

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



Tel : Bideford (01237) 428700

Date: 28 June 2024  
Quorum 6  
:

## **MEETING OF PLANS COMMITTEE**

**Town Hall - Bridge Street, Bideford, EX39 2HS**

**Thursday 11 July 2024 at 9.30 am**

### **NOTICE OF MEETING**

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

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

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

### **AGENDA**

1.	<b>Apologies For Absence</b>
	To receive apologies of absence from the meeting.
2.	<b>Minutes (Pages 5 - 17)</b>
	To receive the Minutes from the meeting held on 6 June 2024

3.	<b>Declaration of Interest</b>
	<p>Members with interests to declare should refer to the Agenda item and describe the nature of their interest when the item is being considered.</p> <p>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.</p>
4.	<b>Agreement of Agenda between Parts I and II</b>
	That the Agenda as circulated be agreed.
5.	<b>Urgent Matters</b>
	Information to be brought forward with the permission of the Chair.
6.	<b>Public Participation</b>
	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.	<b>Planning Applications</b>
	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)	<b>Application No. 1/0394/2024/LA</b> (Pages 18 - 28)
	Change of use of library (Use Class F1) to create a multi-functional sport and fitness facility (Use Class E) - Bideford Library, New Road, Bideford.
(b)	<b>Application No. 1/0433/2024/FUL</b> (Pages 29 - 35)
	Part retrospective application for all weather turnout (Variation of Condition 7 of planning permission 1/0838/2023/FUL) (Amendment to Wording) - Land At Grid Reference 244858 129911, Northam, Devon.
(c)	<b>Application No. 1/0116/2024/FUL</b> (Pages 36 - 43)
	Erection of a local needs dwelling - The Old Granary, Pyworthy, Holsworthy
(d)	<b>Application No. 1/0148/2024/OUT</b> (Pages 44 - 52)
	Outline application for 1no. local needs dwelling with all matters reserved - Land At Grid Reference 240438 106247, Cookbury, Devon

(e)	<b>Application No. 1/0418/2024/OUT</b> (Pages 53 - 61)
	<p>Outline application with all matters reserved for no.1 local needs dwelling - Land Adjacent Higher Thorne Cottage, Buckland Brewer, EX39 5NU</p> <p style="text-align: center;"><b>LUNCH BREAK</b> <b>Resume afternoon session at 12.45pm</b></p>
(f)	<b>Application No. 1/0254/2024/FUL</b> (Pages 62 - 70)
	Part retrospective demolition of 1no. dwelling and erection of 3no. dwellings in relation to 1/0172/2022/FUL (Amended Plans) - Site Of 51 Atlantic Way, Westward Ho!, Devon
(g)	<b>Application No. 1/0471/2024/FUL</b> (Pages 71 - 79)
	Retrospective change of use of an agricultural building from agriculture to a mixed use of agriculture, farm business office and workshop, domestic storage including garaging - Agricultural Building At Grid Reference 239692 090081, Broadwoodwidge, Devon
(h)	<b>Application No. 1/0366/2024/FUL</b> (Pages 80 - 88)
	Conversion of barn to dwelling (Resubmission of 1/0654/2023/FUL – Agricultural Building at Grid Reference, Torrington, Devon
8.	<b>Appeal Decisions Summary</b> (Pages 89 - 115)
	<p>Appeal Decision Summary and Reports of Planning Inspectorate</p> <p>Summary</p> <p>Appeal Decision – Application No. 1/0661/2023/FUL  Appeal Decision – Application No. 1/0380/2023/FUL  Appeal Decision – Application No. 1/0813/2023/FUL  Appeal Decision – Application No. 1/0114/2023/FULM</p> <p>Enforcement – E/21/0377/UND</p>
9.	<b>Costs on Appeals</b> (Pages 116 - 117)
	Costs application – Appeal Ref: APP/W1145/W/24/3337646 – Land at Dowland
10.	<b>Delegated Decisions - AGMB Applications</b> (Page 118)
	The Committee noted the Delegated Decisions – AGMB Applications for the period 28.05.2024 – 02.07.2024.

