are accepted. The accounts demonstrate that the business enterprise has operated in a net profit for the last three years. The proposed development is therefore considered to meet the requirements of section (a). The existing enterprise is considered to be sufficiently profitable and to be likely to remain so, sufficient to provide the new dwelling.

1.24 In relation to section (b), the proposal is for the erection of a one-bedroom, rural workers dwelling, above the existing commercial premises. Guidance on the size of rural worker's dwellings is set out in the Council's Rural Workers' Dwellings SPD. Whilst it is noted the SPD only outlines the space standards for three- and four-bedroom properties, it does reference the National Space Standards and affords an uplift to this area is required for an agricultural worker to allow provision of a boot room, larger utility room etc. as well as office space for the principal dwelling on a holding. It is anticipated that the uplift could be accommodated within 15% of the overall gross internal area and therefore when assessing the proposal against the National Space Standards for a one-bedroom, one-storey dwelling including the 15% uplift, an area of 59 square metres is recommended.

1.25 The proposed plans illustrate that the one-bedroom dwelling will have a gross internal area of approximately 69 square metres and therefore is above the permitted 59 square metres, set out within the Councils Rural Workers Dwelling Supplementary Planning Document (SPD), by approximately 10 square metres. It is noted, the proposed dwelling is to be located above the commercial premises and therefore is somewhat guided by the scale of the commercial requirements.

1.26 Whilst the SPD is clear in that "*any uplift from the floorspace standards would not be supported, if proposed simply to provide additional living accommodation."* On this basis, given the close relation to scale of the commercial premises it is considered the slight increase in floor area is acceptable.

1.27 Taking account the above considerations, there are not considered to be any exceptional circumstances in this instance which would warrant a departure from the development plan. The development is therefore contrary to Policies ST07 and DM28 of the NDTLP, the Rural Workers Accommodation SPD and the NPPF.

2.0 Impact on Character and Appearance

2.1 The Local Plan policies on design are relevant - Policy ST04 (Improving the Quality of Development) and Policy DM04 (Design Principles), which both aim to achieve high quality, inclusive and sustainable design.

2.2 Policy ST04 supports development proposal that achieve high quality inclusive and sustainable design to support the creation of successful, vibrant places. Design will be based on a clear process that analyses and responds to the characteristics of the site, its wider context and the surrounding area taking full account of the principles of design found in Policy DM04.

2.3 Policy DM04 supports developments with good design and the policy seeks to guide overall scale, density, massing, height, landscape, layout, materials, access and appearance of new developments. It seeks not just to manage land use but support the creation of successful places and respond to the challenges of climate change. The policy lists 13 design principles that proposals must meet in order to be supported by the policy.

2.4 Policy DM08A seeks to protect the landscape and seascape character stating *'developments should be of an appropriate scale, mass and design that recognises and respects landscape character of both designated and undesignated landscapes and seascapes; it should avoid adverse landscape and seascape impacts and seek to enhance the landscape and seascape assets wherever possible. Development must take into account and respect the sensitivity and capacity of the landscape/seascape asset, considering the cumulative impact and the objective to maintain dark skies and tranquillity in areas that are relatively undisturbed.'*

2.5 The application site is not located within any special designated landscapes and falls, within Landscape Type 3A (Upper Farmed and Wooded Valley Slopes) as identified within the Joint Landscape Character Assessment for North Devon and Torridge Districts.

2.6 The NPPF also strongly emphasis the need for well-designed places, in which Part 12 of the Framework is solely dedicated to this aim. Paragraph 126 of the NPPF notes *'the creation of high-quality buildings and places is fundamental to what the planning and development proves should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work, and helps make development acceptable to communities.'* Part 12 of the framework, lists 6 key design principles that are required to be met in order to demonstrate the design is of high quality.

2.7 In addition to this, the National Design Guide is considered to be the most up to date national guidance in relation to design. The design addresses the question of how we recognise well-designed places and outline and illustrate the priorities for well-designed places and provides ten characteristics that should be considered in any forthcoming design and decision making.

2.8 The application site currently consists of a detached, single storey commercial building. The building, as a whole, is not considered to be of relatively high quality and there is no heritage or special architectural interest in the building.

2.9 The proposal is for extensions and alterations to existing commercial business units to incorporate office and storage on the ground floor and managers accommodation at first floor.

2.10 The proposed building will measure approximately 8.7 metres in width by 15.1 metres in length, with a maximum eave's height of 4 metres and a ridge height of 6.9 metres. The proposal includes approximately 100 square metres of business use on the ground floor including commercial storage and office space; and approximately 100 square metres of residential space at first floor, providing a single bedroom and living space.

2.11 The proposed building is proposed to be constructed with the following materials: rendered blockwork with composite cladding features; slate roof tiles; and uPVC windows and doors.

2.12 A public representation was received, which raised concerns over the scale of the development. The application site is located adjacent to the public highway and therefore is highly visible within the street scene.

2.13 Whilst the proposed building cannot be said to be of high architectural merit, it is considered that the scale, massing, form, and design of the proposed building is appropriate and sympathetic its context and setting; and would overall provide an overall betterment to the site. Consequently, it is considered to be compliant with policies ST04, DM04 and DM08A of the NDTLP.

3.0 Impact on Amenity

3.1 Policy DM01 of the NDTLP relates to amenity considerations and notes, development will be supported where:

(a) It would not significantly harm the amenities of any neighbouring occupiers or uses; and
(b) The intended occupants of the proposed development would not be harmed as a result of existing or allocated uses.

3.2 Policy DM02 of the NDTLP, states that development will only be supported where it does not result in unacceptable impacts to:

(a) Atmospheric pollution by gas or particulates, including smell, fumes, dust, grit, smoke, and soot;
(b) Pollution of surface or ground water including rivers, canals, other watercourses, water bodies, wetlands, water gathering grounds including catchment areas, aquifers, groundwater protection areas, harbours, estuaries, or the sea;
(c) Noise or vibration; and
(d) Light pollution where light overspills on to areas not intended to be lit.

3.3 Policy DM04 also aims to ensure the amenities of existing and future neighbouring occupiers are safeguarded. In addition to this, one of the core principles of the NPPF is to secure high-quality design and a good standard of amenity of all existing and future occupants of land and buildings.

3.4 Part H1 of the National Design Guide states that '*good design promotes quality of life for the occupant and users of buildings. This includes function […] comfort, safety, security, amenity, privacy, accessibility, and adaptability.'*

3.5 The application site is located within the open countryside and is neighboured by agricultural land to the northeast; the wider commercial premises to the southeast; a neighbouring residential property to the southwest; and the public highway to the northwest.

3.6 The Environmental Protection Officer was consulted on the proposed development and commented, *"The proposed development consists of a mixed residential and commercial use. Having regard for the existing commercial operations at or adjacent to the application site, there is the potential for the residential amenity of the proposed dwelling to be adversely affected. However, it is assumed that the proposed dwelling will be ancillary to the commercial*

operation and as such, amenity impact concerns are significantly negated. Should planning consent be granted, the Environmental Protection Team recommends the imposition of a condition stipulating that the proposed dwelling is ancillary to the commercial operation.

3.7 *Due to the proximity of an existing neighbouring dwelling to the south, there is the potential for detriment to residential amenity from the construction works associated with the proposed development if control measures are not in place. Should planning consent be granted, the Environmental Protection Team recommends a condition restricting construction works and delivery times to 0700 to 1900 hours Monday to Friday and 0800 to 1300 hours on Saturdays only with no works permitted on Sundays and Bank Holidays in order to protect residential amenity*.

3.8 *The Phase 1 Preliminary Contamination Assessment Report is very detailed and has been undertaken in accordance with relevant guidance. Having regard for the historic use of the application site, the Environmental Protection Team concurs with the report in that potential sources of contamination may exist that pose a risk to human health. Subsequently, the Environmental Protection Team further concurs that an intrusive ground investigation is required in order to corroborate the presence and extent of any ground contamination. The outcome of the intrusive investigation will assist in formulating the remedial measures needed to ensure the site is suitable for its intended use. Should planning consent be granted, the Environmental Protection Team recommends the implementation of the Authority's full standard contaminated land condition."*

3.9 The proposal is for extension and alterations to the existing commercial building and the provision of a manager accommodation above. The occupants of the dwelling are to be closely tied to the business, and in the event planning permission is granted the Council would look to secure this via a Section 106 agreement. Consequently, the existing commercial operations would not impact the amenities of any intended occupants of the dwelling.

3.10 In addition to the above, the design is such that the majority of the window openings and glazing is on the northeast elevation, and therefore overlooking the adjacent agricultural greenfield. There are limited openings on the southwest elevation.

3.8 In light of the above, the impacts of the proposed development are not considered to be significantly detrimental to visual or residential amenity and would be suitably designed for the intended purposes. As such, the development is in accordance with policies DM01, DM04 and DM25 of the NDTLP.

4.0 Access, Parking and Highways

4.1 Paragraph 111 of the NPPF advises that development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highways safety, or the residual cumulative impacts on the road network would be severe. In addition, Paragraph 112 notes that development should minimise the scope for conflict between pedestrians, cyclists, and vehicles, respond to local character and design standards, allow for the efficient delivery of goods, and access by service and emergency vehicles.

4.2 Policy ST10 of the NDTLP, sets out the transport strategy for Northern Devon. It aims to reduce the environmental and social impact of transport by ensuring that access to new developments is safe and appropriate.

4.3 Policy DM05 of the NDTLP relates to highways and states:

(1) All development must ensure the safe and well-designed vehicular access and egress, adequate parking and layouts which consider the needs and accessibility of all highway users including cyclists and pedestrians.

(2) All development shall protect and enhance public rights of way, footways, cycleways, and bridleways and facilitate improvements to existing or provide new connections to these routes where practical to do so.

4.4 In addition to this, Policy DM06 of the NDTLP relates to parking provision and states:

(1) Development proposals will be expected to provide an appropriate scale and range of parking provision to meet anticipated needs, having regard to:

(a) Accessibility and sustainability of the site;

(b) Availability of public transport;

(c) Provisions of safe walking and cycle routes; and

(d) Specific sale, type and mix of development.

(2) Proposals must encourage the use of sustainable modes of transport through careful design, layout and integration of the existing built form.

4.5 Devon County Council Highway were consulted on the proposed development; however, no representation was received.

4.6 The proposed development is to utilise the existing highway access with the provision of two private vehicle parking spaces to the north of the building. The access currently serves a significant volume of traffic, resulting from the business operations and the proposed development would not add only an insignificant volume of traffic. Suitable vehicle turning can be provided on the site, allowing vehicle to exit the site in forward gear.

4.7 Taking account the above, the proposed development is unlikely to result in a 'severe' cumulative highway impact and the proposal is in accordance with Policies ST10, DM05 and DM06 of the NDTLP and the NPPF.

5.0 Foul and Surface Water Drainage

5.1 Policy ST03(f) (Adapting to Climate Change and Strengthening Resilience) states that future development should be designed and constructed to take account of the impacts of climate change and minimise the risk to and vulnerability of people, land, and property by adopting effective water management including Sustainable Drainage Systems, water quality improvements, water efficiency measures and use of rainwater.

5.2 The supporting text of Policy ST03 states that *'all developments will seek to minimise flood risk through the use of Sustainable Drainage Systems and appropriate integration with green infrastructure. Controls to manage surface water runoff should be located as close as possible to where the rainwater drains, providing varying degrees of treatment for surface water through natural processes of sedimentation, filtration and biological degradation.*

5.3 Policy DM02 of the NDTLP requires that development must not result in unacceptable impacts in relation to the pollution of surface or ground water, whilst Policy DM04 establishes that water management must be addressed by development.

5.4 The NPPF reinforces the need for an appropriate drainage strategy, stating that developments should ensure that flood risk is not increased elsewhere, (Paragraph 167).

5.5 The Council's Environment Protection Officer commented on the proposed development stating "*It is noted that the proposed development will be served by an existing non-mains foul drainage provision. The applicant is responsible for ensuring the existing provision has sufficient capacity to accommodate any additional loading."*

5.6 The proposed drainage scheme utilises an existing non-mains foul drainage (septic tank), and surface water drainage is to be dealt with via a soakaway. Given the rural location of the site and the extent of the land ownership, the Local Planning Authority is reasonably confident the proposed drainage scheme is acceptable.

5.7 Taking account of the above, it is considered that the proposal accords with Policies ST03, DM02 and DM04 of the NDTLP.

6.0 Ecology

6.1 Local Planning Authorities have a statutory duty to ensure that the impact of development on wildlife is fully considered during the determination of a planning application under the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, the Conservation of Habitats and Species Regulations 2010 (Habitats Regulations 2010). This is further reinforced within NDTLP through Policies DM08 and ST14 which state that all developments must ensure that the importance of habitats and designated sites are taken into account.

6.2 The local planning authority also has a duty under Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 to have regard to biodiversity in exercising its functions. This duty includes the requirement to have regard to protected species.

6.3 Development proposals should avoid adverse impacts on existing features as a first principle and enable net gains by designing biodiversity features and enhancements and opportunities for geological conservation alongside new developments, however where adverse impacts are unavoidable they must be adequately and proportionately mitigated.

6.4 Two ecology reports were carried out, relating to each individual commercial building, both carried out by Orbis Ecology, and received 22nd December 2022. The Preliminary Ecological Appraisal Report, (reference: ORB0507OC), was carried out 15th June 2021, relates to the South West Dent and Scratch Centre, and concluded that, *'there were no bats nor any evidence of bats inside the workshop and no suitable roost features on the exterior of the building [and] there was no evidence of nesting birds in or on the workshop.'*

6.5 The Preliminary Ecological Appraisal, (reference: ORB0507OC), was carried out 14th December 2018, relates to Copps Removals and concluded that *"the building was assessed as having negligible suitability based on the absence of any evidence of bat use within the building and a lack of potential roost features" however, "there is potential for nesting birds to be present based on the evidence of previous nesting activity in the roof space."*

6.6 The report recommends the following mitigation measures:

- *Works to the building should be programmed to commence outside of the bird nesting season (1st March to 31st August, inclusive), or when the last young have fledged, whichever should be later. No works shall commence during the bird nesting season unless a competent ecologist has undertaken a careful, detailed check of the building for active birds' nests immediately before works commence and provide written confirmation that no birds will be harmed or that there are appropriate measures in place to protect nesting bird interest on site; and*
- *If works are planned to commence after the start of the nesting period (1st March), potential delays can be avoided by clocking any access points into the roof during the winter months, thus preventing birds entering the roof come the spring.*

6.7 Given that the reports were carried out over twelve months prior to the submission of the application, the case officer requested an addendum from the ecologist to determine whether the finding of the reports remain valid. The addendum states that following a repeat survey, *"the conditions of the site have not changed in the intervening period and the findings and recommendations of the 2018 report are still valid."*

6.8 In light of the above, the proposed development would not result in a significant adverse effect towards any protected habitats or species and therefore the proposed development is considered to be in accordance with Policies ST14 and DM08 of the NDTLP.

7.0 Conclusion

7.1 For the avoidance of doubt, the application site is located outside of the development boundary of Langtree and Stibb Cross and the Council are able to demonstrate a five-year housing land supply, identifying a 5.9-year supply of deliverable housing land when

considered against the relevant housing requirement. Accordingly, there is a presumption against new residential development unless there is an essential operational need for a full-time worker to be resident at or near their place of work, in this instance ‘Copps Removal and Storage Company.'

7.2 The functional needs test, rest solely on the security reasons for the business, where it is the opinion of the Local Planning Authority that the evidence provided does not clearly demonstrate a functional need. Consequently, the proposed development is contrary to the provisions of policies ST07 and DM28 of the North Devon and Torridge Local Plan; the Rural Workers Dwellings Supplementary Planning Document; and the principles of the National Planning Policy Framework.

7.3 In light of the above, it is considered the harm demonstrably outweighs the limited benefit of the proposal and the Local Planning Authority recommends the application is refused.

Human rights

Consideration has been given to the Human Rights Act 1998.

Recommendation

REFUSE, for the following reason:

1 In the opinion of the Local Planning Authority, the proposed development would result in a form of unsustainable development involving residential development within the countryside at a time the Local Planning Authority can demonstrate a five-year housing land supply and a functional need for a rural workers dwelling has not been adequately demonstrated. The proposed development is contrary to Policies ST01 (Principles of Sustainable Development), ST07 (Spatial Development Strategy for Northern Devon's Rural Area) and DM28 (Rural Workers Dwellings) of the North Devon and Torridge Local Plan; the Rural Workers Dwellings Supplementary Planning Document; and the principles of the National Planning Policy Framework.

Plans Schedule

Reference	Received
PROPOSED SOUTH _ NORTH ELEVATIONS (DG-006-18- 4 REV A)	12.06.2023
PROPOSED EAST _ WEST ELEVATIONS (DG-006-18-5 REV A)	12.06.2023
PROPOSED SECTION (DG-006-18-6 REV A)	12.06.2023
PROPOSED ROOF PLAN (DG-006-18-7 REV A)	12.06.2023
PROPOSED FLOOR PLANS (DG-006-22-3 REV A)	12.06.2023
PROPOSED SITE PLAN (DG-006-22-8)	18.01.2023
PROPOSED LOCATION PLAN (DG-006-22-9)	18.01.2023

Statement of Engagement

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF) in dealing with this application, the Council has worked with the applicant in the following and positive and proactive manner. We have made available detailed advice in the form of our statutory policies in the Development Plan, Supplementary Planning Documents, Planning Briefs, and other informal written guidance, as well as offering a full pre-application advice service, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably.

In such ways the Council has demonstrated a positive and proactive manner in seeking solution to problems arising in relation to the planning application.

Agenda Item 7c

Committee Report – 7th September 2023

Application Number:	1/0378/2023/FUL
Registration date:	16 May 2023
Expiry date:	11 July 2023
Applicant:	Mr Stephens
Agent:	R A Rowe & Co. Ltd.
Case Officer:	Ryan Steppel
Site Address:	Sanctuary Lodge, Bridgerule, Holsworthy, Devon, EX22 7EA,
Proposal:	Change of use of land to domestic and erection of summer house/orangery
Recommendation:	Refuse

Reason for referral:

Councillor James has called in the application as Leader of the Council.

Relevant History:

Application No.	Description	Status	Closed
1/0220/2000	ERECTION OF CONSERVATORY & CONSTRUCTION OF SLATE PITCHED ROOF TO EXISTING STORE	PER	31.03.2000
1/1861/2002	CHANGE OF USE OF DOMESTIC STORE SHED TO KEEP AND OCCASIONALLY SELL EXOTIC FISH	PER	25.11.2002
1/0790/1989	CONVERSION OF BRICK BUILT BARN TO A DWELLING	REF	31.05.1989
1/1101/2004/FUL	Extension	REF	08.07.2004
1/0031/2005/FUL	Extension	REF	28.02.2005
1/1592/2005/FUL	Proposed erection of stables	PER	05.10.2005
1/1610/2005/FUL	Change of use of barn into beauty salon	PER	26.10.2005
1/0863/2007/FUL	Proposed single storey side extension to dwelling	REF	19.10.2007
1/0681/2010/FUL	Proposed barn	PER	22.09.2010
1/0255/2016/FUL	Proposed extension to existing dwelling	PER	18.05.2016
1/0718/2016/FUL	Proposed Sunroom in addition to previous extensions approved under planning approval 1/0255/2016/FUL	PER	12.09.2016
1/0295/2022/FUL	Proposed summer house/orangery.	WDN	15.06.2022

Site Description & Proposal

Site Description:
The application site is located in the countryside and comprises of land south of an existing driveway. The application site is approximately 40 metres away from the dwelling Sanctuary Lodge and its associated domestic curtilage.

Proposal:
This application seeks planning permission for the change of use of land to domestic and the erection of summer house/orangery.

Consultee representations:

Bridgerule Parish Council:
The Parish Council has no objections to the application.

Environmental Protection Officer:
The Environmental Protection Team has no objections to the application.

Representations:

Number of neighbours consulted:	1	Number of letters of support:	0
Number of representations received:	0	Number of neutral representations:	0
Number of objection letters:	0		

No representations received.

Policy Context:

North Devon and Torridge Local Plan 2011-2031:
ST03 (Adapting to Climate Change and Strengthening Resilience); ST04 (Improving the Quality of Development); ST07 (Spatial Development Strategy for Northern Devon's Rural Area); ST10 (Transport Strategy); ST14 (Enhancing Environmental Assets); DM01 (Amenity Considerations); DM02 (Environmental Protection); DM04 (Design Principles); DM05 (Highways); DM06 (Parking Provision); DM08 (Biodiversity and Geodiversity); DM25 (Residential Extensions and Ancillary Development);

Government Guidance:
NERC (Natural Environment & Rural Communities); NPPF (National Planning Policy Framework); NPPG (National Planning Practice Guidance); WACA (Wildlife & Countryside Act 1981);

Planning Considerations

Main Considerations:
1. Principle of Development
2. Character and Appearance
3. Impact on Residential Amenity
4. Drainage Provision
5. Highways, Access and Parking
6. Ecology

1. Principle of Development
Paragraph 2 of the National Planning Policy Framework (NPPF) states that planning law (namely Section 38(6) of the Planning Compulsory Purchase Act 2004 and Section 70(2) of the Town & Country Planning Act 1990) requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.

Policies ST06 and ST07 of the North Devon and Torridge Local Plan (NDTLP) provide a settlement hierarchy for Northern Devon's urban and rural areas to direct where development should be distributed, by specifying areas falling as Strategic Centres, Main Centres, Local Centres, Village, Rural Settlements and Countryside. The application site is considered to be within a Countryside location. The NDTLP Glossary defines Countryside as:

'*The area beyond:*
(a) development boundaries, as identified on the Policies Map; and
(b) the principal built form and sites allocated for development in defined Settlements without development boundaries and Rural Settlements.'

Policy ST07(4) is therefore considered relevant, which states that in the countryside, development will be limited to that which is enabled to meet local economic and social need, rural building reuse and development which is necessarily restricted to a countryside location.

In addition, Policy DM25 states:

Policy DM25: Residential Extensions and Ancillary Development
(1) The extension of a residential dwelling and other ancillary development, beyond that enabled through permitted development, will be supported subject to:

(a) the form, scale, setting and design of the proposal respecting existing development, its context, setting and surroundings;
(b) adequate residential amenity space and parking provision being maintained; and
(c) there being no significant adverse impact on the amenity of the occupants of neighbouring properties.

(2) Annexe accommodation will be physically attached to the main house and be commensurate in scale to the needs of the intended occupants.

Furthermore, Paragraph 13.136 of the NDTLP states:

'Policy DM25: Residential Extensions and Ancillary Development, provides that proposals will be assessed to ensure that the bulk, massing and style are in keeping with the scale and character of the "host" house and neighbouring properties. Unduly dominant or overbearing development will not be acceptable. Particular regard will be given to the need to protect the amenity of adjacent properties and to control the impact on the character and appearance of the landscape and streetscape.'

The policy context requires proposals to be located sensibly to prevent the proliferation and encroachment of new uses/development in the countryside. The NDTLP supports the provision of outbuildings in close proximity to residential dwellings where it may be demonstrated that they are essentially required for a residential dwelling, such as for example, the erection of a domestic garage. Ordinarily, these facilities to be provided are by their nature well related to the host dwelling for practicality, and thus organically adhere to the policies contained within the NDTLP. Additional justification is required in those instances where a building is located some distance from the host dwelling to understand whether there is an appropriate rationale for the building's location. The Council also require similar justification for the change of use of any land where it is so divorced from the main dwelling, to prevent the encroachment of domestic land further into the Countryside.

The application seeks the erection of an orangery/summer house approximately 40-50 metres away from the host dwelling and outside of its defined residential curtilage. The area shown as being subject to a change of use is only part (roughly half) of a wider enclosed paddock area and the application makes no proposal for fencing to demarcate these separate uses.

The justification which has been put forward is as follows:

"*The principle reason for the siting of the building is the pleasant, slightly elevated position overlooking the applicants lake and to make the most of the easterly / morning sun aspect of the site, which has nice views of the Tamar valley. The idea was for the summerhouse to form a 'retreat' and provide a location for chillout and tranquillity away from the family dwelling".*

The applicant has also re-affirmed that the application is seeking permission for an outbuilding to be used in conjunction with and ancillary to the host dwelling on the site. The applicant has also confirmed that the building would not have a *'kitchen, bathroom or any sleeping arrangements'*.

The justification put forward is not considered sufficient to demonstrate the need for the building to be located where it is proposed. There is also limited justification for the change of use of land to domestic due to its overall distance from the existing dwelling. The proposal is therefore considered to be contrary to Policies ST07 and DM25 of the NDTLP.

2. Character and Appearance
Policy ST04 supports development proposal that achieve high quality inclusive and sustainable design to support the creation of successful, vibrant places. Design will be based on a clear process that analyses and responds to the characteristics of the site, its wider context and the surrounding area taking full account of the principles of design found in Policy DM04. Policy DM08A relates to landscape harm.

Policy DM04 supports developments with good design and the policy seeks to guide overall scale, density, massing, height, landscape, layout, materials, access and appearance of new developments. It seeks not just to manage land use but support the creation of successful places and respond to the challenges of climate change. The policy lists 13 design principles that proposals must meet in order to be supported by the policy.

The NPPF also strongly emphasises the need for well-designed places, in which Part 12 of the Framework is solely dedicated to this aim. Paragraph 124 of the NPPF notes 'the creation of high-quality buildings and places is fundamental to what the planning and development proves should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work, and helps make development acceptable to communities. Part 12 of the framework lists 6 key design principles that are required to be met in order to demonstrate the design is of high quality.

In addition to this, the National Design Guide is considered to be the most up to date national guidance in relation to design. The design addresses the question of how we recognise well-designed places and outline and illustrate the priorities for well-designed places and provides ten characteristics that should be considered in any forthcoming design and decision making.

Policy DM25 supports the provision of residential alterations, extensions, outbuildings and physically attached annexe accommodation subject to a range of criteria.

The application site can be viewed from a very specific part of the highway. It is noted that the access is flanked either side by established hedgerows which may screen the site more during points of excessive growth/during the summer months. In terms of any impact, there is likely to be modest harm associated with the erection of the summer house and any associated domestic paraphernalia, noting the proposed change of use of the land.

The area of land is not considered to result in a substantial impact from the wider landscape. Overall, whilst there is an impact, it is not considered to amount to an impact which could be demonstrated to be significant. There is a broad concern that the change of use of the land could result in additional outbuildings and greater domestic paraphernalia in the countryside.

However, given the modest impact proposed, the proposal is considered to accord with Policies ST04, DM04, DM08 and DM25 of the NDTLP with respect to character and design.

3. Impact on Amenity
Policy DM01 of the NDTLP relates to amenity considerations and notes, development will be supported where:
(a) It would not significantly harm the amenities of any neighbouring occupiers or uses; and
(b) The intended occupants of the proposed development would not be harmed as a result of the existing or allocated uses.

Policy DM04 also aims to ensure the amenities of existing and future neighbouring occupiers are safeguarded. Policy DM25 seeks to ensure that any developments do not result in an adverse impact upon the amenities of neighbouring properties. In addition to this, one of the core principles of the NPPF is to secure high-quality design and a good standard of amenity for all existing and future occupants of land and buildings.

The proposal would not result in any adverse impact upon neighbouring dwellings, surrounding uses or the future occupiers of the property, particularly on account of the site's isolated location. The proposal is not considered to result in any overbearing impact and there would be no potential for overlooking.

On that basis, the proposal is considered to be in accordance with policies DM01, DM04 and DM25 of the NDTLP.

4. Drainage Provision
Policy ST03 of the NDTLP notes that development should 'adopt effective water management including Sustainable Drainages Systems, water quality improvements, water efficiency measures and the use of rainwater'.

The supporting text of Policy ST03 states that 'all developments will seek to minimise flood risk through the use of Sustainable Drainage Systems and appropriate integration with green infrastructure. Controls to manage surface water runoff should be located as close as possible to where the rainwater drains, providing varying degrees of treatment for surface water through natural processes of sedimentation, filtration and biological degradation.'

Policy DM02 of the NDTLP requires that development must not result in unacceptable impacts in relation to the pollution of surface or ground water, whilst Policy DM04 establishes that water management must be addressed by development.

The application form indicates that surface water is to be disposed via a soakaway. The drawing includes the location of surface water attenuation crates.

The proposal is therefore considered to accord with Policies ST03 and DM02 of the NDTLP.

5. Highways, Access and Parking
Paragraph 111 of the NPPF advises that development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highways safety, or the residual cumulative impacts on the road network would be severe. In addition, Paragraph 112 notes that development should minimise the scope for conflict between pedestrians, cyclists and vehicles, respond to local character and design standards, allow for the efficient delivery of goods, and access by service and emergency vehicles.

Policy ST10 of the NDTLP, sets out the transport strategy for Northern Devon. It aims to reduce the environmental and social impact of transport by ensuring that access to new developments is safe and appropriate.

Policy DM05 of the NDTLP relates to highways and states:

(1) All development must ensure the safe and well-designed vehicular access and egress, adequate parking and layouts which consider the needs and accessibility of all highway users including cyclists and pedestrians.
(2) All development shall protect and enhance public rights of way, footways, cycleways and bridleways and facilitate improvements to existing or provide new connections to these routes where practical to do so.

In addition to this, Policy DM06 of the NDTLP relates to parking provision and states:

(1) Development proposals will be expected to provide an appropriate scale and range of parking provision to meet anticipated needs, having regard to:
(a) Accessibility and sustainability of the site;
(b) Availability of public transport;
(c) Provisions of safe walking and cycle routes; and
(d) Specific sale, type and mix of development.
(2) Proposals must encourage the use of sustainable modes of transport through careful design, layout and integration of the existing built form.

The site utilises an existing access and comprises development ancillary to the existing use, thereby not having an unacceptable or severe impact on highway safety, being acceptable with regards to the above policies. The site contains substantial turning space that could accommodate two cars or more. The proposal is considered to accord with Policies DM05 and DM06 of the NDTLP.

6. Ecology
Local Planning Authorities have a statutory duty to ensure that the impact of development on wildlife is fully considered during the determination of a planning application under the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, The Conservation of Habitats and Species Regulations 2010 (Habitats Regulations 2010). This is further reinforced by Policies ST14 and DM08 of the NDTLP which require that development ensures the protection and enhancement of biodiversity.

The local planning authority also has a duty under Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 to have regard to biodiversity in exercising its functions. This duty includes the requirement to have regard to protected species.

Development proposals should avoid adverse impacts on existing features as a first principle and enable net gains by designing biodiversity features and enhancements and opportunities for geological conservation alongside new developments, however where adverse impacts are unavoidable, they must be adequately and proportionately mitigated.

A wildlife trigger list has been received which confirms that no protected species would be adversely affected as part of the proposals. The proposal is acceptable with respect to NDTLP Policies ST14 and DM08.

Conclusion
The proposal is not considered to benefit from support in terms of the principle of development with insufficient justification provided by the applicant. The proposal results in no other adverse impacts with respect to character, amenity, highways and ecology.

Human rights

Consideration has been given to the Human Rights Act 1998.

Recommendation

REFUSE for the following reasons:

1 The proposal seeks the provision of a domestic building and associated change of use of land in an inappropriate location encroaching into the open countryside. Insufficient justification has been put forward to support the proposal, contradicting Policies ST07 and DM25 of the North Devon and Torridge Local Plan.

Plans Schedule

Reference	Received
STPH/22.P01	16.05.2023
STPH/22.P02 A	16.05.2023

Statement of Engagement

In accordance with paragraphs 38 of the National Planning Policy Framework (NPPF) in dealing with this application, the Council has worked with the applicant in the following and positive and proactive manner. We have made available detailed advice in the form of our statutory policies in the Development Plan, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice service, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably.

The Council engaged with the applicant, advising the applicant that the proposal would be likely refused due to insufficient justification for the development sought. The applicant provided further information, but this was not considered sufficient to meet the Council's previous concerns, and as such, the Council has given the applicant every opportunity to resolve the concerns raised.

APPEAL DECISIONS SUMMARY
Committee 7th September 2023

Appeal decisions for the period 10.07.2023 – 23.08.2023

Application No.	Address/Proposal	Appeal Decision	Officer Recommendation	Committee/ Delegated	Costs
1/0573/2022/OUT	Outline application with all reserved for 1 no. dwelling	Appeal Dismissed	Refusal	Delegated	N/A
1/0734/2021/FUL	Replacement dwelling pursuant of approval 1/0466/2017/AGMB	Appeal Dismissed	Refusal	Delegated	N/A
1/1118/2021/FUL	Change of use from a mixed use of public house and private dwelling to solely a private dwelling	Appeal Dismissed	Refusal	Committee	Appellant – Refused LPA - Approved
E/21/0080/UMOB	Wolf Meadows Farm High Bickington Devon	Appeal Dismissed	N/A	N/A	N/A
E/20/0206/UND	Wishtree Agroforestry And Permaculture Centre Mobile Home Highampton Beaworthy Devon EX21 5JN	Appeal Dismissed	N/A	N/A	Refused
E/20/0004/UCU	The Yard Peters Marland Devon EX38 8QH	Appeal Dismissed	N/A	N/A	Refused

The Planning Inspectorate

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Helen Smith
Torridge District Council
Development Control
Riverbank House
Bideford
Devon
EX39 2QG

Your Ref: 1/0573/2022/OUT
Our Ref: APP/W1145/W/23/3315147

17 August 2023

Dear Helen Smith,

Town and Country Planning Act 1990
Appeal by Mr & Mrs Edward Bewes
Site Address: Land adjacent to Long Close, East Putford, Holsworthy, Devon, EX22 7UQ

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure.

If you do not have internet access please write to the Customer Quality Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

We are continually seeking ways to improve the quality of service we provide to our customers. As part of this commitment we are seeking feedback from those who use our service. It would be appreciated if you could take some time to complete this short survey, which should take no more than a few minutes complete:

https://www.surveymonkey.co.uk/r/Planning_inspectorate_customer_survey

Thank you in advance for taking the time to provide us with valuable feedback.

Yours sincerely,

Melanie Pugh
Melanie Pugh

https://www.gov.uk/government/publications/planning-inspectorate-privacy-notices

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - https://www.gov.uk/appeal-planning-inspectorate

Appeal Decision

Site visit made on 25 July 2023

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th August 2023

Appeal Ref: APP/W1145/W/23/3315147
Land adjacent to Longclose, East Putford, Holsworthy, Devon EX22 7UQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr and Mrs Bewes against the decision of Torridge District Council.
- The application Ref 1/0573/2022/OUT, dated 27 May 2022, was refused by notice dated 22 July 2022.
- The development proposed is described as "proposed dwelling with associated access, parking and amenity space".