11.	<b>Planning Decisions</b> (Pages 119 - 127)
	List of Delegated Planning Decisions, Consultee Abbreviations and Application Types enclosed 25/05/2024 – 02/07/2024.
12.	<b>Exclusion of Public</b>
	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.	<b>Part II - Closed Session</b>
	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](mailto:speak.planning@torridge.gov.uk)  
 Website: [www.torridge.gov.uk/speakplanning](http://www.torridge.gov.uk/speakplanning)

TORRIDGE DISTRICT COUNCIL

PLANS COMMITTEE MEETING

Town Hall - Bridge Street, Bideford, EX39 2HS

Thursday, 6 June 2024 - 9.30 am

- PRESENT** Councillor R Lock (Chair)  
Councillor C Leather (Vice-Chair)  
Councillors P Hames, K Hepple, P Pennington, D Smith,  
C Wheatley, J Whittaker and H Thomas
- ALSO PRESENT** S Dorey - Head of Legal & Governance (Monitoring Officer)  
H Smith - Planning Manager  
P Stapley - Principle Planner  
L Davies - Development Management Team Leader  
S Chappell - Conservation Officer  
K Brown - Democratic Services Officer  
S Cawsey - Democratic Services Officer
- Councillors K James, C Hodson

24. MINUTES

It was proposed by Councillor Leather, seconded by Councillor Whitaker and –  
Resolved:

The Minutes of the meeting held on 9 May 2024 be agreed and signed as a correct record.

A recorded vote was taken.

<b>Councillor</b>	<b>For</b>	<b>Against</b>	<b>Abstain</b>
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 H Thomas			X
Cllr C Wheatley	X		
Cllr J Whittaker	X		

(Vote: For 8, Abstentions 1)

25. 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.

26. AGREEMENT OF AGENDA BETWEEN PARTS I AND II

That the Agenda as circulated be agreed.

27. URGENT MATTERS

There were no urgent matters brought forward, but the Chair informed Members of the following:

- 4 July meeting – postponed due to the General Election. The next Plans Committee meeting to be held on 11 July and there will be an extra meeting which has been scheduled for 25 July (2 meetings scheduled for July).

The Chair advised that the TDC Planning application public access system had been down for two days due to external upgrade work, meaning that applications, documents etc. could not be viewed on the TDC website. She reassured members of the public, whether applicant, supporters or objectors, that alternative arrangements had been made to ensure that all Plans Committee Members had access to planning applications and documents, together with letters of representations on Agenda items being discussed today.

28. PUBLIC PARTICIPATION

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

29. PLANNING APPLICATIONS

(a) Application No. 1/0254/2024/FUL

The following Councillors had attended the site visit listed below:

Councillors: R Lock, K Hepple, P Hames, C Leather, J Whittaker, P Pennington, C Wheatley and H Thomas.

Application No. 1/0254/2024/FUL - Part retrospective demolition of 1no. dwelling and erection of 3no. dwellings in relation to 1/0172/2022/FUL - Site Of 51 Atlantic Way, Westward Ho!, Devon.

Interests: None

Officer recommendation: Grant

The planning application had been called into Plans Committee by Councillor Hodson and countersigned by Councillor James, for the following reason:

*“Given the extreme concern expressed in a high level of objection, this contentious and controversial application needs to be determined by the Planning Committee to demonstrate a clear and transparent decision-making process”.*

The Principal Planning Officer presented the report and informed Members of the main planning considerations and the reason as to why the application had been brought back to Committee.

During the discussion, concerns/comments raised included the following:

- Works not undertaken in accordance with the approved plans – now 3 storey dwelling and an eaves height of 2m higher than approved which will cause a much greater impact.
- Design and Access Statement refers to street scene only, showing just the south elevation, north elevation has not been addressed.
- Development will result in excessive scale massing, bulk and privacy issues.
- Mixture of styles along Atlantic Way – fundamental difference they are two storeys, proposal is for 3 storeys.
- Parking – there are 7 parking spaces allocated to the rear and 3 at the front for visitors.
- Highways impact – additional cars on that road.

It was proposed by Councillor Hepple, seconded by Councillor Thomas that the application be refused.