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note that the appeal is made in outline with all matters reserved for later consideration. Therefore, I have assessed the appeal on this basis.

3. I have taken the address from the Council's decision notice as this provides an accurate description of the site location which is absent from the application form.

Main Issue

4. The main issue is whether the site is a suitable location for the proposed development having regard to the provisions of local and national policy and its accessibility to services and facilities.

Reasons

5. The appeal site comprises an agricultural field next to, but outside of a clustered row of properties that does not contain any services or community facilities. It is within a rural parish where development is dispersed and is approximately 3 ½ miles from Bradworthy which includes a primary school, post office, shops and community facilities. Policy ST07 of the North Devon and Torridge Local Plan 2011-2031 (LP) sets out the strategy for development in the countryside, which is defined as areas beyond local centres, villages, or rural settlements. In the countryside, amongst other things, support is provided for local needs housing adjoining rural settlements with at least one community facility. Beyond these areas, development is limited to meet local economic and social needs, and development necessarily restricted to a countryside location.

6. Policy ST21 of the LP supports proposals outside defined settlements in circumstances where housing completions fall below 90% of the annual

requirement. However, since issuing their decision, the Council has confirmed that they have a 5.9 year housing land supply which the appellant does not dispute. Therefore, the policy does not apply. Paragraph 79 of the National Planning Policy Framework (the Framework) says that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and that where there are groups of smaller settlements, development in one village may support services in a village nearby.

7. I acknowledge the proposal would meet the personal needs of the appellant, including providing them and their family with more suitable accommodation for the longer term, supporting relatives and would allow their continued involvement in local community groups. However, although the appellant's personal statement identifies certain local connections, the development proposes an open market property and I have been provided with no mechanism to ensure it would remain available to meet locally generated needs or an identified local need such as affordable housing. Even if such a mechanism existed and I were to consider that the appeal site was adjacent to a Rural Settlement as set out in Policy ST07, that settlement would be required to contain at least one community facility, which it does not. As such, the appeal site is in the countryside for the purposes of Policy ST07. It has not been demonstrated that the development would meet locally generated needs or local economic or social needs, nor does it need to be restricted to a countryside location, as required by Policy ST07 of the LP.

8. Access to settlements that contain ranges of services and facilities would be gained via a lengthy network of unlit and unpaved rural lanes. Despite an undesignated bus stop for school runs/twice daily bus services, home deliveries/shopping and working from home, routes away from the appeal site would nevertheless not be an inviting option for pedestrians or cyclists to have to navigate, particularly in the dark or during inclement weather conditions. For these reasons, future occupants would be likely to be largely dependent on private vehicles for access to services and facilities at the nearest settlements and local centres beyond to meet their day-to-day needs.

9. Therefore, I conclude on the main issue that the site is not a suitable location for the proposed development having regard to the provisions of local and national policy and its accessibility to services and facilities. For the above reasons, the development would be in conflict with policies ST07 and ST10 of the LP, where Policy ST10 seeks to reduce the need to travel by car. There would also be conflict with chapter 9 of the Framework which, amongst other things, gives priority to pedestrian and cycle movements, and so far as possible, facilitating access to public transport.

Other Matters

10. The development would bring some limited economic benefits to the construction industry and thereafter through additional consumer spending in the local economy. Furthermore, the development could be progressed at a reserved matters stage to deliver a sustainably constructed property. Also, the retained wooded area could be tidied in the interests of the character and appearance of the area. However, any such benefits would not outweigh the harm I have identified above.

11. I have had regard to third party representations relating to visual impact, traffic and highways. However, as I am dismissing the appeal on the main issue for the reasons given above, I have not pursued these matters further.

Conclusion

12. For the reasons above, and taking into account all other matters raised, I conclude that the proposed development would fail to accord with the development plan as a whole and there are no considerations individually or cumulatively that outweigh this. Therefore, the appeal is dismissed.

J Hills
INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 11 July 2023

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th July 2023

Appeal Ref: APP/W1145/W/23/3314843
Coombeshead Park Farm, road from Tower Hill House to Dubbs Cross, Virginstow EX21 5EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Anthony Bricknell-Webb against the decision of Torridge District Council.
- The application Ref 1/0734/2021/FUL, dated 24 June 2021, was refused by notice dated 29 July 2022.
- The development proposed is replacement dwelling pursuant of approval 1/0446/2017/AGMB.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the site is a suitable location for the proposed development, having regard to the relevant development plan policies, previous decisions and the character and appearance of the area.

Reasons

3. The appeal site is located in an exposed countryside position, where views into it are available through two entrance points. In such locations, Policy ST07 of the North Devon and Torridge Local Plan 2011-2032 (LP) limits development to meet local economic and social needs, and development necessarily restricted to a countryside location. I acknowledge the proposal would better meet the personal needs of the appellant, providing practical, adaptable, multigenerational alternative accommodation, and opportunities to work from home; thus avoiding the need, in retirement, to move off the farm. The appellant suggests the proposal would potentially replace farm workers accommodation elsewhere, but no mechanism to control such an undertaking is before me. It has not been demonstrated that the proposal would meet local economic or social needs, nor does the development need to be restricted to a countryside location, as required by Policy ST07 of the LP. Additionally, as the development would not replace any dwelling, Policy DM26 of the LP would not apply.

4. Prior approval was previously granted on appeal in 2017[1] under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 on the appeal site for the conversion of an agricultural building to a dwelling (the prior approval). Although that grant of

[1] APP/W1145/W/17/3188267

consent has lapsed, I have no evidence before me to demonstrate that the site specific circumstances have changed and that prior approval would not be granted once more. Therefore, I am satisfied that the prior approval is a material consideration that can be afforded substantial weight. There is an extant planning permission granted in 2021[2] (the planning permission) for two dwellings which would replace the barn subject to the prior approval, and this represents a material consideration that can also be attributed substantial weight. In respect of the prior approval and the planning permission (the fallbacks), based on the evidence before me, there is a real prospect that either development would be carried out.

5. The proposed development would make use of acceptable external materials and would be positioned adjacent to the existing barn that is the subject of the fallbacks, and on lower ground due to the gentle sloping topography. However, despite the appellant's intended contemporary, asymmetrical and linked farmstead arrangement of buildings and screened garage, the sprawling extent of new built form on the site would appear to be of a greater cumulative scale and consequently, more incongruous in the landscape than the fallbacks.

6. Furthermore, although small sections of the roof tops of the planning permission would rise above the barn and would be closer to the road than the appeal dwelling, the tallest part of the appeal scheme would rise above the ridge height of the existing barn, despite being on much lower ground. Also, the proposed development would be particularly visible from the proposed access and entrance point.

7. The appellant suggests landscaping and removal of permitted development rights conditions to improve the screening of the development as well as the proposed landscaping and planting to the Devon Bank. However, even though the appeal scheme would result in one less property than the planning permission, the proposal would result in a substantial increase in scale and massing when compared with the fallbacks that would not be mitigated by such landscaping or by the removal of some permitted development rights. Additionally, the planning permission includes extensive additional planting secured through condition and is positioned more discretely by being closer to the roadside hedge. As such, the development would be more harmful than the fallbacks and unsympathetic to the landscape.

8. Therefore, I conclude on the main issue that the site is not a suitable location for the proposed development, having regard to the relevant development plan policies, previous decisions and the character and appearance of the area. For the above reasons, the development would be in conflict with policies DM04, ST04 and ST07 of the LP, which amongst other things, seek to deliver housing that responds to a proven agricultural, forestry or other occupational need that requires a countryside location; and developments that are appropriate and sympathetic in their scale, massing, height and relationship to landscape features.

9. I have not been provided with any substantive evidence to demonstrate the development would be in conflict with Policy DM08 of the LP which is concerned with biodiversity and geodiversity.

[2] Planning permission reference 1/0422/2021/FUL

10. At my visit I observed what appeared to be a newly formed access to the site which is reflective of the site access associated with the planning permission. Therefore, I cannot be certain that the planning permission has not already been implemented or as a result, that the submitted Unilateral Undertaking (UU) would effectively control the number of dwellings that could potentially be brought forward, as it intends. In any case, even if the UU were effective, I have found the development would be more harmful than the fallback positions and harmful to the character and appearance of the area.

Other Matters

11. I note the appellant's comments in respect of the presence of European Beavers within the agricultural unit, though this matter is no determinative to the outcome of the appeal.

Conclusion

12. For the reasons above, and taking into account all other matters raised, I conclude that the proposed development would fail to accord with the development plan as a whole and there are no considerations individually or cumulatively that outweigh this. Therefore, the appeal is dismissed.

J Hills

INSPECTOR

The Planning Inspectorate

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Your Ref: 1/1118/2021/FUL
Our Ref: APP/W1145/W/22/3312735

Helen Smith
Torridge District Council
Development Control
Riverbank House
Bideford
Devon
EX39 2QG

07 August 2023

Dear Helen Smith,

Town and Country Planning Act 1990
Appeal by Mr & Mrs Paul and Loarraine Johnson
Site Address: The Laurels Inn, Petrockstow, OKEHAMPTON, EX20 3HJ

I enclose a copy of our Inspector's decision on the above appeal(s), together with a copy of the decision on an application for an award of costs.

If you wish to learn more about how an appeal decision or related cost decision may be challenged, or to give feedback or raise complaint about the way we handled the appeal(s), you may wish to visit our "Feedback & Complaints" webpage at https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure.

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Guidance on Awards of costs, including how the amount of costs can be settled, can be located following the Planning Practice Guidance.

http://planningguidance.communities.gov.uk/blog/guidance/appeals/how-to-make-an-application-for-an-award-of-costs/

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Thank you in advance for taking the time to provide us with valuable feedback.

Yours sincerely,

Cameron Alford
Cameron Alford

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The Planning Inspectorate

Appeal Decision

Hearing held on 27 June 2023
Site visit made on 27 June 2023

by Paul Griffiths BSc(Hons) BArch IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 07 August 2023

Appeal Ref: APP/W1145/W/22/3312735
The Laurels Inn, Petrockstowe EX20 3HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs Johnson against the decision of Torridge District Council.
- The application Ref.1/1118/2021/FUL, dated 21 September 2021, was refused by notice dated 10 June 2022.
- The development proposed is the change of use from a mixed use of public house and private dwelling to solely a private dwelling.

Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing applications for costs were made by the appellants against the Council and by the Council against the appellants. These applications are the subject of separate Decisions.

Main Issue

3. This is whether the proposed change of use is acceptable, or not, in the light of the development plan, and Policy ST22(3) of the North Devon and Torridge Local Plan 2011-2031 (LP) in particular, and any other material considerations.

Reasons

4. LP Policy ST22 deals with what it terms community services and facilities. Section (3) of the policy addresses itself to the potential loss of such services and/or facilities. It says that development that involves the loss of community services and facilities will not be supported unless there is compelling evidence to demonstrate: (a) the existing use is no longer commercially viable or could not be made commercially viable; or (b) there is alternative local provision that is accessible to the local community by walking or cycling; and in either case (c) the premises are no longer required to meet the needs of the local community.

5. Paragraphs 8.9 and 8.10 of the explanatory text associated with LP Policy ST22 explain the approach to assessing application for the change of use of existing facilities. I note the points made on behalf of the appellants about the status of explanatory text in relation to what the actual policy sets out, but it seems to

me that paragraphs 8.9 and 8.10, in the way they explain how the Council will approach assessment under the aegis of the policy, function as explanatory text is intended to function. While what they say is not part of the policy itself, it is relevant to the application of the policy. It cannot simply be set aside[1].

6. Paragraph 8.9 says (and I summarise) that in assessing applications for change of use of existing facilities, a thorough analysis of the existing operation will be required along with details of the efforts made to secure the future and the viability of the business. In all instances it must be demonstrated that, of central relevance, (d) the facility is not commercially viable. In order to determine this, it is said that the Council will require submission of trading accounts for the last three full years in which the facility was operating as a full-time business.

7. Paragraph 8.10 sets out that commercially operated facilities must further demonstrate that a comprehensive sustained marketing campaign (to be agreed in advance by the Council) has been undertaken for its existing use, offering the facility for sale using an agreed realistic valuation of the premises, for a period of at least twelve months before an application is submitted.

8. That the appellants have not followed the requirements of paragraphs 8.9 and 8.10 to the letter is not, in my view, fatal to the case advanced on their behalf. However, the material the appellants have put forward has to be considered in the light of what is said in those paragraphs, in order to form a conclusion against the actual policy.

9. In terms of viability, contrary to the submission made on behalf of the appellants, the accounts do not demonstrate conclusively that the facility is not viable. For both years covered by the accounts[2], there was a surplus. I accept that the appellants have invested in the business using their own savings, and their labour, and did not draw salaries. However, that must be seen in the context of the fact that the public house was also the appellants' home. All the accounts that have been submitted show is that the business, in the manner the appellants operated it, did not make as much of a surplus as they would have wished. They do not describe a situation where it could safely be concluded that no other operator, or operators, could run the premises in a more successful way.

10. That is why the issue of marketing is so important. For all that has been said about it, there is an essential contradiction in the conduct of the marketing exercise that has taken place. On the one hand, I am told, on behalf of the appellants, that the business is failing and not viable, and that the public house trade generally is becoming more and more marginal, making it difficult to sell a country pub. However, on the other hand, the Laurels Inn has been marketed for sale at a little under £400,000 (pre-pandemic) and is currently on the market at £450,000. Those figures need to be seen in the light of the fact that the appellants purchased the Laurels Inn in 2017 for £269,000. It may well be that the recent marketing takes account of the potential for outbuildings to be converted to guest accommodation, but that cannot adequately explain why so great an uplift has been applied to a business that is said to be failing.

[1] I do not consider that my reasoning on this matter is at odds with the approach of my colleague Inspector in APP/W1145/W/21/3269314
[2] 2018/19 and 2020

11. Further, I note that an offer of around the asking price was received in 2020. That strongly suggests to me that at the time, someone clearly thought the business had at least the potential to be viable, contrary to the viability case advanced by the appellants. The sale fell through with the onset of the pandemic, but that does not undermine my finding.

12. I am told that post-pandemic, the prospects for public houses generally, and rural public houses especially, have become yet more difficult, hence the closure of the premises in September 2021. That may well be so. Nevertheless, I find it impossible to square that with the fact that the Laurels Inn is currently being marketed at a price £50,000 more than it was pre-pandemic.

13. Taking all those points together, I do not consider that the marketing campaign has been a sufficiently realistic one.

14. In that overall context, I am of the firm view that the evidence provided on behalf of the appellants is anything but compelling and it does not demonstrate that use of the Laurels Inn as a public house is not viable or could not be made commercially viable. The proposed change of use does not comply, therefore, with Policy ST22(3)(a).

15. Turning to (3)(b), there are two main points to be made. First, the village hall does not, in my view, provide an alternative local provision. It does not operate like a public house in that it relies on events; it does not cater for the opportunistic, as opposed to planned, visit. It is, therefore, no substitute for a public house. While there are public houses in nearby villages, these are not readily accessible by walking or cycling. I appreciate that when there was consideration of the matter, it was found that the Laurels Inn was not an Asset of Community Value. However, that consideration has a different scope and basis to the one required under Policy ST22(3)(b). In my view, what is proposed here does not accord with Policy ST22(3)(b).

16. Bearing in mind the way that Policy ST22(3) works, that is the end of the matter, but I will address (3)(c) for the same of completeness. It is very clear from what I heard at the hearing, and read in the representations, that the ability to access a public house in the village is something that is very much valued. It cannot be said, realistically, that the premises are no longer required to meet the needs of the local community.

17. Bringing all those points together, the proposed change of use plainly fails to comply with LP Policy ST22(3). The next question is whether there are any material considerations that would justify a decision contrary to the provisions of the development plan, in this case.

18. It has been argued that because the premises ceased operation as a public house in September 2021, the change of use proposed would not result in the loss of a community service or facility. I do not consider that argument to be one that justifies the change of use proposed because it would remove the potential for another operator or operators to carry out the business of a public house from the premises, without a fresh grant of planning permission. That potential is part of what Policy ST22(3) seeks to protect. While I appreciate that the Council might well support such an application, it would undoubtedly make the property less attractive to a potential operator. Indeed, a potential operator might have to purchase the property as a private dwelling, and then carry out significant works, in order to then turn it back into a public house.

19. In the challenging environment for rural public houses, that seems to me very unlikely and if planning permission is granted for the change of use of the premises to a private dwelling, it is very difficult to see how a public house would ever be operated from the premises again.

20. I accept that the appellants are under no obligation to re-open the public house and can continue to live in the property. Again though, one must treat this matter with care because it would be open to the Council to take enforcement action if they became concerned that the balance between the public house and residential uses of the premises was tipping too far towards the residential element. In that way, the potential for a public house to be operated once again from the premises can be protected.

21. With those points in mind, I do not consider that the closure of the public house in September 2021, and the implications that flow from that, are sufficient, as material considerations, to set aside the approach of the development plan and Policy ST22(3) in particular. There are no other material considerations that are weighty enough to justify a decision contrary to the development plan either.

Other Matters

22. The Council refused planning permission for two reasons but in the lead up to the Hearing confirmed that the second of those two reasons, relating to design, and the provision of what was termed 'private amenity space' would not be pursued on the basis that the issues raised could be addressed by a condition that covered any boundary treatments. That seems to me an eminently sensible approach and in that context, I have taken the matter no further.

Conclusion

23. For the reasons given above I conclude that the appeal should be dismissed.

Paul Griffiths

INSPECTOR

APPEARANCES

FOR THE APPELLANTS

Mr John Gower	Quiet Water Consultancy
Mr & Mrs Johnson	Appellants

FOR THE LOCAL PLANNING AUTHORITY

Ms Odette Challaby	Counsel
Ms Sara Boyle	Development Management Team Leader

INTERESTED PERSONS

Kate Smith	Local Resident
Cheryl Cottle-Hunkin	District Councillor
Malcolm Busby	Chair of Trustees of Baxter Hall and Parish Council
Mike Thompson	Local Resident
Lise Linney	Local Resident

DOCUMENTS

Document 1	Council's Response to Costs Application and Costs Application
Document 2	Appellants' Response to Council's Costs Response
Documents 3	Appellants' Response to Council's Costs Applications

The Planning Inspectorate

Costs Decision

Hearing held on 27 June 2023
Site visit made on 27 June 2023

by Paul Griffiths BSc(Hons) BArch IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 07 August 2023

Costs application in relation to Appeal Ref: APP/W1145/W/22/3312735
The Laurels Inn, Petrockstowe EX20 3HJ

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr & Mrs Johnson for a full award of costs against Torridge District Council.
- The hearing was in connection with an appeal against the refusal of planning permission for the change of use from a mixed use of public house and private dwelling to solely a private dwelling.

Decision

1. The application for an award of costs is refused.

The submissions for the appellants

2. These were made in advance of the Hearing.

The response by the Council

3. This was made in writing at the Hearing.

The response by the appellants

4. This was made in writing at the Hearing.

Reasons

5. Planning Practice Guidance (PPG) tells us that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs. Such unreasonable behaviour may be procedural, relating to the appeal process, or they may be substantive relating to the issues arising from the merits of the case presented.

6. A number of points are raised by the appellant that are said to constitute unreasonable behaviour by the Council. The first relates to the Council's purported reliance on the supporting text to Policy ST22(3) rather than the policy itself, an approach that is said to have been unlawful. As can be seen from my parallel decision on the appeal I do not consider the way in which the Council used the supporting text to Policy ST22(3) to have been unreasonable, or indeed unlawful. In fact, I have used the supporting text in the same way that the Council has - to inform and explain the application of the policy itself. That is after all the purpose of explanatory text.

7. There seems to be a suggestion too that the Council was unreasonable in not accepting the submitted accounts as the 'compelling evidence' required by Policy ST22(3). I do not accept that the Council was unreasonable in this regard. The policy requires 'compelling evidence to demonstrate that the existing use is no longer commercially viable or could not be made commercially viable'. As I have set out in my parallel appeal decision, the accounts submitted do not demonstrate that.

8. Linked to that, there is also an argument that the Council applied Policy ST22 in an unreasonable way because the public house is currently closed – the suggestion being that something that is not operational cannot be lost. However, that is to misunderstand the purpose of the policy. It protects not only community services and facilities, but also their potential. The fact that the public house is currently closed is a matter of little consequence in that regard. Indeed, it would be difficult to see the purpose of Policy ST22 if its requirements could be circumvented by the simple device of closing the community service or facility in question.

9. I accept that the appellants are under no obligation to re-open the public house and can continue to live in the premises. It is suggested that the Council was unreasonable in failing to take this properly into account. Again though, that rests on a misinterpretation of Policy ST22. The policy protects the public house element of what is accepted to be a mixed use of public house and private dwelling at the premises. The residential element could not absorb the public house element without the need for planning permission and the Council could take enforcement action if it felt that the balance between the residential and public house elements was tipping too far towards the residential element. The Council has not approached this matter in an unreasonable way.

10. The Council refused the initial application for two reasons. The second reason, relating to matters of design, and the provision of 'private amenity space' was withdrawn early in the appeal process because the Council considered that the matter could be dealt with through an appropriately worded condition. I do not regard that as unreasonable behaviour; on the contrary it demonstrates that the Council has thought critically about its position in order to ensure that unnecessary or wasted expense in the appeal process was avoided.

11. Points have been raised too about potentially malicious, defamatory, or even libellous comments about the appellants that are said to have been published on the Council's website and reproduced and disseminated since. This is said to have been unreasonable, but it is not for me to judge whether the correspondence referred to meets those definitions. If the appellants wish to take that matter further, it is not something that the planning process is equipped to deal with. The question for me is whether these comments have led to unnecessary or wasted expense in the appeal process. They have not.

12. Bringing all those points together, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Paul Griffiths

INSPECTOR

The Planning Inspectorate

Costs Decision

Hearing held on 27 June 2023

Site visit made on 27 June 2023

by Paul Griffiths BSc(Hons) BArch IHBC

an Inspector appointed by the Secretary of State

Decision date: 07 August 2023

Costs application in relation to Appeal Ref: APP/W1145/W/22/3312735
The Laurels Inn, Petrockstowe EX20 3HJ

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Torridge District Council for a full award of costs against Mr & Mrs Johnson.
- The hearing was in connection with an appeal against the refusal of planning permission for the change of use from a mixed use of public house and private dwelling to solely a private dwelling.

Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions for the Council

2. These were made in writing at the Hearing.

The response on behalf of the appellants

3. This was made in writing at the Hearing.

Reasons

4. Planning Practice Guidance (PPG) tells us that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs. Such unreasonable behaviour may be procedural, relating to the appeal process, or they may be substantive relating to the issues arising from the merits of the case presented.

5. The PPG tells us that the right of appeal should be exercised in a reasonable manner. An appellant is at risk of an award of costs being made against them if the appeal had no reasonable prospect of succeeding. This may occur when the development is clearly not in accordance with the development plan, and no other material considerations such as national planning policy are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence.

6. The central part of the Council's application for an award of costs is that the appellant has approached Policy ST22(3) and the associated explanatory text in an unreasonable way. The suggestion made by the appellant is that the Council's reliance on the explanatory text is unlawful.

7. In my parallel appeal decision, I have set out my views on the relationship between Policy ST22(3) and the explanatory text. I have found that the explanatory text, in particular paragraphs 8.9 and 8.10, explain how an assessment under the terms of Policy ST22(3) should take place. In that way they function in the way explanatory text is intended, and cannot be simply set aside. That said, I have not dwelt on the fact that the evidence put forward on behalf of the appellant does not strictly comply with the requirements of paragraphs 8.9 and 8.10, and neither, in fairness, has the Council.

8. The problem with the evidence that has been put forward is more fundamental than that. First, the submitted accounts do not demonstrate a business that is not viable, but a business that is not as profitable as the appellants would like. Second, the marketing that has taken place is fraught with contradictions.

9. I am told that the business was not viable based on the accounts, but someone was prepared to offer close to £400,000 for it, pre-pandemic; a figure way above the £269,000 paid by the appellants in 2017. That suggests that the business was seen as viable, or potentially viable, at that time and the fact that the sale fell through because of the pandemic is neither here nor there. Further, if the business was performing so poorly that it needed to be closed in September 2021, why is it on the market currently at £450,000?

10. Policy ST22(3)(a) requires compelling evidence to demonstrate that the existing use is no longer commercially viable or could not be made commercially viable. The difficulty with the case advanced on behalf of the appellants is not the Council's purported reliance on the explanatory text to Policy ST22(3), but the nature of the evidence that has been advanced by the appellants. It is anything but compelling. On top of that, no cogent attempt has been made to justify the proposed change of use under Policy ST22(3)(b).

11. In that overall context, it appears to me that the case advanced in relation to the development plan was doomed to fail. That is not the end of the matter though; it might be that there are material considerations that might point to a decision taken contrary to the provisions of the development plan.

12. Those that were advanced relied on arguments that the public house has closed, and that the appellants cannot be compelled to re-open it. That much is true, but the argument goes nowhere because it is the potential for the public house to re-open that I am concerned with.

13. Similarly, I appreciate that there is nothing to prevent the appellants from continuing to live in the property. Again though, that is missing the point because if the balance between the residential element of the use and the public house element tips too far towards the former, the Council could take enforcement action against the change of use that would entail, in order to protect the potential for the public house to operate once again.

14. All in all, I agree with the Council that the appeal had no reasonable prospect of success. The proposal is very clearly contrary to Policy ST22(3), and no material considerations have been advanced that come anywhere near pointing towards a decision contrary to the development plan.

15. As such, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

16. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mr & Mrs Johnson shall pay to Torridge District Council, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

17. The applicant is now invited to submit to Mr & Mrs Johnson, to whose agents a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Paul Griffiths

INSPECTOR

The Planning Inspectorate

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0303 444 5000

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www.gov.uk/planning-inspectorate

Helen Smith
Torridge District Council
Development Control
Riverbank House
Bideford
Devon
EX39 2QG

Your Ref: ENF/011/2022
Our Ref: APP/W1145/C/22/3309842
Further appeal references at foot of letter

18 August 2023

Dear Helen Smith,

Town and Country Planning Act 1990
Appeals by Wolf Meadows Farm Limited, Mr John Russell
Site Address: Land at Blackboards AKA Wolfs Meadows Farm, High Bickington, Umberleigh, Devon, EX37 9BE

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure.

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The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

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Yours sincerely,

Craig Maxwell
Craig Maxwell

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Linked cases: APP/W1145/C/22/3309843

The Planning Inspectorate

Appeal Decisions

Site visit made on 1 August 2023

by P N Jarratt BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 August 2023

Appeal A Ref: APP/W1145/C/22/3309842
Land at Blackboards AKA Wolfs Meadows Farm, High Bickington, Umberleigh, Devon, EX37 9BE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Wolf Meadows Farm Limited against an enforcement notice issued by Torridge District Council.
- The notice, numbered E/21/0080/UMOB, was issued on 26 September 2022.
- The breach of planning control as alleged in the notice is without planning permission and within the last 10 years, the change of use of the land to a mixed use incorporating residential use comprising of the use of a Motor Home for human habitation identified on the Schedule attached to this notice as Appendix B.
- The requirement of the notice is to cease any residential use of the land and remove the motor home from the land identified in the schedule attached to the notice as Appendix B.
- The period for compliance with the requirement is one year.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Appeal B Ref: APP/W1145/C/22/3309843
Land at Blackboards AKA Wolfs Meadows Farm, High Bickington, Umberleigh, Devon, EX37 9BE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr John Russell (Wolf Meadows Farm Limited) against an enforcement notice issued by Torridge District Council.
- The notice, numbered E/21/0080/UMOB, was issued on 26 September 2022.
- The breach of planning control as alleged in the notice is without planning permission and within the last 10 years, the change of use of the land to a mixed use incorporating residential use comprising of the use of a Motor Home for human habitation identified on the Schedule attached to this notice as Appendix B.
- The requirement of the notice is to cease any residential use of the land and remove the motor home from the land identified in the schedule attached to the notice as Appendix B.
- The period for compliance with the requirement is one year.
- The appeal is proceeding on the ground set out in section 174(2) (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act have lapsed.

Decision

1. It is directed that the enforcement notice is corrected and varied by

i) The deletion of the allegation and its replacement with "The material change of use of agricultural land to a mixed use for agriculture and for the stationing of a mobile home for human habitation."

ii) The deletion of Appendix B attached to the notice.

iii) The deletion of the requirement of the notice and its replacement with "Cease the use of the land outlined in red on the attached plan for the stationing of a mobile home for residential purposes and remove from the land the mobile home."

iv) The deletion of the compliance period of one year and its replacement with 18 months.

2. Subject to the corrections and variations the appeals are dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

3. At the site inspection it was evident that the motor home referred to in the allegation and sited to the northern part of the land had been removed. It had been replaced in December 2022 by a two bedroom mobile home situated in an elevated position towards the southern part of the land and which appears to be the same or similar location proposed for a mobile home in a planning application refused in August 2022 and referred to in the submitted Flood Risk Assessment (RAB Consultants 14/04/22 Version 1.0). As I have a duty to get the notice in order, I intend to correct the allegation to delete reference to the motor home and replace it with reference to the mobile home, together with other changes to the allegation and consequential changes to the requirement of the notice. As the notice refers to a change of use of land shown by a red line on the plan attached to the notice, the change in the location and type of residentially occupied unit does not materially affect the standing of the notice. I am satisfied that the corrections and variations will not cause injustice to the parties.

4. I therefore propose to correct and amend the notice as set out in the decision above.

The site and relevant planning history

5. The site is located in open countryside either side of the railway line which passes along an embankment and over two bridges linking both sides of the site. The River Taw curves around the eastern boundary of the site. Vehicular access is gained from the A377. The site is located in Flood Zones 2 and 3 and extends to about 11.8 ha of grassland and small areas of woodland.

6. To the west of the railway embankment is a track and numerous stored items including farm machinery, trailers, skips. Some 8 pigs were contained in an enclosure. To the east of the railway is a recently excavated large pond and three enclosures, one containing about 29 cattle, one was empty and the third was being prepared for no dig potato growing. A small chicken run contained about 17 hens. There are four glamping pods situated around the site together with two timber toilet huts and one camper's tent at the time of my visit.

7. In the southern part of the site and slightly elevated above the flood plain, is a mobile home with a double pitched roof and stove pipe, external domestic paraphernalia, a water container and septic tank. Timber structures are under construction, one of which is at an advanced stage and said to be for an office. There are a number of storage boxes, sheds and containers used for a variety of purposes including for the storage of frozen meat and for cultivating hydroponic plants. Two old agricultural buildings are located in proximity of the office under construction, one of which the appellants state will be used as a temporary calving building in the absence of a permanent agricultural building.

8. An application for the temporary change of use of land for the siting of a caravan to act as an agricultural worker's dwelling was refused in August 2022. (1/0408/2022/FUL). No appeal was made against the decision.

9. Application 1/0322/2022/AGR for an agricultural building for the housing of livestock was refused in May 2022. Application 1/0908/2022/AGR for the erection of agricultural building for storage of agricultural equipment, machinery and associated goods was refused in March 2023.

10. A response to a Planning Contravention Notice dated 20 February 2022 indicated that the motorhome had been in use on the site since February 2021 and that those residing on the land were John Russell-Murphy, Marcus Murphy and J'Mariah Russell.

11. The carrying out of operational or engineering development such as the creation of the pond, the erection of various structures on the site such as the office building, the toilet facilities for campers and the external domestic paraphernalia associated with the mobile home do not form part of the allegation as drafted, or as corrected.

The appeal on ground (a)

12. An appeal on this ground is that planning permission should be granted for what is alleged in the notice. The main issues are whether there is an essential functional need for a temporary resident worker; whether the occupants of the mobile home would be in danger at times of flood, and, whether the use of the existing access would be prejudicial to highway safety.

Essential need

13. Policy ST07 of the North Devon and Torridge Local Plan requires development in the countryside to be limited to what is needed to meet local economic and social needs, rural building re-use and development which is necessarily restricted to a countryside location. Policy DM28 regarding rural workers accommodation sets out the detailed requirements that need to be met and also indicates that where an enterprise is not well established, the provision of temporary accommodation will be considered for an initial period, normally for three years. The operational need for the temporary dwelling will have to be demonstrated and that the enterprise has been planned on a sound financial basis.

14. The appellants purchased the holding in January 2021 and have introduced a livestock enterprise comprising a suckler herd of pedigree Belted Galloway and Highland cattle along with pigs and poultry. The agriculture appraisal report by Reading Agricultural Consultants Ltd (dated November 2022) indicates that some 10.5ha of grassland and 7.68ha of agroforestry land located elsewhere

are available to the enterprise and that the appellants have entered 9.87ha of the appeal site into the DEFRA Sustainable Farming Incentive Agreement.

15. The appellant's appraisal concludes that there is an essential need for a temporary dwelling in view of the proposed increase in stock numbers over a three year period to a herd of 106 beasts. In order for the welfare of the stock not to be compromised a full-time worker needs to live on the unit. Additionally it is indicated that the developing enterprise will return a profit after three years sufficient to provide a notional charge for labour and return on capital invested. No other suitable residential accommodation has been identified.

16. The Council's appraisal, provided by LandSense, concludes that as the proposed level of stocking within the business plan is reliant on an agricultural building for which no permission exists, it cannot therefore be demonstrated that an essential need exists or that the business is sustainable. Accordingly the development does not accord with relevant policies.

17. It is evident that the expert advisors of the parties have reached different conclusions based on the business plan and the appraisal of an essential need for a resident worker for the enterprise. It is also apparent that the absence of an agricultural building is holding the enterprise back, albeit that the appellants have unsuccessfully attempted to resolve this. Although there is a stated intention to utilise a traditional agricultural building on the site, there is no evidence before me to suggest that this a realistic proposition in the near future. This indicates that the realisation of the business plan is ambitious in the circumstances.

18. On this basis it has not been demonstrated that an essential need exists for a temporary dwelling and that the stationing of a mobile home for human habitation fails to comply with Local Plan Policy DM28 or the Rural Workers SPD (January 2020).

Flood Risk

19. The appellants' statement of case refers to the motor home in its original location, referring to there being no Flood Zone 1 land suitable for the siting of a motorhome within 'site and sound' of the livestock. The statement is silent on the introduction of a mobile home on a different part of the site although the current location of the unauthorised mobile home appears to be that indicated in the refused application 1/0408/2022/FUL and also referred to in the appellants' submitted Flood Risk Assessment by RAB Consultants (14/04/22 Version 1.00).