The Principal Planning Officer reminded Members that should the application be refused, they will need to consider the fallback of what had previously been consented. That scheme is very similar to what is being proposed today in terms of the footprint, eaves height, the ridge height, the width and depth, level of parking and access.

It was proposed by Councillor Leather, seconded by Councillor Lock that the application be approved.

A recorded vote was taken on the first proposal to refuse.

Councillor	For	Against	Abstain
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 H Thomas	X		
Cllr C Wheatley		X	
Cllr J Whittaker	X		

(Vote: For 4, Against 5)

The motion was lost.

A recorded vote was taken on the proposal to approve.

Councillor	For	Against	Abstain
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 H Thomas		X	
Cllr C Wheatley		X	
Cllr J Whittaker		X	

(Vote: For 4, Against 5)

The motion was lost.

**The Head of Legal & Governance (Monitoring Officer) clarified that as neither of the votes were carried then the application had been left undetermined, therefore the application would need to be brought back to a future meeting.**

Jesse Marchbank addressed the Committee objecting to the application.



Mr Matt Steart, Agent, addressed the Committee in support of the application.

(b) Application No. 1/0894/2023/FUL

The following Councillors had attended the site visit listed below:

Councillors: R Lock, K Hepple, P Hames, C Leather, J Whittaker, P Pennington, C Wheatley and H Thomas.

Application No. 1/0894/2023/FUL - Retrospective application for the siting of two mobile homes as 1no. temporary agricultural workers' dwelling with decking. Installation of 3no. storage containers, roof mounted solar panels, ground mounted solar array and associated works - Moor View Farm, Rydon Lane, Holsworthy

Interests: Councillor Pennington declared a personal interest – Agent is also his Agent.

Officer recommendation: Refuse

The planning application had been called into Plans Committee by Councillor James, as Leader.

The Principal Planning Officer presented the report and advised Members of the main planning considerations and the reasoning for the recommendation of refusal.

Councillor Hepple said, although he was normally supportive of rural businesses, he noted the concerns of the Parish Council.

It was proposed by Councillor Hepple, seconded by Councillor Whittaker that the application be refused.

Councillor Leather spoke in support of the application stating that he did not accept the reasons for refusal - it is for temporary accommodation (3 years) and he considered there is a need for the proposal.

It was proposed by Councillor Leather, seconded by Councillor Pennington that the application be approved.

The Planning Manager reminded Members of the need for robust conditions policy reasons and conditions to support a recommendation of approval.

Members although keen to support rural businesses, acknowledged that in this instance the applicants had not provided additional information as requested. The Principal Planning Officer explained the application had been submitted some time ago and recommendation for refusal had been based on the evidence submitted. There had been a six-month period where Officers had been promised an addendum to the report - this had not been forthcoming. After six months a decision was made to bring the application to Committee. There had been significant time to provide additional information.

A recorded vote was taken on the first proposal to refuse.

Councillor	For	Against	Abstain
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 H Thomas	X		
Cllr C Wheatley	X		
Cllr J Whittaker	X		

(Vote: For 7, Against 2)

**RESOLVED:**

**That the application be refused for the reason as stated in the report.**

Mr Chris Hopper addressed the Committee objecting to the application

Mr Andrew Heywood, Agent, addressed the Committee in support of the application

Councillor James, Ward Member, addressed the Committee

(c) Application No. 1/0940/2023/FUL

The following Councillors had attended the site visit listed below:

Councillors: R Lock, K Hepple, P Hames, C Leather, J Whittaker, P Pennington, C Wheatley and H Thomas.

Application No.1/0940/2023/FUL - Retrospective application for widening of driveway access, removal of hedge scrub to replace with a garden wall and creation of passing area. - River View, Bidna Lane, Northam

Interests: Councillors P Hames, J Whittaker and C Leather all declared personal interests – dual hatted – but attended with an open mind.

Officer recommendation: Grant

The planning application had been called into Plans Committee by Councillor Hames, Ward Member, if minded to approve, for the following reasons:

- *Outside the development area in Open Countryside and Undeveloped Coast. Given this location evidence of need is required. This is not stated in application. If need is to facilitate applicant's business, then query if there is planning permission on the site for a business. Ref LP Policy ST09, DM08A.*
- *Effect on rural character of Bidna Lane. Ref LP Policy DM04, ST04.*
- *Given the proposed wider vehicle access consideration to be given to whether more and larger vehicles would endanger pedestrians using Public Right of Way along Bidna Lane (no there are no escape areas for pedestrians). Ref. LP Policy DM05.*

Prior to the presentation Members were informed that 3 late representations objecting had been received, summarised as follows:

- Provision of tree planting over hedge planting
- Schedule, mix and ratio of vegetation and tree planting within the hedgebank
- Resourcing of topsoil
- Design of Devon Hedgebank
- Impact on character of undeveloped coast

The Principal Planning Officer presented the report and advised Members of the main planning considerations.

Comments made during the discussion indicated that Members were minded to refuse the application. The Chair advised that if minded to refuse, contrary to the recommendation, robust reasons and policies would be required.

Councillor Leather put forward the following policies:

ST04, DM04, ST09, DM08a) and the NPPF paragraphs 135b) and c) and 180a) – c).

Councillor Leather added that the proposed mitigation is not sufficient to offset the detrimental visual and environmental impacts on Bidna Lane.

The Planning Manager suggested including ST14 and the NPPF 139. She said it is important that the basis for a recommendation of refusal is sound and she acknowledged the comment from Councillor Leather regarding mitigation.

The Principal Planning Officer clarified what could be carried out under permitted development.

It was proposed by Councillor Leather, seconded by Councillor Thomas that the application be refused.

A recorded vote was taken.

<b>Councillor</b>	<b>For</b>	<b>Against</b>	<b>Abstain</b>
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 H Thomas	X		
Cllr C Wheatley	X		
Cllr J Whittaker	X		

(Vote: For - Unanimous)

**RESOLVED:**

**That the application be refused subject to the wording of the reasons being delegated to Officers in consultation with the Chair and Vice Chair.**

Mr Keith Goodred addressed the Committee objecting to the application.

Veronica Leat addressed the Committee objecting to the application.

(d) Application No. 1/0339/2024/ADV

Application No. 1/0339/2024/ADV - Siting of aluminium composite artwork panel to the south gable end - Country Cottage Bakery, 22 Mill Street, Bideford.

Interests: None

Officer recommendation: Grant

The planning application had been referred to Plans Committed because the Agent is Claire Gulliver, Cultural Development Officer, Torrigrade District Council. The proposal is on behalf of the Bideford Regeneration Board and Town Traders.

The Principal Planning Officer presented the report and advised Members of the main planning considerations.

It was proposed by Councillor Hames, seconded by Councillor Whittaker that the application be approved.

A recorded vote was taken.

Councillor	For	Against	Abstain
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 H Thomas	X		
Cllr C Wheatley	X		
Cllr J Whittaker	X		

(Vote: For - Unanimous)

**RESOLVED:**

**That the application be Granted subject to the conditions as set out in the report.**

(e) Application No. 1/0332/2024/LBC

Application No. 1/0332/2024/LBC - Siting of aluminium composite artwork panel to the south gable end - Country Cottage Bakery, 22 Mill Street, Bideford.

Interests: None

Officer recommendation: Grant

The planning application had been referred to Plans Committee as the Applicant's Agent is a member of staff – Claire Gulliver, Cultural Development Officer, Torridge District Council. The proposal is on behalf of the Bideford Regeneration Board and Town Traders.

The Principal Planning Officer presented the report and advised Members of the main planning considerations.

It was proposed by Councillor Thomas, seconded by Councillor Hepple that the application be approved.

A recorded vote was taken.

Councillor	For	Against	Abstain
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 H Thomas	X		
Cllr C Wheatley	X		
Cllr J Whittaker	X		

(Vote: For - Unanimous)

**RESOLVED:**

**That the application be Granted subject to the conditions as set out in the report.**

(f) Application No. 1/0164/2024/FUL

The following Councillors had attended the site visit listed below:

Councillors: R Lock, K Hepple, P Hames, C Leather, J Whittaker, P Pennington, C Wheatley and H Thomas.