20. This assessment concludes that the site is located in Flood Zone 2 and 3 according to the Environment Agency's flood map for planning. A simple 2D modelling exercise, proportionate to the scale of development, has been undertaken to assess the site-specific flood risk from the River Taw. No flooding is expected at the proposed location of the mobile home in a 1% Annual Exceedance Probability design flood event given the raised level of the site relative to the river and surrounding ground. The assessment states that risk to the mobile home will be managed by locating it on the upper level of the site, where the ground level is at least 1.2m above the design flood level. Risk to residents will be further managed by a flood warning and evacuation plan, with emphasis on early evacuation. Given the small-scale nature of the proposal and the remote rural setting, no impact on surface water runoff and

downstream receptors is expected. It is concluded that the proposed development is appropriate for the flood risk and is not expected to increase the flood risk elsewhere. The assessment recommends that the mobile home be set on the upper level of the site, on ground no lower than 27.85m AOD; the mobile home floor level be at least 300mm above local ground; residents must sign up for the Environment Agency's Flood Warning Service and a detailed Flood Warning and Evacuation plan produced, with early evacuation the priority.

21. The Environment Agency does not object to the mobile home with it being sited in Flood Zone 2 but indicate that flood risk should not be under-estimated. There is no safe access or egress to this site (which is in Flood Zone 3) during a flood event which would have a rapid onset with little warning or time for evacuation, particularly in the event of a flash flood.

22. I note the Council recognises its responsibility to undertake a sequential test of development in Flood Zones 2 and 3 in relation to flooding impacts, particularly in relation to access and egress from the site.

23. The appellants have not provided substantiated evidence which shows that the mobile home could not be located in Flood Zone 1.

24. The National Planning Policy Framework (the Framework) indicates that the aim of the sequential test to development is to steer development to areas with the lowest risk of flooding. Where it is not possible for development to be located in areas of lower risk, an exception test may need to be applied. Annex 3 of the Framework identifies caravans, mobile homes and park homes intended for permanent residential use to be in the 'highly vulnerable' category of development.

25. Paragraph 164 of the Framework indicates that for development to pass the exception test the development would provide wider sustainability benefits to the community that outweigh the flood risk; and the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere and, where possible, will reduce flood risk overall.

26. Although the appellants' FRA indicates that the site of the mobile home is not expected to flood in the design event, access to the site could see depths of up to 1.5m which is associated with a hazard rating of 'Danger for All'.[1] The proposed evacuation route would involve travelling across the flood plain and passing under the railway line before travelling upwards towards the A377. This does not indicate that such an escape route would be safe in the event of a severe flood.

27. The absence of a safe escape route indicates that the site of the mobile home is inappropriate and is contrary to Local Plan Policies ST03 and DM04 and to relevant paragraphs of the Framework.

Highway safety

28. The highway authority is concerned about increased trip generation from the site and objects to the development. Egress for traffic emerging from the site onto the A377 is on a stretch subject to the national speed limit which is sub-standard with very poor visibility to the south due to the acute angle that the

[1] Paragraph 4.2.1 of the Flood Risk Assessment

private access track meets the main road which is aggravated by foliage and the adjacent fence.

29. The appellants' submitted traffic statement by Jubb (Transport Consultants November 2022) indicates that prior to living on the site, some 12 vehicle trips per day took place compared to 4 trips per day since living on the site. The appellants also refer to other planning applications for temporary agricultural workers dwellings where access was found to be acceptable, despite poor visibility. However the site in this appeal has a junction onto a Class A road, which by its very nature, is likely to carry more traffic. Notwithstanding this I am satisfied that the number of trips per day is reduced as a result of an agricultural worker living on site and that there is unlikely to be any adverse impact on highway safety.

30. I conclude on this issue that the highway impacts are such that the development should not be refused on highway grounds on the basis set out in Paragraph 111 of the Framework.

Overall conclusions on the ground (c) issues

31. Although the appellants clearly wish to progress with their farming enterprise, the absence of an agricultural building is an impediment in respect of justification of an essential need for a temporary dwelling for an agricultural worker. The absence of a safe escape route in the event of flooding also weighs against the development. These factors are not outweighed by my findings on highway safety. Planning conditions would not overcome the practical problems such as to make the development acceptable, even for a temporary period. The appeal on ground (c) fails.

The appeals on ground (g)

32. The compliance period is one year but the appellants considers that a period of 18 months is necessary in order not to completely jeopardise the farming enterprise. It is claimed that without a residential management presence it would not be possible to keep all the livestock on the holding and it would take time to find an alternative site. To sell the animals would represent a loss of pedigree breeding stock which forms a fundamental part of their business plans.

33. I note that the Council have consistently applied 12 months on similar enforcement notices but would accept a variation to 18 months.

34. Having had regard to the nature of the holding and the farming enterprise, I am satisfied that a compliance period of 18 months would be reasonable. I shall vary the notice accordingly. The appeal on ground (g) succeeds.

Conclusion

35. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with a correction and variations and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

P N Jarratt

INSPECTOR

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Helen Smith
Torridge District Council
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Your Ref: ENF/009/2022
Our Ref: APP/W1145/C/22/3308168
Further appeal references at foot of letter

14 August 2023

Dear Helen Smith,

Town and Country Planning Act 1990
Appeals by Ms Hayley Oakwood, Mr Mark Andrews
Site Address: Land at Winnie's Wood, Black Torrington, Beaworthy, AKA Wishtree Agroforest & Permaculture Centre, EX21 5JN

I enclose a copy of our Inspector's decision on the above appeal(s), together with a copy of the decision on an application for an award of costs.

If you wish to learn more about how an appeal decision or related cost decision may be challenged, or to give feedback or raise complaint about the way we handled the appeal(s), you may wish to visit our "Feedback & Complaints" webpage at https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure.

If you do not have internet access you may write to the Customer Quality Unit at the address above. Alternatively, if you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

The Planning Inspectorate is not the administering body for High Court challenges and cannot change or revoke the outcome of an appeal decision. If you feel there are grounds for challenging the decision you may consider obtaining legal advice as only the High Court can quash the decision. If you would like more information on the strictly enforced deadlines and grounds for challenge, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

Guidance on Awards of costs, including how the amount of costs can be settled, can be located following the Planning Practice Guidance.

http://planningguidance.communities.gov.uk/blog/guidance/appeals/how-to-make-an-application-for-an-award-of-costs/

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service. It would be appreciated if you could take some time to complete this short survey, which should take no more than a few minutes complete:

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Thank you in advance for taking the time to provide us with valuable feedback.

Yours sincerely,

Craig Maxwell
Craig Maxwell

https://www.gov.uk/government/publications/planning-inspectorate-privacy-notices

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - https://www.gov.uk/appeal-planning-inspectorate

Linked cases: APP/W1145/C/22/3308169

Appeal Decisions

Site visit made on 18 July 2023

by Jessica Graham BA (Hons) PgDipL

an Inspector appointed by the Secretary of State

Decision date: 14 August 2023

Appeal A Ref: APP/W1145/C/22/3308168
Appeal B Ref: APP/W1145/C/22/3308169

Land at Winnie's Wood, AKA Wishtree Agroforest & Permaculture Centre, Black Torrington, Beaworthy, Devon EX21 5JN

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended. The appeals are made by Ms Hayley Oakwood (**Appeal A**) and Mr Mark Andrews (**Appeal B**) against an enforcement notice issued by Torridge District Council.
- The notice was issued on 2 September 2022.
- The breach of planning control as alleged in the notice is: Without planning permission and within the last 10 years, the change of use of the Land shown on the Plan (attached as Appendix A) to a residential use by virtue of the residential use of a caravan, identified in Annex B attached to this notice, for human habitation.
- The requirements of the notice are to:
  - (i) Cease any residential use of the Land identified in Appendix A
  - (ii) Remove all domestic paraphernalia associated with residential use from the land.
- The period for compliance with the requirements is twelve months.
- The appeals are proceeding on the ground set out in section 174(2)(d) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeals are dismissed and the Notice is upheld with a correction in the terms set out in the Formal Decision below.

Application for costs

1. The Council applied for an award of costs against the Appellants. That application is the subject of a separate Decision Letter of even date.

Preliminary matters

2. The Appeal Site, outlined in red on the plan attached to the Enforcement Notice as Appendix A, is the entirety of the approximately five-acre area of planted and semi-natural woodland owned by the Appellants. It is common ground that the land has long been in use for agricultural activities (such as permaculture, horticulture, and agroforestry) and that this use has continued alongside the residential use. As the Appellants rightly point out, this means that there is now a mixed use of the land taking place, and this should be reflected in the wording of the alleged breach of planning control. I am satisfied that I can correct the notice accordingly, without causing injustice to either party: there is no dispute that the agricultural component of the mixed use is lawful, and will continue to be so whatever the outcome of these appeals.

3. The Appellants contend that the requirements of the Notice have already been complied with, on the basis that they now live in a timber cabin built on the

Appeal Site, and the caravan in which they were formerly living has been removed. It is important to be clear that while the Notice describes the change of use as having been brought about by the residential use of a caravan, it is NOT only the occupation of that caravan which is attacked by the Notice. The Notice clearly alleges the unauthorised residential use of the entirety of the Appeal Site, which includes the use (as distinct from the construction) of any buildings and structures it contains. The requirement to "cease any residential use of the land" has not been – and cannot be – met while the Appellants continue to live on the Appeal Site.

The appeals on ground (d)

4. The ground of appeal is that by the date on which the Notice was issued, the time limit available to the Council for taking enforcement action had expired. The time limit in this case is ten years, beginning with the date of the breach.[1] The Appellants' case is that they have been living on the Appeal Site since January 2021, having purchased the Appeal Site in December 2020 from the previous owners, Mr and Mrs Bagnall, who had themselves been living there since early 2011. They contend that since the unauthorised residential use began in 2011, and has continued unbroken since then, it is now immune from enforcement.

5. The Appellants have each provided sworn statements, as have local residents Ms Julie Smith and Mr David Evans, setting out their understanding of the previous use of the site. The Appellants say Mrs Bagnall showed them around the Appeal Site in September 2020, when she told them that she and her husband had lived there since 2011, initially in a van and then in a caravan and tent, and had paid residential Council Tax since around 2015/6. Ms Smith states that she first met Mr and Mrs Bagnall soon after they bought the Appeal Site in September 2011, that they bought a small caravan in early 2012 and that "I know with certainty they lived there on site." Mr Evans states that "To our knowledge [Mr and Mrs Bagnall] stayed at Wishtree in a van from Winter 2011 and lived at Wishtree in a caravan from Spring 2012".

6. The Council does not accept this version of events. It states that it investigated the Appeal Site in 2016, regarding an allegation of unauthorised residential use of a caravan at the site. At a visit on 26 September 2016 the Council's Officer spoke to Mr and Mrs Bagnall, who said that they had owned the land for five years; had commenced residential use in August 2015; and had paid Council tax for the residential use of the caravan since 1 August 2016.

7. A sworn statement carries considerable weight, and I have no reason to doubt that in each case, the signatory was providing evidence to the best of their ability. However, the assertions made in the statements by local residents are said to be based on "knowledge" for which no supporting or substantiating evidence is provided. The evidence contained in each of the Appellants' statement is largely hearsay; that is, their reported recollection of a conversation with Mrs Bagnall, at the time when they were considering purchasing the Appeal Site. Similarly, while I have no reason to doubt the probity or impartiality of the Council Officer who visited the site in September 2016, the evidence of what was established at that visit is again largely hearsay: a reported recollection of a conversation with Mr and Mrs Bagnall,

[1] S.171B(3) of the 1990 Act as amended.

with no supporting evidence such as a copy of contemporaneous notes made at that site visit.

8. No explanatory statement, or any other evidence, has been submitted by Mr or Mrs Bagnall in the course of these appeals. However, the Council has provided a copy of a letter from Mr and Mrs Bagnall dated 9 October, which it received following its visit to the site in September 2016. The letter begins "We consider that being present on site at all times, day and night is immensely beneficial to the smooth running of the business. However, we want to establish a good working relationship with the Council, and are therefore prepared to cease our residential occupation of Wishtree Wood."

9. In my judgment, this is persuasive evidence that Mr and Mrs Bagnall were, at the date of that letter, in residential occupation of the Appeal Site. As to the date on which that residential occupation began, the letter from Mr and Mrs Bagnall says this: "We feel there has been a misunderstanding as to the timeline of our being here – we moved to Devon in August 2015, but as discussed at the time of your visit, we have not been on-site for all this time, staying at a local B&B for several weeks over the winter, volunteering at other projects on and off, then spending the summer on-site to more intensively maintain our project, and deliver courses. We are unsure as to whether this means that we have been using the site residentially as suggested in your correspondence."

10. I agree with the Appellants that notwithstanding Mr and Mrs Bagnall's own uncertainty, the use they describe is likely to have amounted to residential occupation. The important point is that the letter makes it very clear they "moved to Devon" in August 2015, and that is when the use they describe began. This accords with the email provided by the Council from its "Revenues & Benefits" Department, which states "The mobile home… has been in Council Tax since 1 August 2015 and has been used as main residence since this date."

11. Taking all of this into account, I am not persuaded that there is sufficient substantive evidence to support the contention that Mr and Mrs Bagnall were living at the Appeal Site prior to August 2015. I appreciate that local residents genuinely believed they were, and I recognise that such a belief is likely to be founded on the amount of time that Mr and Mrs Bagnall spent at the Appeal Site. But it would not be unusual to spend a large amount of time (and frequently camp out) on site – particularly in the early years of setting up a permaculture enterprise - while residing elsewhere. The letter written by Mr and Mrs Bagnall to the Council in the autumn of 2016, which is the only direct evidence available from them, contains a very clear explanation that their residential occupation of the Appeal Site began, at the earliest, in August 2015.

12. I therefore conclude that, on the balance of probabilities, the unauthorised residential use of the Appeal Site commenced in August 2015. This means that the Enforcement Notice was issued within the ten-year period available to the Council for taking action against the breach of planning control. It follows that the appeal on ground (d) must fail.

Other matters

13. It is perhaps worth addressing here various points made about the status of the timber cabin constructed on the Appeal Site, which was not included in the description of the alleged breach of planning control. The effect of upholding

the Notice will be to prevent its use as a dwellinghouse, but the Notice does not (and could not, since it is not included in the description) require its removal. However, s.173(11) of the 1990 Act will not operate, as the Appellants contend, to mean that planning permission should be treated as granted for the cabin. Subsection (11) only applies to buildings, works or activities included in the description of the alleged breach of planning control in the Enforcement Notice: it does not operate to grant planning permission for other possible breaches of planning control, or for everything else remaining on site once the requirements of the Notice have been complied with.

14. I am mindful that a decision to uphold the Notice means that the Appellants and their children stand to lose their current place of residence. This would be an interference with their rights to respect for their private life and home, and in any such action, the best interests of the children must be a primary consideration.[2] The period specified for compliance with the requirements of the Notice is twelve months. The Appellants have not themselves sought to argue that this period falls short of what would reasonably be required, and I consider it a fair amount of time to look for alternative accommodation. I am satisfied that the requirements of the Enforcement Notice are proportionate when balanced against the need to uphold the planning system in the wider public interest.

Conclusion

15. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the Enforcement Notice.

Formal Decision

16. It is directed that the Enforcement Notice is corrected by:

    At line 2 of section 3(i), deleting the phrase "to a residential use" and replacing it with the phrase "to a mixed use consisting of residential use and agricultural use".

    Subject to that correction, **Appeal A** and **Appeal B** are dismissed and the Enforcement Notice is upheld.

Jessica Graham

INSPECTOR

[2] Per Article 8 of the European Convention on Human Rights, set out in Schedule 1 of the Human Rights Act 1998.

The Planning Inspectorate

Costs Decision

Site visit made on 18 July 2023

by Jessica Graham BA (Hons) PgDipL

an Inspector appointed by the Secretary of State

Decision date: 14 August 2023

Costs application in relation to Appeal A Ref: APP/W1145/C/22/3308168 and Appeal B Ref: APP/W1145/C/22/3308169
Land at Winnie's Wood, Black Torrington, Beaworthy, AKA Wishtree Agroforest & Permaculture Centre, EX21 5JN

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Torridge District Council for a full award of costs against Ms Hayley Oakwood and Mr Mark Andrews.
- The appeal was against an enforcement notice alleging the unauthorised material change of use of the land to residential use.

Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

3. The PPG provides non-exhaustive lists of examples of the types of behaviour which may give rise to an award of costs, one of which is "providing information that is shown to be manifestly inaccurate or untrue". The Council contends that it had evidence contrary to that submitted by the Appellants, which the Appellants failed to address, relying instead on the evidence contained in their own and others' signed Statements.

4. In my decision on the appeals, I conclude that there is insufficient substantive evidence to support the contention that the former owners of the Appeal Site were living there prior to August 2015. But that is not at all the same thing as concluding that the information provided by and on behalf of the Appellants was manifestly inaccurate or untrue. I have no reason to doubt that all of the evidence provided by the Appellants and their neighbours was given in good faith, and accurately represented their understanding of the circumstances. My decision was informed by testing the balance of probabilities, which requires the exercise of professional judgment as to the amount of weight that should be placed on each piece of evidence. I do not consider it unreasonable for the Appellants to have persisted in the view that their evidence, in the form of a number of signed Statements from different individuals, should outweigh the evidence provided by the Council.

5. The PPG's list of examples that might give rise to a procedural award of costs against an Appellant includes "introducing fresh and substantial evidence at a

late stage necessitating…extra expense for preparatory work that would not otherwise have arisen". The Council contends that new information in the Appellants' Revised Appeal Statement – in the form of assertions that the requirements of the Notice had been complied with, and the timber cabin constructed on site was in residential use and not subject to the requirements of the Notice – necessitated additional work in reviewing their own Statement.

6. The short answer to this point is that both of those assertions were first made at the earliest possible stage of the appeal process, in the original Appeal Statement submitted with the Appeal Form. Paragraph 10.2 of that Statement says "we would submit that the requirements of the enforcement notice have all, already, effectively been complied with in practical terms", and paragraph 2.7 says "building works have also been undertaken on the land and this operational development has been for residential purposes… not being required to be removed by the current notice, [it] would be subject of a deemed consent in any case, as would any use made of this operational development."

7. Further details and clarification of these assertions were provided in the Appellants' Revised Appeal Statement, received by the Planning Inspectorate on 28 November 2022, but there is nothing procedurally unreasonable in that: the Appellants complied with the timetable set by the Inspectorate's Case Officer to "By 30 November 2022: Please send me 2 copies of your statement if you need to add details to your appeal(s)." The Council then had (and took) the opportunity to provide comments on that revised Statement.

8. The Council also points out that the Appellants made a pre-application enquiry about a temporary rural worker's dwelling at the Appeal Site, in response to which the Council advised it was unlikely planning permission would be granted. As I understand it, the Council takes the view that the present enforcement action should therefore not have been necessary, and constitutes a waste of its time. However, the costs regime does not extend quite that far. There is a statutory right to appeal against an Enforcement Notice[1], and the costs regime exists to encourage all parties to behave reasonably *in the appeal process* (my emphasis).[2] The Appellants did not appeal on ground (a) (that is, that planning permission should be granted for the matters alleged in the Notice), so this is not a case where they could be criticised for proposing permission should be granted for development that conflicted with the Development Plan and the Council's earlier advice. Rather, the appeal was made solely on ground (d), and was supported by substantive evidence and reasoned argument. I can see no evidence of unreasonable behaviour by the Appellants during the appeal process.

Conclusion

9. For the reasons given above, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred. An award of costs is therefore not warranted.

Jessica Graham

INSPECTOR

[1] S.174 of the 1990 Act
[2] PPG paragraph 28

The Planning Inspectorate

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Your Ref: E/20/0004/UCU
Our Ref: APP/W1145/C/22/3309901

Helen Smith
Torridge District Council
Development Control
Riverbank House
Bideford
Devon
EX39 2QG

07 August 2023

Dear Helen Smith,

Town and Country Planning Act 1990
Appeal by Mr David Pearson
Site Address: land at Peters Marland, AKA The Yard, Torrington, Devon, EX38 8QH

I enclose a copy of our Inspector's decision on the above appeal(s), together with a copy of the decision on an application for an award of costs.

If you wish to learn more about how an appeal decision or related cost decision may be challenged, or to give feedback or raise complaint about the way we handled the appeal(s), you may wish to visit our "Feedback & Complaints" webpage at https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure.

If you do not have internet access you may write to the Customer Quality Unit at the address above. Alternatively, if you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

The Planning Inspectorate is not the administering body for High Court challenges and cannot change or revoke the outcome of an appeal decision. If you feel there are grounds for challenging the decision you may consider obtaining legal advice as only the High Court can quash the decision. If you would like more information on the strictly enforced deadlines and grounds for challenge, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

Guidance on Awards of costs, including how the amount of costs can be settled, can be located following the Planning Practice Guidance.

http://planningguidance.communities.gov.uk/blog/guidance/appeals/how-to-make-an-application-for-an-award-of-costs/

We are continually seeking ways to improve the quality of service we provide to our customers. As part of this commitment we are seeking feedback from those who use our

service. It would be appreciated if you could take some time to complete this short survey, which should take no more than a few minutes complete:

https://www.surveymonkey.co.uk/r/Planning_inspectorate_customer_survey

Thank you in advance for taking the time to provide us with valuable feedback.

Yours sincerely,

Craig Maxwell
Craig Maxwell

https://www.gov.uk/government/publications/planning-inspectorate-privacy-notices

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - https://www.gov.uk/appeal-planning-inspectorate

The Planning Inspectorate

Appeal Decision

Site visit made on 18 July 2023

by Jessica Graham BA (Hons) PgDipL

an Inspector appointed by the Secretary of State

Decision date: 7 August 2023

Appeal Ref: APP/W1145/C/22/3309901
Land at Peters Marland, AKA 'The Yard', Torrington, Devon, EX38 8QH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr David Pearson against an enforcement notice issued by Torridge District Council.
- The notice was issued on 29 September 2022.
- The breach of planning control as alleged in the notice is: Without planning permission and within the last four years, operational development comprising the construction and use of a dwellinghouse in the approximate position marked as "1" on the attached plan and shown in Appendix B.
- The requirements of the notice are to:
  - (i) Cease any residential use of the land
  - (ii) Demolish the dwelling house shown in Appendix B attached to this notice and marked as "1" on the attached Plan and remove all debris arising from its demolition from the land.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (d) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal is dismissed, and the Enforcement Notice is upheld with correction and variation as set out in the Formal Decision below.

Procedural matters

1. The Council made an application for an award of costs against Mr Pearson. That application is the subject of a separate Decision Letter of even date.

2. The front page of the Enforcement Notice carries the heading "Operational Development and Material Change of Use", but the alleged breach of planning control is described as "operational development *comprising* [my emphasis] the construction and use of a dwellinghouse." It is important to be clear that operational development does not *comprise* a material change of use: these are two separate and distinct forms of development, as set out in s.55 of the 1990 Act. The distinction is important because it is carried through into other parts of the Act, such as s.171B, which imposes different time limits for enforcement action against operational development (four years) and material changes of use (in most cases with one important exception, ten years).

3. It is perfectly acceptable for the same Notice to attack both a material change of use *and* operational development, if they relate to connected matters, and it is clear that that is what was intended here. I am satisfied that correcting paragraph 3 of the Notice to make this more readily apparent will not cause

any injustice to either party: the Appellant has understood what it is he is said to have done wrong, and the case made by his legal representative is based on a well-informed understanding of the applicable time limits for enforcement action in this case.

The appeal on ground (d)

4. The ground of appeal is that at the date when the Notice was issued, no enforcement action could be taken in respect of the alleged breach of planning control. The Appellant's agent contends that there has been no material change in the use of the land, since it has been residential since before the modern planning system even existed, and the dwellinghouse was completed in 2015.

5. It is fair to say that when the Appeal Site formed part of the garden of Chudleigh Cottage, it is likely to have been used for purposes associated with the residential occupation of that dwelling. In other words, the cottage and its garden originally formed a single planning unit, the primary use of which was residential. However, in 2003 Chudleigh Cottage and the remainder of its garden was sold into separate ownership to the Appeal Site. This involved the functional and physical separation of the two parcels of land; each had its own entrance, with no connection between them, and the Appeal Site ceased to be part of the garden of Chudleigh Cottage.

6. At that point, then, a new chapter in the planning history of the land began. The Appeal Site became a planning unit in its own right. It was no longer part of a garden serving an existing dwelling, and so was no longer in residential use. This means that any subsequent occupation of the Appeal Site as a place of residence would have involved a material change of use, requiring an express grant of planning permission.

7. It is common ground that the Appellant does now occupy the Appeal Site as a place of residence: the dispute between the parties is as to when that use began. In order to have achieved immunity from enforcement, the residential use would need to have started at least ten years prior to the date on which the Enforcement Notice was issued, and have continued without interruption.[1] It is argued for the Appellant that he has been living at the Appeal Site since 2004, although no details or supporting information have been provided.

8. On 26 June 2014 the Council issued an Enforcement Notice[2] alleging the unauthorised erection of a building on the Appeal Site. An appeal against that Notice was lodged, but subsequently withdrawn. The evidence of the Council is that its Officer visited the Appeal Site on 8 April 2015, and concluded that the Notice's requirement to demolish the building had been met.

9. On 18 July 2018 the Council issued a Planning Contravention Notice (PCN), seeking information about the alleged unauthorised residential use of the Appeal Site. The Appellant's agent now contends that the Appellant was living there at that time. However, in his response to the PCN, received by the Council on 15 August 2018, the Appellant states very clearly that the use of the land was "occasional use of camping". The Appellant did not say that he was living at the Appeal Site. He advised that building materials were on the land "because we operate a business from the site", described the structure at the

[1] Per the time limits for taking enforcement action, set out at S.171B of the 1990 Act
[2] Ref E/13/0220/UND

top of the site as a "pergola", and stated that "the property has been used for camping and other outdoor activities since 2003."

10. The use of the land for occasional camping, rather than day-to-day living, is not the same thing as residential occupation and is unlikely to amount to a material change of use. Given that it is a statutory offence to knowingly or recklessly give information which is false or misleading in response to a PCN, I consider that it was entirely reasonable for the Council to have concluded that no breach of planning control had then taken place.

11. On 23 April 2020 a Council Officer visited the Appeal Site, and formed the view that the structure at the top of the site was being used as a dwelling. Following a number of unsuccessful attempts to re-visit, the Council obtained an entry warrant and effected it on 20 October 2021. The Council served another PCN on 16 February 2022, but did not receive any response.

12. Weighing all of this in the balance, I do not find sufficient evidence to support the claim that the Appellant has been living at the Appeal Site since 2004. The assertions now made by his agent that the structure at the top of the site was a completed dwelling by 2015, and that the Appellant was living in it in 2018, contradict the Appellant's own response to the 2018 PCN. It was open to the Appellant, who is professionally advised, to submit with his appeal a Statutory Declaration explaining this contradiction, and clarifying how he has used the Appeal Site since 2004. He has not done so. Nor has he submitted any other evidence or information in support of his claim: for example statements from others with knowledge of the site, photographs, copies of relevant bills, etc.

13. Such evidence as has been provided indicates that on the balance of probabilities, between 2003 and 2018 the Appeal Site was in occasional use for camping, such that no material change to residential use had then taken place. Rather, the material change to residential use - and the works which facilitated it through the conversion of the non-residential "pergola" to a dwellinghouse - took place at some point after the 2018 PCN response was returned. Where (as here) operational development is part and parcel of an unauthorised material change of use, an enforcement notice can require its removal even if it would otherwise be immune from enforcement under the four-year time limit.

14. I conclude that the Enforcement Notice that is the subject of this appeal was issued within the ten-year period available to the Council for taking enforcement action against the unauthorised material change of use of the Appeal Site. The appeal on ground (d) therefore fails.

The appeal on ground (a)

15. The ground of appeal is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted.

16. Policy ST07 of the North Devon and Torridge Local Plan 2011-2031 sets out the spatial development strategy for the District's rural area. It establishes a hierarchy for the location of development, with a list of named "Local Centres" forming the primary focus, followed by a list of named Villages in which development will be enabled to meet local needs and growth aspirations. Peters Marland is not included on this list. The third tier of the development location

hierarchy is rural settlements containing at least one prescribed service or community facility. Peters Marland does not fall within this category.

17. The fourth and final tier states "In the countryside, beyond Local Centres, Villages and Rural Settlements, development will be limited to that which is enabled to meet local economic and social needs, rural building reuse and development which is necessarily restricted to a countryside location." The construction of the dwellinghouse on the Appeal Site has not involved the re-use of an existing rural building, and there is no apparent reason why a countryside location is necessary. Nor is there any substantial evidence that the dwelling is needed to meet an identified local economic or social need.

18. The Appellant's agent points out that the Government's *National Planning Policy Framework* (NPPF) provides strong support for making as much use as possible of previously developed land. The definition of "previously developed land", set out in the NPPF's Glossary, applies to "land which is or was occupied by a permanent structure, including the curtilage of the developed land." While the Appeal Site may once have formed part of the curtilage of Chudleigh Cottage when it was within its grounds, it is clear that it no longer does: as discussed above, since 2003 the Appeal Site has been a separate planning unit in separate ownership. The Appeal Site does not, then, constitute "previously developed land" as defined by the NPPF, and so does not benefit from the support provided by the NPPF for making use of such land.

19. The Appellant's agent also contends that the Appeal Site is not "isolated", being close to other existing houses, so would not fall foul of the NPPF's advice to avoid the development of isolated homes in the countryside. I appreciate that the dwelling on the Appeal Site is probably not "isolated" in the sense derived from case law on that particular provision of the NPPF. But the important point is that in the terms of the adopted Development Plan, it lies in open countryside outside any identified Local Centre or Village, and does not meet the requirements for development in this location. The Appellant's agent has pointed out that the Local Plan provides for a minimum of 2000 rural dwellings, but in the absence of any indication that this provision will not be met, it is not a consideration which carries any weight in favour of permitting the development here at issue.

20. I recognise that if planning permission for the dwellinghouse is refused, the Appellant stands to lose his current place of residence. This would be an interference with his right to respect for his private life and home.[3] In the absence of any evidence that it would be more difficult for him than for others to find suitable alternative accommodation, this is not a factor which carries any significant weight in favour of granting planning permission, but it is an issue I will need to consider further if the Notice is upheld.

21. In conclusion, I find that the construction of a dwellinghouse on the Appeal Site is at odds with the aims of Local Plan Policy ST07, and there are no other material considerations of sufficient weight to overcome this conflict with the Development Plan. Nor are there any conditions which could be imposed to make the development acceptable in planning terms. The appeal on ground (a) fails, and the deemed application for planning permission is refused.

[3] Per Article 8 of the European Convention on Human Rights, set out in Schedule 1 of the Human Rights Act 1998

The compliance period

22. As noted above, my decision to dismiss the appeal and uphold the Enforcement Notice means that the Appellant stands to lose his current home. The period specified in the Notice for residential use of the land to cease is six months. There is no indication that anyone else is living with the Appellant at the Appeal Site, and I note that he has not brought an appeal on ground (g) (that is, that the compliance period falls short of what should reasonably be allowed). Nevertheless, I am concerned that in the current housing market, six months may not provide sufficient time to look for alternative accommodation.

23. I shall therefore increase the compliance period by two months. I am satisfied that in the circumstances of this particular case, and with the extension of the compliance period to eight months, the requirements of the Enforcement Notice are proportionate when balanced against the need to uphold the planning system, including the policies of the Council's adopted Development Plan, in the wider public interest.

Conclusion

24. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the Enforcement Notice with correction and variation, and refuse to grant planning permission on the application deemed to have been made under s.177(5) of the 1990 Act.

Formal Decision

25. It is directed that the Enforcement Notice is corrected by:

    At paragraph 3, deleting the words "operational development comprising"

    And varied by:

    At paragraph 6, deleting the word "six" and replacing it with the word "eight"

    Subject to this correction and variation, the appeal is dismissed, the Enforcement Notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Jessica Graham

INSPECTOR

The Planning Inspectorate

Costs Decision

Site visit made on 18 July 2023

by Jessica Graham BA (Hons) PgDipL

an Inspector appointed by the Secretary of State

Decision date: 7 August 2023

Costs application in relation to Appeal Ref: APP/W1145/C/22/3309901
Land at Peters Marland, AKA 'The Yard', Torrington, Devon, EX38 8QH

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Torridge District Council for a full award of costs against Mr David Pearson.
- The appeal was against an Enforcement Notice alleging the construction and use of a dwellinghouse on the land.

Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Government's Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

3. The PPG explains that awards against Appellants may be either procedural (in regard to behaviour in relation to completing the appeal process) or substantive (relating to the planning merits of the appeal). Looking at procedural matters first, the Council contends that the Appellant behaved unreasonably in providing information in response to the 2018 Planning Contravention Notice (PCN) which contradicts the evidence he has relied on at appeal; in refusing to respond to the Council's requests for a site visit; and in failing to respond to the 2022 PCN.

4. The information provided by the Appellant in response to the 2018 PCN is clearly at odds with the information he has subsequently provided in the course of the appeal. If information produced at the appeal stage shows that the enforcement notice (and subsequent appeal) could have been avoided, had that information been produced earlier, then an award of costs would be justified. But in this case, for the reasons set out in my appeal decision, I have found that the unsupported contentions made at the appeal stage do not overturn, or outweigh, the information provided in response to the 2018 PCN. While it may well be unreasonable to make assertions at the appeal stage which conflict with information earlier provided in response to a PCN, such behaviour did not, in this case, cause the Council to incur any additional expense. The appeal was brought on a number of grounds, and the conflicting evidence about when the Appellant began living at the Appeal Site is only one component of his case on ground (d).

5. The Appellant's lack of response to the Council's repeated requests for a site visit, and his failure to respond to the 2022 PCN, fall squarely within the examples listed by the PPG as unreasonable behaviour which may give rise to a procedural award of costs.[1] However, these events took place during the Council's investigations prior to taking enforcement action, rather than during the course of the appeal. The PPG says that such behaviour can be taken into account in a costs application[2], but there still needs to be a causal link: unreasonable behaviour by one party must have *directly* caused another party to incur unnecessary or wasted expense *in the appeal process* [emphases added].[3]

6. In this case, the unreasonable behaviour of the Appellant during the Council's preliminary investigations did not have any bearing on the appeal process. Put another way, the circumstances of the case are such that had the Appellant complied with the Council's requests to visit the site and/or completed the PCN issued in 2022, these actions would not have prevented the issue of the Enforcement Notice, or altered the terms or process of the subsequent appeal.

7. Turning to substantive matters, the Council rightly points out that one of the PPG's examples of behaviour that may give rise to an award of costs is where development is clearly not in accordance with the Development Plan, and no other material considerations such as national planning policy are advanced that indicate the decision should have been made otherwise.[4]

8. The Appellant's case on ground (a) (that is, that planning permission should be granted for the matters alleged in the enforcement notice) included an argument that the Appeal Site qualified as previously developed land, such that it would not constitute undeveloped land in the countryside, and its development would be supported by national planning policy in the form of the NPPF. For the reasons set out in my appeal decision I do not share that view. However, reaching a conclusion on the issues involved the exercise of planning judgment, for example in establishing the correct planning unit. This was not, then, a case where there was simply conflict with the Development Plan and no other material considerations to weigh in the balance. The Appellant advanced other material considerations which, depending on the attribution of weight, may potentially have been capable of overcoming conflict with the Development Plan.