Application No.1/0164/2024/FUL - Provision for new parking and turning area and enlarged opening to front wall (Resubmission of 1/1054/2023/FUL) - 35 Abbotsham Road, Bideford, Devon.

Interests: Councillor Whittaker declared a prejudicial interest – predetermination – left the table and took no part in the debate and decision making

Officer recommendation: Refuse

The planning application had been called into Plans Committee by Councillor Whittaker for the following reasons, if the recommendation is for refusal:

To consider the application ‘I cannot see the harm to the street scene being of major concern’.

The Development Management Team Leader presented the report and advised Members of the main planning considerations and the reasoning for the recommendation of refusal.

The comments/concerns raised during the discussion included:

- No material harm to the street scene.
- Statutory Consultees –
  - Bideford Town Council supports the application
  - Devon County Highways – no objections – offers safe and suitable access
- It is a speed restricted road – 20mph
- Application will not set a precedent because there is a wide pavement outside the site, whereas further along the street the pavement narrows.

If the application was approved, Councillor Leather recommended a Landscaping Condition be imposed - retaining the green screening behind the wall.

It was proposed by Councillor Hepple, seconded by Councillor Lock that the application be approved.

Advice and guidance was given by the Planning Manager on policies and conditions should Members be minded to approve, and it was agreed that the wording be delegated to Officers in consultation with the Chair and Vice Chair.

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

A recorded vote was taken on the first proposal to approve the application.

<b>Councillor</b>	<b>For</b>	<b>Against</b>	<b>Abstain</b>
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 H Thomas	X		
Cllr C Wheatley		X	
<del>Cllr J Whittaker</del>			

(Vote: For 4 Against 4)

The Chair used her casting vote to approve the application.

(Vote: For 5, Against 4)

**RESOLVED:**

**That the application be Granted, subject to the condition as stated above and the wording of the conditions being delegated to Officers in consultation with the Chair and Vice Chair.**

Mr W Lloyd, Applicant, addressed the Committee in support of the application.

30. APPEAL DECISIONS SUMMARY

There were no Appeal Decisions received for the period 30.04.2024 – 28.05.2024.

31. COSTS ON APPEALS

There were no Costs on Appeals.

32. DELEGATED DECISIONS - AGMB APPLICATIONS

The Committee noted the Delegated Decisions.



33. PLANNING DECISIONS

RESOLVED

That the delegated planning decisions for the period 30 April 2024 – 28 May 2024 be noted.

The meeting commenced at 9.30am and closed at 11.55am

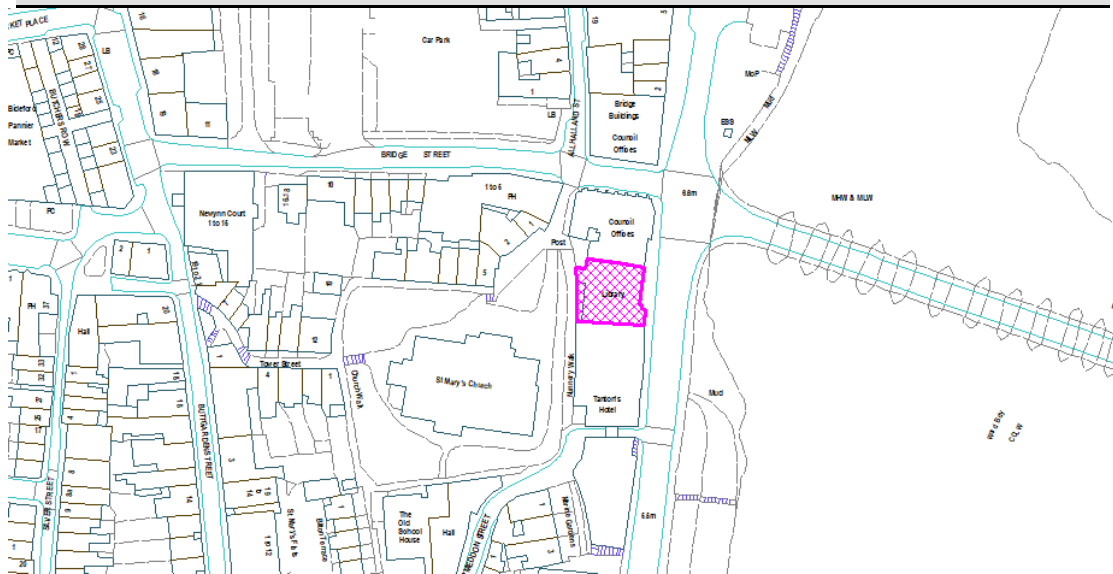
Chair:

Date:

# Agenda Item 7a

## Committee Report – 11.07.24

<b>Application Number:</b>	1/0394/2024/LA
<b>Registration date:</b>	14 May 2024
<b>Expiry date:</b>	9 July 2024
<b>Applicant:</b>	Torrige District Council
<b>Agent:</b>	
<b>Case Officer:</b>	Laura Davies
<b>Site Address:</b>	Bideford Library, New Road, Bideford, Devon, EX39 2HR
<b>Proposal:</b>	Change of use of library (Use Class F1) to create a multi-functional sport and fitness facility (Use Class E)
<b>Recommendation:</b>	GRANT



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## Reason for referral:

This application has been brought to Plans Committee for determination as the applicant is Torridge District Council.

## Relevant History:

Application No.	Description	Status	Closed
1/0235/1993	ALTERATION AND FIRE EXIT DOOR	CI	23.03.1994
1/0343/1993	INSTALLATION OF STEP LIFT TO PROVIDE DISABLED ACCESS	CI	05.05.1993
1/0316/1994	PIGEON PROTECTION	CI	27.04.1994
1/0048/1995	INTERNAL ALTERATIONS TO PROVIDE STAFF/ DISABLED TOILET KITCHENETTE AND NEW COMBINED AREA OPEN TO PUBLIC	CI	13.02.1995

## Site Description & Proposal

### Site Description:

The application site relates to part of the ground floor to the existing library/town hall building in Bideford. This part of the building has previously been used as a library and is currently vacant further to the relocation of the library to new premises in 2023. The application site is located to the western side of New Road and the River Torridge and to the east of St Marys Church, which is Grade II listed. The application site is also a Grade II listed building and located within the Bideford Conservation Area. The application site is located within the Bideford Critical Drainage Area and the building itself is located within Flood Zone 1. The application site is located within the defined Town Centre of Bideford, as shown on North Devon and Torridge Local Plan Proposals Map 2.

### Proposed Development:

This application seeks permission for the change of use of part of the ground floor from a library (Use Class F1) to a sport and fitness facility (Use Class E). The submitted plans propose the provision of three main spaces to be used in connection with the sport and fitness use: a studio, cardio room, and a functional training area. Associated toilet and shower facilities would be provided.

No external works are proposed at this stage.

It is understood that a further Listed Building Consent application will be forthcoming in due course to take account of the proposed internal works and further planning permission would be required for additional works to the rear of the site. These elements do not form part of the current application.

## Consultee representations:

### **Bideford Town Council:**

RESOLVED: That members recommend approval with the proviso that the potential noise impact on residential and commercial premises is addressed.

### **Devon County Council (Highways):**

Observations:

I acknowledge that objections have been raised regarding parking issues for those seeking to use the proposed development. Whilst I note these concerns, I also appreciate that there will be a degree of

trip generation attached to the extant planning use so, potentially, if the library were reopened, this would also attract a degree of traffic movements.

Moreover, the site location is in a relatively sustainable location in terms of walking and cycling facilities, as well as public transport opportunities.

As a result, I do not believe it is pertinent to raise highway objections.

Recommendation:

THE DIRECTOR OF CLIMATE CHANGE, ENVIRONMENT AND TRANSPORT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT

**Community Projects Officer - Adrian Avery:**

No response received.

**Conservation Officer:**

The comments relate to the likely impact on the building as a grade II asset sited within the centre of the town. In this case there are no external changes proposed and so there are not comments on the impact of the proposal on the appearance and setting of the building in relation to the location adjacent other heritage assets.

The work needed to re-use the building for a fitness facility involves alterations to protect the existing features such as protective cladding and flooring to ensure the fabric is not harmed by the introduction of fitness equipment. There are minimal changes proposed to enable the new use and the re-ordering of the ground floor has opened up areas which were formerly partitioned by the office use.