Conclusion

9. For the reasons set out above, I find that unreasonable behaviour such as may give rise to a substantive award of costs has not been demonstrated. I find that the Appellant did behave unreasonably in procedural terms, but since this unreasonable behaviour did not result in unnecessary or wasted expense being incurred by the Council during the course of the appeal process, an award of costs is not justified.

Jessica Graham

INSPECTOR

[1] PPG paragraph 52
[2] PPG paragraph 32
[3] PPG paragraph 30
[4] PPG paragraph 53

AGMB DECISIONS 10.07.2023 – 23.08.2023

Application Number	Address/Proposal	Decision

Permitted

1/0447/2023/ AGMB	Debbie Fuller	Prior notification for the change of use of agricultural building to 2no. dwellinghouses and associated building operations under Class Q - Agricultural Building At Grid Reference 255165 120289, St Giles In The Wood, Devon.	Mr Roger Morrish	**PER** 17.08.2023
1/0448/2023/ AGMB	Debbie Fuller	Prior notification for the change of use of agricultural building to 1no. dwellinghouses and associated building operations under Class Q - Agricultural Building At Grid Reference 255135 120296, St Giles In The Wood, Devon.	Mr Roger Morrish	**PER** 17.08.2023
1/0449/2023/ AGMB	Mrs Nicola McGill	Prior notification for the change of use of agricultural building to 1no. dwellinghouses and associated building operations under Class Q (Amended red edge) - Agricultural Building At Grid Reference 237838 109926, Milton Damerel, Devon.	Mr Tallis Kemp	**PER** 21.08.2023
1/0583/2023/ AGMB	Ryan Steppel	Prior notification for the change of use of agricultural building to 1no. dwellinghouses and associated building operations under Class Q - Agricultural Building Adjacent Home Farm, Ashwater, Beaworthy.	Mr & Mrs Ruby	**PER** 08.08.2023

Torridge District Council

Planning Decisions

Between 10/07/2023 and 23/08/2023

List of Applications

Application No:	Officer	Proposal and Address	Applicant	Decision/Date
		Permitted		
1/0880/2021/FULM	Helen Smith	Erection of 117 dwellings and associated works including site access - Land To The West Of Buckleigh Road, Westward Ho!, Devon.	Chichester Homes Developments Ltd	**PER** 11.07.2023
1/0535/2022/OUT	Angelo Massos	Outline application for the demolition of existing building and erection of 3 no. residential dwellings with some matters reserved (landscaping) (Amended description and plans) - Warehouse At Grid Reference 245976 126155, Clifton Street, Bideford.	Mr Michael Patt	**PER** 15.08.2023
1/0652/2022/FULM	Angelo Massos	Residential development comprising the construction of 27 dwellings with associated access, estate roads, infrastructure, open space and landscaping (Amended plans and additional information) - Land At Pitt Hill, Appledore, Devon.	Mr W Morris	**PER** 11.07.2023
1/1089/2022/LBC	Sarah Chappell	Internal and external alterations to form two retail units and 4no. flats - 4 High Street, Bideford, Devon.	Eagle Allhalland Limited	**PER** 20.07.2023
1/1107/2022/LBC	Sarah Chappell	Two storey extension with lower floor buried below ground and new bathroom within the existing house - Modbury, Buckland Filleigh, Beaworthy.	Mr Robson And Ms McCullough	**PER** 20.07.2023
1/1109/2022/LBC	Sarah Chappell	Demolition of existing outbuildings and erection of new garage - Modbury, Buckland Filleigh, Beaworthy.	Mr Robson And Ms McCullough	**PER** 20.07.2023

1/1142/2022/FUL	Debbie Fuller	Erection of 1no. agricultural workers dwelling - Wootton Farm, Shebbear, Beaworthy.	Mr & Mrs Quance	**PER** 18.08.2023
1/1149/2022/FULM	Kristian Evely	Erection of industrial and commercial buildings, with access road and associated works (Amended/additional plans and information) - Land At Holsworthy Industrial Estate, Trewyn Road, Holsworthy.	Harpers Home Mix Ltd	**PER** 21.07.2023
1/0057/2022/NMAT	Miss Beth Hobbs	Non material amendment to Planning Approval 1/1346/2021/FUL - Re-design of 1-bed units - Land At Adjacent Clawton Primary School, Clawton, Devon.	Mr Luke Dunkin	**PER** 01.08.2023
1/1246/2022/FUL	Kristian Evely	Change of use from agricultural field to allow erection of one dwelling tied to business, erection of a store and creation of camping pitches - Land Adjacent To Countrylife Cottages, Westward Ho!, Bideford.	Mr & Mrs Lacey	**PER** 01.08.2023
1/1257/2022/OUT	James Clements	Outline permission for up to 1 no. replacement dwelling with all matters reserved except for access - Oakcroft Farm, Virginstow, Beaworthy.	Mr And Mrs Rogers	**PER** 12.07.2023
1/0054/2023/FUL	Debbie Fuller	Demolition of existing dwelling and replacement with no. 1 detached dwelling with annexe (Variation of condition 2 of planning permission 1/1104/2021/FUL) - 1 Woodlands, Putford, Bideford.	Mr Lee Burrows	**PER** 08.08.2023
1/0111/2023/FUL	Debbie Fuller	Erection of 1no. dwelling with associated parking and access and the provision of 2no. parking spaces to serve Elms House - Land At Elms House , Exeter Road, Winkleigh.	Mrs Ruth Cooke	**PER** 18.08.2023
1/0172/2023/FUL	Ryan Steppel	Retrospective application for use of flat as residential dwelling - Evergreen Farm Shop, Ashwater, Devon.	Mr Peter Down	**PER** 14.07.2023
1/0194/2023/OUT	Angelo Massos	Outline application with all matters reserved for 1no. agricultural workers dwelling (Amended Red Edge) - Land At Alscott Farm, Alverdiscott, Barnstaple.	Mr John Ridd	**PER** 31.07.2023

1/0231/2023/FUL	Kristian Evely	Alterations to layout and design for 3 no. dwellings (pursuant to planning approval 1/0718/2019/FUL) (Variation of condition 1 of Planning Application 1/0811/2022/FUL) - Site Of Little Hayes, Taddiport, Devon.	MPP Hayes Ltd	**PER** 27.07.2023
1/0235/2023/FUL	Mary-Ellen Whalley	Change of use of bank to residential to create 3no. apartments - Halifax, 71A High Street, Bideford.	Bideford Apartments Ltd	**PER** 17.08.2023
1/0241/2023/FUL	Mary-Ellen Whalley	Part retrospective application for the installation of package treatment plant, and demolition of existing extension, erection of part single storey and two storey extensions - Old Quarry Cottage, Stibb Cross, Beaworthy.	Mr And Mrs Sanders	**PER** 18.07.2023
1/0248/2023/FUL	Sarah Boyle	Erection of 1no. dwelling to include access and drainage arrangements (amended red edge) - Land At Grid Reference 244396 129269, Tadworthy Road, Northam.	Mr Michael Williamson	**PER** 21.07.2023
1/0260/2023/CPE	Ryan Steppel	Certificate of lawful development for retention of portacabin for residential use. - Evergreen Farm, Ashwater, Devon.	Mr Peter Down	**PER** 17.07.2023
1/0262/2023/OUT	Mary-Ellen Whalley	Outline application with some matters reserved (access, layout and scale) for the erection of 1no. dwelling - Orchard Hill House, Orchard Hill, Bideford.	Mr Brian Rowson	**PER** 17.07.2023
1/0265/2023/FUL	Mary-Ellen Whalley	Change of use of 2no. barns to ancillary residential use and 1no. barn to tourism accommodation with associated works (Affecting a Public Right of Way) - Black Moat Farm, Sheepwash, Beaworthy.	Mr S Taylor	**PER** 16.08.2023
1/0266/2023/FUL	Sarah Boyle	Demolition of existing shed and erection of agricultural staff welfare building - Agricultural Building At Grid Reference 253282 114726, Beaford, Devon.	C/O Agent	**PER** 15.08.2023
1/0293/2023/FUL	Ryan Steppel	Conversion of redundant agricultural barn to 1 no. dwelling - Worden Farm, Milton Damerel, Holsworthy.	Worden Farm Ltd	**PER** 03.08.2023

1/0322/2023/FUL	Ryan Steppel	Demolition of kennel building, erection of 1no. dwelling and re-location of stable building - Mill View Kennels, Sutcombe, Devon.	Mr & Mrs Eley	**PER** 10.07.2023
1/0333/2023/FUL	Ryan Steppel	Retrospective application for the erection of a general purpose agricultural building - Land At Grid Reference 239662 123413, Fairy Cross, Devon.	Mr Dean Smale	**PER** 08.08.2023
1/0342/2023/FUL	Mary-Ellen Whalley	Extension to existing storage warehouse approved under application 1/0605/2020/FUL (amended red edge) - Mike Wye & Associates, Building At Grid Reference 245737 109753, Buckland Filleigh Sawmills.	Mike Wye Ltd	**PER** 10.07.2023
1/0347/2023/FUL	Mrs Nicola McGill	Demolition of agricultural building and erection of 1 dwellinghouse with associated works in lieu of Class Q permission 1/0056/2020/AGMB (Variation of condition 2 of Planning Application 1/0195/2021/FUL) - Barn At Garlands, Brandis Corner, Devon.	Mr A Orchard	**PER** 26.07.2023
1/0352/2023/FUL	Ryan Steppel	Construction of agricultural building to cover over an existing silage pit (affecting a public right of way) - Gunnacott Farm, Clawton, Holsworthy.	Mr Axford	**PER** 14.07.2023
1/0354/2023/FUL	Mary-Ellen Whalley	Proposed addition of solar panels to roof of garage, and retrospective application for the change of use of land to garden area and siting of shepherd's hut for ancilliary use - Abbots Hill, Beaford, Winkleigh.	Mr H Lines	**PER** 12.07.2023
1/0355/2023/LBC	Sarah Chappell	Proposed addition of solar panels to roof of garage, and retrospective application for the change of use of land to garden area and siting of shepherd's hut for ancilliary use - Abbots Hill, Beaford, Winkleigh.	Mr H Lines	**PER** 12.07.2023
1/0360/2023/FUL	Mrs Nicola McGill	Extension to existing shed to provide a covered store - Tythecott Farm, Buckland Brewer, Bideford.	Mr G Harris	**PER** 12.07.2023
1/0363/2023/LBC	Sarah Chappell	Removal of internal banking hall counters - HSBC, Alexandra House, 11 The Quay.	HSBC CRE	**PER** 19.07.2023

1/0374/2023/FUL	Mrs Nicola McGill	Erection of extension and alterations. - Heggadon Barn, Clawton, Holsworthy.	Mr And Mrs Stacey	**PER** 14.07.2023
1/0375/2023/FUL	Mary-Ellen Whalley	Replacement of existing fence panels and gate - 3 The Square, Petrockstowe, Okehampton.	Mrs Lise Linney	**PER** 13.07.2023
1/0376/2023/LBC	Sarah Chappell	Replacement of existing fence panels and gate - 3 The Square, Petrockstowe, Okehampton.	Mrs Lise Linney	**PER** 20.07.2023
1/0379/2023/FUL	Mrs Nicola McGill	Extension to agricultural building - Agricultural Building At Grid Reference 230761 113892, Bradworthy, Devon.	Mr Richard Boughton	**PER** 14.07.2023
1/0385/2023/FUL	Mrs Nicola McGill	Erection of 2 no. dwellings - Land At Grid Reference 238219 091927, Virginstow, Devon.	Mr and Mrs Bricknell-Webb	**PER** 09.08.2023
1/0389/2023/CPE	Debbie Fuller	Certificate of Existing Lawfulness for occupation of dwelling in breach of agricultural occupancy condition - Highfield, Yarnscombe, Barnstaple.	Mr Nigel Dymond	**PER** 21.07.2023
1/0392/2023/FULM	Ryan Steppel	Proposed Solar Park (Variation of condition 3 of Planning Application 1/1054/2012/FULM) - Solar Farm At Grid Reference 242473 089615, Broadwoodwidger, Devon.	Wylam Power Generation Limited	**PER** 27.07.2023
1/0393/2023/FUL	Mary-Ellen Whalley	Erection of single storey rear and side extension and installation of 4no. dormers to first floor - St Judes, Golf Links Road, Westward Ho!.	Mr David Holmes	**PER** 19.07.2023
1/0407/2023/FUL	Laura Davies	Erection of 4 bungalows with new access and associated works (Variation of condition 2 of planning approval 1/0858/2020/FUL) Plot 10 layout - Land Off Elizabeth Lea Close & North Road, Bradworthy, Devon.	Mr & Mrs Edwin Tolley	**PER** 25.07.2023
1/0408/2023/FUL	Mary-Ellen Whalley	Extension to barn to create additional living space - High Park House, Littleham, Bideford.	Mr and Mrs Paul and Anne-Louise White	**PER** 11.07.2023
1/0418/2023/CPL	Mrs Nicola McGill	Certificate of proposed lawful development for the increase from 5 to 7 caravans - Powlers Piece Park, Putford, Devon.	Mr And Mrs Hemmings	**PER** 04.08.2023

1/0422/2023/FUL	James Clements	Demolition of 7no. holiday chalets replaced with 7no. holiday chalets, change of use of existing chalet to general storage building and refuse storage unit, creation of 2 x refuse storage units (Variation of condition 2 of Planning Application 1/1103/2021/FUL) - Golden Bay Holiday Village, Merley Road, Westward Ho!.	Mr Chris Hall	**PER** 01.08.2023
1/0425/2023/FUL	Debbie Fuller	Extension of existing workshop and storage yard including replacement storage and office buildings and associated works - T K Play Ltd, The Old Baptist Chapel Yard, Frithelstockstone.	TK Play Ltd	**PER** 17.08.2023
1/0427/2023/LBC	Sarah Chappell	Reconstruction of chimney stack - 15 Myrtle Street, Appledore, Bideford.	Mr Alistair Baxter	**PER** 12.07.2023
1/0428/2023/FUL	Miss Beth Hobbs	Reconstruction of chimney stack. - 15 Myrtle Street, Appledore, Bideford.	Mr Alistair Baxter	**PER** 12.07.2023
1/0429/2023/FUL	Angelo Massos	Construction of an agricultural workers dwelling (Amended Plans) - Land At Heanton Barton, Petrockstowe, Devon.	Mr J Kirk	**PER** 22.08.2023
1/0434/2023/CPE	Ryan Steppel	Certificate of existing lawfulness to regularise the use of a property as a full residential dwelling, having been in breach of an existing condition for a period in excess of ten years. - Owletts, Hartland, Bideford.	Mr And Mrs Broom	**PER** 02.08.2023
1/0444/2023/FUL	Mrs Nicola McGill	Erection of 1 no. dwelling - Lyndale, Meddon, Bideford.	Mr Wayne Humphreys	**PER** 23.08.2023
1/0437/2023/FUL	Debbie Fuller	Erection of single storey extension to existing bungalow - Kilima, 1 Chapel Close, Petrockstowe.	Mr and Mrs Elliott	**PER** 01.08.2023
1/0439/2023/FUL	Mary-Ellen Whalley	Erection of porch and extension to garage - 16 Coral Avenue, Westward Ho!, Bideford.	Steven Humphries	**PER** 01.08.2023
1/0445/2023/FUL	James Clements	Roof over existing livestock area - East Hele, Buckland Brewer, Bideford.	Mr D Brown	**PER** 17.08.2023
1/0446/2023/FUL	Mary-Ellen Whalley	Erection of rear single storey extension - 14 Chudleigh Avenue, Bideford, Devon.	Mr Mike Webber	**PER** 01.08.2023

1/0447/2023/ AGMB	Debbie Fuller	Prior notification for the change of use of agricultural building to 2no. dwellinghouses and associated building operations under Class Q - Agricultural Building At Grid Reference 255165 120289, St Giles In The Wood, Devon.	Mr Roger Morrish	**PER** 17.08.2023
1/0448/2023/ AGMB	Debbie Fuller	Prior notification for the change of use of agricultural building to 1no. dwellinghouses and associated building operations under Class Q - Agricultural Building At Grid Reference 255135 120296, St Giles In The Wood, Devon.	Mr Roger Morrish	**PER** 17.08.2023
1/0449/2023/ AGMB	Mrs Nicola McGill	Prior notification for the change of use of agricultural building to 1no. dwellinghouses and associated building operations under Class Q (Amended red edge) - Agricultural Building At Grid Reference 237838 109926, Milton Damerel, Devon.	Mr Tallis Kemp	**PER** 21.08.2023
1/0452/2023/ FUL	Angelo Massos	Conversion of existing workshop to 1 no. holiday unit. (amended plans) - Land At Well Meadow, Juries Lane, Torrington.	Mr Gavin Topham	**PER** 08.08.2023
1/0454/2023/ FUL	Mary-Ellen Whalley	Conversion of barn to holiday accommodation - Barn At Grid Reference 259724 120422, High Bickington, Devon.	Mr Jon Broom	**PER** 27.07.2023
1/0455/2023/ FUL	Mrs Nicola McGill	Conversion of existing residential garage to annexe dependant on host dwelling - Churchside, Shebbear, Beaworthy.	Mr Chris Brooker	**PER** 17.07.2023
1/0460/2023/ FUL	Debbie Fuller	Extension replacing existing conservatory glazing and internal alterations - Wood End House, Mount Raleigh Avenue, Bideford.	Mr Kevin Beer	**PER** 12.07.2023
1/0463/2023/ FUL	Laura Davies	Conversion of disused kennels to 1no. dwelling - Agricultural Building At Hunters Lodge, Bradworthy, Devon.	Mrs White	**PER** 11.07.2023
1/0469/2023/ FUL	Debbie Fuller	Part retrospective cubicle, parlour and dairy building (Affecting a Public Right of Way) - Land At Great Cudworthy, Dolton, Winkleigh.	Mr O Toogood	**PER** 09.08.2023

1/0472/2023/FUL	Mary-Ellen Whalley	Installation of flue and internal alterations for use as restaurant (Variation of condition 2 and 5 of Planning Application 1/0973/2022/FUL) - Barclays, 84 High Street, Bideford.	Zenel Daci	**PER** 26.07.2023
1/0474/2023/FUL	Ryan Steppel	Demolition of agricultural buildings and erection of 1 dwellinghouse with associated works in lieu of Class Q permission 1/0101/2021/AGMB (Variation of condition 2 of Planning Application 1/1143/2021/FUL) - Barn At Grid Reference 230263 117102, Bradworthy, Devon.	Mr Christopher Bond	**PER** 02.08.2023
1/0476/2023/FUL	Mrs Nicola McGill	Proposed installation of an ATM to shopfont window - Holsworthy Post Office, 13 The Square, Holsworthy.	Ms Ann- Marie Porter	**PER** 09.08.2023
1/0477/2023/ADV	Mrs Nicola McGill	Illuminated ATM Fascia sign and non illuminated top sign - Holsworthy Post Office, 13 The Square, Holsworthy.	Ms Ann- Marie Porter	**PER** 09.08.2023
1/0481/2023/FUL	Mary-Ellen Whalley	Proposed new dwelling with detached single garage and associated landscaping works - Melwood, Halwill Junction, Devon.	Mr & Mrs Goff	**PER** 21.08.2023
1/0485/2023/FUH	Mary-Ellen Whalley	Proposed single storey rear extension - 32 Waterloo Gardens, Torrington, Devon.	Mr Darren Spear	**PER** 14.08.2023
1/0489/2023/FUL	Debbie Fuller	Roof replacement and external and internal alterations - Cross House, Fore Street, Northam.	Mrs Nockles	**PER** 14.07.2023
1/0496/2023/FUL	Debbie Fuller	Erection of agricultural machinery store - Sunrise Barn, Huntshaw, Devon.	Mr James Birch	**PER** 17.08.2023
1/0497/2023/FUL	Miss Beth Hobbs	Two-storey rear extension and conversion of garage - 16 Shamwickshire Close, Bideford, Devon.	Ms Wright	**PER** 18.07.2023
1/0500/2023/FUL	Angelo Massos	Extension to existing (B2 and B8) industrial unit - Southwest Fixings Ltd, Winkleigh, Devon.	Mr Roger Hill	**PER** 16.08.2023
1/0501/2023/FUL	Debbie Fuller	Extension and alterations to existing dwelling - 17 Beach Road, Westward Ho!, Bideford.	Mr Pizani	**PER** 12.07.2023

1/0031/2023/NMAT	Debbie Fuller	Non material amendment to Planning Application 1/1221/2018/REMM (Revised drawings) - Land At Grid Reference 244561 129599, Lansdowne Park, Northam.	Mr A Christie	**PER** 12.07.2023
1/0502/2023/FUL	Mrs Nicola McGill	Retention of temporary shelter - Limekiln At Grid Reference 231825 124875, The Quay, Clovelly.	Clovelly Estate Company	**PER** 18.07.2023
1/0509/2023/FUL	Laura Davies	Erection of 2 no. dwellings (Variation of condition 2 of planning approval 1/1297/2022/FUL) - Amendments to drawings - Land At Grid Reference 230760 103536, Pyworthy, Devon.	Mr & Mrs Williamson	**PER** 19.07.2023
1/0516/2023/FUL	Mary-Ellen Whalley	Construction of new detached dwelling - 7 Hatchmoor Estate, Torrington, Devon.	Mr K Scrivenor	**PER** 18.08.2023
1/0519/2023/FUL	Mary-Ellen Whalley	Retrospective use of ancillary annexe as an independent residential dwelling - The Sail Loft, Meeting Street, Appledore.	Mr Paul Ellam	**PER** 15.08.2023
1/0518/2023/FUL	Debbie Fuller	First floor extension over garage and utility to form master suite and replacement of existing conservatory with new play room (Variation of condition 2 of Planning Application 1/0628/2021/FUL) - 9 Stafford Way, Dolton, Winkleigh.	Mrs Jenna Lee	**PER** 08.08.2023
1/0523/2023/FUL	Mrs Nicola McGill	First floor extension and new roof on existing footprint. - East Down Cottage, Ashwater, Beaworthy.	Mr Michael Pottage	**PER** 25.07.2023
1/0526/2023/FUL	Mary-Ellen Whalley	Renovation to existing property, conversion of garage to utility space, lower ground floor extension with terrace above & erection of detached games room - 1 Staddon Road, Appledore, Bideford.	Mr Lockwood	**PER** 15.08.2023
1/0543/2023/FUL	Laura Davies	Part retrospective application for the erection of 1no. dwelling, erection of 3no. outbuildings and change of use of agricultural land into domestic garden (vegetable patch) - Barn At Grid Reference 231277 102276, Pyworthy, Devon.	Mr & Mrs Richard Robinson	**PER** 10.08.2023
1/0548/2023/FUL	Miss Beth Hobbs	Installation of hydraulic lift and installation of security doors - Londis, The Bakery Stores, Fore Street.	Mr Redmond Hanlon	**PER** 03.08.2023

1/0556/2023/AGR	Angelo Massos	Proposed construction of agricultural building to be used for a milking parlour and holding area - Holroyd Farm, Shebbear, Beaworthy.	Mr Andrew	**PER** 31.07.2023
1/0558/2023/FUL	Debbie Fuller	Adaptation and enlargement of existing extension - West Ash Farm, Frithelstock, Torrington.	Mr Hunkin	**PER** 28.07.2023
1/0559/2023/FUL	Miss Jess Wellington	Replacement mobile home for ancillary use to main dwelling - Brae Mar, Pyworthy, Holsworthy.	Mr Davey	**PER** 01.08.2023
1/0563/2023/ADV	Sarah Boyle	Advertisement application for the display of 2x flags, 3x post and panel signs, 4x totem signs and 4x kerb banners - Land Adjacent To Malt Scoop, Merton, Devon.	Mr M Hallett	**PER** 04.08.2023
1/0564/2023/FUL	Mary-Ellen Whalley	Installation of 4 photo-voltaic solar canopies - Royal North Devon Golf Club, Westward Ho!, Bideford.	Royal North Devon Golf Club	**PER** 01.08.2023
1/0566/2023/TRE	Mrs Nicola McGill	3 alder trees. Trimming back overhanging branches to enable new fruit trees to become established. (TPO/0003/1971) - Site Of 9, Brookfield, Bideford.	Mrs Janice Sharpe	**PER** 08.08.2023
1/0568/2023/FUL	Debbie Fuller	Construction of an agricultural livestock building - Land At Hill Farm, Huntshaw, Devon.	Miss Jakki Moase	**PER** 21.08.2023
1/0035/2023/NMAT	Debbie Fuller	Non material amendment to planning approval 1/0275/2022/FUL- Plans - Move dwelling 3m south due to water pipe - Foxcote Stables, Derril, Pyworthy.	Mr & Mrs O' Carroll	**PER** 13.07.2023
1/0583/2023/AGMB	Ryan Steppel	Prior notification for the change of use of agricultural building to 1no. dwellinghouses and associated building operations under Class Q - Agricultural Building Adjacent Home Farm, Ashwater, Beaworthy.	Mr & Mrs Ruby	**PER** 08.08.2023
1/0584/2023/FUL	Mary-Ellen Whalley	Conversion of outbuildings to annexe - South Winds, Shebbear, Beaworthy.	Mr Govier	**PER** 09.08.2023
1/0588/2023/FUL	Miss Jess Wellington	Proposed single storey extension - South Quoditch, Ashwater, Beaworthy.	Mr & Mrs P Garwood	**PER** 26.07.2023

1/0589/2023/FUL	Mary-Ellen Whalley	Internal and external repairs and alterations, to include replacement porch to provide link between main dwelling and Post House - Belle Vue, Beaford, Winkleigh.	Mr Toby Murphy	**PER** 21.08.2023
1/0594/2023/CPE	Kristian Evely	Certificate of existing lawful development to confirm commencement of Planning Approvals 1/1283/2017/OUT & 1/0439/2021/REM - Land To The East Of The Manse, Shebbear, Devon.	1903 Trustees Of The Methodist Independent Schools	**PER** 31.07.2023
1/0627/2023/LBC	Sarah Chappell	Proposed installation of an ATM to shopfront window - Holsworthy Post Office, 13 The Square, Holsworthy.	Ms Ann- Marie Porter	**PER** 10.08.2023
1/0597/2023/FUL	James Clements	Conversion of barns to 5no. residential units (Variation of condition 2 of planning approval 1/0767/2021/FUL) - Lodgeworthy Farm, Bridgerule, Holsworthy.	KRM Contracts Ltd	**PER** 22.08.2023
1/0598/2023/FUL	James Clements	Erection of 1no. dwelling - Building At South Arscott Cottage, Holsworthy, Devon.	Mrs Goldsmith	**PER** 17.08.2023
1/0600/2023/FUL	Debbie Fuller	Erection of orangery - 6 Pines Close, Westward Ho!, Bideford.	Mr Mark Brend	**PER** 21.08.2023
1/0037/2023/NMAT	Kristian Evely	Non material amendment to planning approval 1/0076/2020/REMM - second substation and amendments to plots 65/66 - Land At Grid Reference 243660 128681, Bay View Road, Northam.	Mr Chris Lennan	**PER** 21.07.2023
1/0607/2023/FUL	Mary-Ellen Whalley	Erection of commercial building with associated yard area to include parking and landscaping (Variation of condition 2 of planning approval 1/0380/2020/FUL) - Land At Grid Reference 262282 109555, Winkleigh, Devon.	Silverline UK Limited	**PER** 17.08.2023
1/0612/2023/FUH	Debbie Fuller	Erection of conservatory - 12 Wills Road, Bideford, Devon.	Mr A Topliss	**PER** 16.08.2023
1/0613/2023/FUL	Debbie Fuller	Proposed field shelter - Land At Hill Farm, Huntshaw, Devon.	Miss Jakki Moase	**PER** 21.08.2023
1/0615/2023/AGR	Miss Jess Wellington	Erection of agricultural barn for hay storage - Land At Grid Reference 225273 118181, Welcombe, Devon.	Nadia Willow	**PER** 26.07.2023

1/0616/2023/FUL	Mary-Ellen Whalley	Single storey extension - 543 Kingsley Park, Westward Ho!, Bideford.	Mr Elliot Brant	**PER** 21.08.2023
1/0628/2023/AGR	Miss Jess Wellington	Erection of agricultural storage building for hay/fodder - Lanes Farm, Clawton, Holsworthy.	Chris Sutherland	**PER** 14.07.2023
1/0633/2023/FUL	Mary-Ellen Whalley	Siting of 4 metal storage containers - Tarka Valley Railway, Station Hill, Torrington.	Tarka Valley Railway	**PER** 18.08.2023
1/0634/2023/FUL	Mary-Ellen Whalley	Erection of 2 storey extension to form dependant relatives annexe-resubmission of 1/0349/2023/FUL - Barton Cottage, Dowland, Winkleigh.	Ms Rozz Algar	**PER** 22.08.2023
1/0641/2023/FUL	Miss Jess Wellington	Proposed oak garden room - Pale Park, Marhamchurch, Bude.	Mr and Mrs Tippett	**PER** 16.08.2023
1/0642/2023/LBC	Sarah Chappell	Proposed oak garden room - Pale Park, Marhamchurch, Bude.	Mr and Mrs Tippett	**PER** 16.08.2023
1/0665/2023/TCA	Mrs Nicola McGill	Removal of Holly Tree (T1) and works to Golden Rain Tree/ Varnish Tree (T2) 2 metre crown reduction - 25 - 26 Bridgeland Street, Bideford, Devon.	Mr Simon Bishop	**PER** 16.08.2023
1/0039/2023/NMAT	Kristian Evely	Non material amendment to planning approval 1/0592/2021/FUL (Revised Elevations and Floor Plans) - MSW Engineering, Shebbear, Devon.	Mr and Mrs Worth	**PER** 19.07.2023
1/0670/2023/AGR	Miss Jess Wellington	Erection of water storage tank for rainwater harvesting - Middlecroft Farm, Clawton, Holsworthy.	Mr Steven Yelland	**PER** 01.08.2023
1/0694/2023/HPD	Miss Beth Hobbs	Single storey rear extension - extending beyond the rear wall of the original dwellinghouse by 5.02m, maximum height of 4m and an eaves height of 2.43m - 3 Gainsborough Drive, Westward Ho!, Bideford.	Mr & Mrs David & Julia Turner	**PER** 16.08.2023
1/0706/2023/AGR	Mary-Ellen Whalley	Erection of building for the storage of silage - Holwill, Newton St Petrock, Torrington.	Mr & Mrs Irish	**PER** 15.08.2023

1/0719/2023/AGR	Miss Jess Wellington	Erection of agricultural storage building - Land At Grid Reference 235428 108125, Holsworthy, Devon.	Mr Patrick Martyn	**PER** 04.08.2023
1/0041/2023/NMAT	Angelo Massos	Non-material amendment to planning approval 1/1520/1999 - (Description - removal of 'supervisory') - Green Oak Lodge, West Chilla, Beaworthy.	Mrs M Elston	**PER** 22.08.2023
1/0725/2023/AGR	James Clements	Extend existing machinery store - Loatmead, Bradworthy, Holsworthy.	Mr Frank Disney	**PER** 16.08.2023
1/0737/2023/AGR	Mrs Nicola McGill	Erection of a roof covering for building housing fodder - Tackbeare Farm, Marhamchurch, Bude.	Mr George Dunkin	**PER** 22.08.2023
1/0745/2023/AGR	Mrs Nicola McGill	Erect an open sided barn in an existing farm yard to provide weather proof storage for animal fodder - Tackbeare Farm, Marhamchurch, Bude.	Mr George Dunkin	**PER** 23.08.2023
1/0753/2023/AGR	Miss Jess Wellington	Erection of a storage shed - Land At Whiteley Cross , Bradworthy, Devon.	Mr Kevin Denness	**PER** 18.08.2023

Refused

1/0482/2022/FULM	Kristian Evely	Residential development comprising 71 no. dwellings and associated works - Land At Grid Reference 263212 108395, Winkleigh, Devon.	Lovell	**REF** 01.08.2023
1/1193/2022/FUL	Kristian Evely	Proposed five detached dwellings, access and open space - Land North Of Church Lane, Littleham, Devon.	Mrs G Hudson And Mrs Z Darlington	**REF** 18.08.2023
1/1285/2022/OUTM	Kristian Evely	Outline permission for up to 17 no. dwellings with all matters reserved except for access and layout - Land At Rydon Mill, Holsworthy, Devon.	Mr D Prouse	**REF** 20.07.2023
1/0254/2023/FUL	Mary-Ellen Whalley	Application for approval of technical details for a single dwelling and associated works following grant of permission in principle 1/0699/2020/PIP (Re-submission of 1/1276/2021/FUL) - Land South Of 1 North Town, Petrockstowe, Devon.	Mr Grahame Phillips	**REF** 14.08.2023

1/0388/2023/FUL	Mrs Nicola McGill	Erection of agricultural implement shed - Land Adjacent The Platt, Woodacott, Holsworthy.	Mr D Gammon	**REF** 27.07.2023
1/0435/2023/FUL	Ryan Steppel	Erection of 1 no. dwelling & garage - Land At Grid Reference 240281 106473, Cookbury, Devon.	Mr Alex Grice	**REF** 09.08.2023
1/0578/2023/FUL	Mary-Ellen Whalley	Demolition of existing dwelling and outbuilding and erection of replacement dwelling (Re-submission of 1/1272/2022/FUL) - Zephyr, Winkleigh, North Tawton.	Mr & Mrs D Catt	**REF** 08.08.2023
1/0036/2023/NMAT	Kristian Evely	Non material amendment to planning approval 1/1017/2021/REMM - Changes to retaining structures and consequential changes to planning layout - Land To The Rear Of Amberley, Limers Lane, Northam.	Strongvox House	**REF** 20.07.2023
1/0637/2023/FUL	James Clements	Reserved matters application for Appearance, Landscaping, Layout, Access and Scale pursuant to planning approval 1/0123/2023/OUT (Re-submission of 1/0798/2022/REM) (Variation of condition 1 of planning approval 1/1249/2022/REM) - Land At Rowena, Kingsley Road, Westward Ho!.	Mr Ross Ashton	**REF** 22.08.2023
1/0755/2023/TRE5	Miss Beth Hobbs	Felling of a dead beech tree covered by TPO/0057/2015 in relation to GE/0517/2023 - Pyt Close, Lenwood Road, Northam.	David Dobedoe	**REF** 04.08.2023