The building was designed as large communal areas, and the large rooms require minimal adaptation to be re-used.

There are details needed of the window protection and other adaptations to upgrade the wheelchair access and provide better ventilation, but these can be required by condition to ensure the works do not harm the character or fabric of the listed building.

The library building is of importance in both the cultural and visual life of the town and while its function has been relocated the building itself is visually important and requires a use. There are no objections to the proposal which I considered acceptable under the guidance set out in paragraphs 205-208 of the NPPF where there is minimal harm caused to the significance of the heritage asset as shown in the current scheme. The investment in the fabric of the building is positive and should prevent the deterioration of this landmark building within the town.

The proposal is not considered to harm the character of the conservation area as there are no external changes proposed and so the scheme is considered to accord with paragraphs 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 where the proposal is not considered to impact on the setting of the listed building within the conservation area.

**Environmental Protection Officer:**

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

The application premises appears to adjoin a residential development on the southern boundary and as such, there is the potential for disturbance to residential amenity from the proposed development from people, music and plant noise associated with a sport and leisure facility. It is noted that the hours of operation do overlap with noise sensitive times, in particular weekday mornings, Sundays and Bank Holidays. It would be useful to receive additional information about the sound insulation qualities of the application premises and the proposed locations of any noise generating plant or equipment, whether external or internal, in order to assess any potential amenity impact.

## Representations:

Number of neighbours consulted:	42	Number of letters of support:	4
Number of representations received:	14	Number of neutral representations:	2
Number of objection letters:	9		

Objections received can be summarised as follows:

- Noise concerns;
- Lack of noise reduction options given listed status of building;
- Parking concerns;
- Lack of residents' parking provision in surroundings;
- Highway safety concerns;
- Prefer use as museum or maritime centre;
- Existing gyms in the town;
- Loss of 'arts' library.

Comments received can be summarised as follows:

- Potential for use of Church car park by gym users and need to retain parking for those attending church;
- Had hoped building could be used for heritage purposes – recommend potential use for murals, artwork or presentations.

Letters of support can be summarised as follows:

- Beneficial to locality/environment;
- Local needs requirement;
- Business requirement;
- Existing museum provision at The Burton;
- Classes full at Torridge Leisure Centre;
- Will secure regular use of existing empty building.

## Policy Context:

### North Devon and Torridge Local Plan 2011-2031:

ST06 (Spatial Development Strategy for Northern Devon's Strategic and Main Centres); ST22 (Community Services and Facilities); ST11 (Delivering Employment and Economic Development); ST14 (Enhancing Environmental Assets); ST15 (Conserving Heritage Assets); ST12 (Town and District Centres); BID (Bideford Spatial Vision and Development Strategy); DM01 (Amenity Considerations); DM02 (Environmental Protection); DM04 (Design Principles); DM05 (Highways); DM06 (Parking Provision); DM07 (Historic Environment); DM08 (Biodiversity and Geodiversity); DM08A (Landscape and Seascape Character); DM12 (Employment Development at Towns, Local Centres and Villages); DM19 (Town and District Centres);

### Government Guidance:

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

## Planning Considerations

Material Planning Considerations:

1. Principle of Development
2. Impact on Historic Character and Appearance
3. Impact on Residential Amenities
4. Access and Parking
5. Ecology.

## 1. Principle of Development

The application site is located within the settlement of Bideford which is identified as a Strategic Centre within the District. Policy ST06 of the North Devon and Torridge Local Plan (NDTLP) notes that development will be supported within the development boundaries of strategic centres. Specifically in relation to Bideford, Policy ST06 states: *'Bideford will provide a focus for housing and employment development. Significant levels of development will be accommodated in Bideford consistent with its scale and its complementary role to Barnstaple. Sustainable development opportunities will be secured to increase self-containment and achieve balanced development to enable the town to meet its own needs and those of the surrounding area'*.

The proposed development relates to the provision of a sports and fitness facility within an existing building which was formally used as a library. Policy ST22 relates more specifically to community services and facilities and notes that the development of new, or extension or improvements to existing community facilities that meet the needs of local communities will be supported within or adjoining defined settlements and Rural Settlements. This is subject to a number of criteria:

*'(a) it does not harm the character of the area and the amenities of the surrounding uses;*  
*(b) It is well related to public transport infrastructure, where possible, and is accessible by walking or cycling; and*  
*(c) It can be accessed without generating unacceptable levels of traffic on the local road network and/or reducing highway safety'*.

The supporting text to Policy ST22 clarifies that community facilities and services can include sport and recreation uses which contribute to the social and economic well-being of communities.

This application seeks the use of the building as a multi-functional indoor sport and fitness location for Active Torridge. It is understood that Active Torridge is currently operating over capacity and the proposed use of the building seeks to provide additional facilities to cater to a wider number of residents. The submitted plans include a functional training area, cardio room, and studio along with associated reception and toilet/changing facilities.

This use would be in accordance with the provisions of Policy ST22 delivering an extension and improvement to existing community facilities.

It is noted that the previous use of the building was as a library and this facility has been relocated within Bideford to new premises some time ago.

Policy ST22 also notes:

*(3) 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'*

The proposed change of use would not result in the loss of an existing community facility with suitable local provision already being made for the library.

Policy ST12 relates to town and district centres noting that the vitality and viability of the town centre of Bideford will be protected and enhanced by focussing development proposals for retail, leisure, office and cultural facilities within defined town centres. Policy DM12 relates to Employment Development at Towns, Local Centres and Villages and seeks to support additional job creation via economic development on existing and allocated employment land as well as other suitable sites within the development boundaries. This is subject to two criteria:

*'(c) the proposal and any associated employment activities can be carried out without undue detriment to residential amenity, public highway users, town centre vitality, landscape character and the environment generally including any buildings or features of designated importance; and*

*(d) the development has an adequate and safe access and does not give rise to excessive or inappropriate traffic and will contribute to the general aim of reducing the need to travel by private car'.*

Policy DM19, Town and District Centres, states at Part (1) *'to increase Town and District Centre viability and vitality, development proposals for retail, leisure, commercial, office, tourism, cultural, community and residential development will be supported within defined Town and District Centre boundaries subject to satisfactory regard to (2) and: (a) the retention and enhancement of the Town and District Centres historic character; (b) the proposed development being readily accessible by sustainable transport modes; and (c) the effective use of upper floors is maintained or secured.'* Part 2 of the Policy concerns protecting the retail function of town centres; the existing use is not retail hence this does not apply.

These elements will be further assessed in the sections below, however Policies ST12, DM12 and DM19 would support the proposed change of use in principle in this location. In addition, the proposed development would create additional employment with both full and part time employees.

On this basis, the principle of the proposed change of use is supported by NDTLP Policies ST06, ST12, ST22, DM12 and DM19.

## **2. Impact on Historic Character and Appearance**

Policy ST04 of the NDTLP seeks to achieve high quality inclusive and sustainable design with developments responding to the characteristics of the site, its wider context and the surrounding area. This refers to Policy DM04 which sets out design principles for development proposals. These emphasise the need for design which is appropriate and sympathetic to the setting in terms of scale, density, massing, height, layout appearance, fenestration, materials and relationship to buildings and landscape features in the local neighbourhood.

Policy ST15 of the NDTLP emphasises that great weight will be given to the desirability of preserving and enhancing northern Devon's historic environment. Policy DM07 more specifically notes that proposals which conserve and enhance heritage assets and their setting will be supported. Where there is unavoidable harm to heritage assets and their settings, proposals will only be supported where the harm is minimised as far as possible, and an acceptable balance between harm and benefit can be achieved, giving great weight to the conservation of heritage assets.

The proposed change of use would not result in any alterations to the external appearance of the existing building. It is noted that separate Listed Building Consent and Advertisement applications may be required to take account of associated alterations to the existing building, however these would not form part of the consideration of the current application.

The Council's Conservation Officer has carried out a site visit and commented on the submission noting that work is needed to enable the proposed reuse of the building as a fitness facility including alterations to protect existing internal features, however there are minimal changes proposed to enable the new use and the re-ordering of the ground floor to open up areas which were formerly partitioned by the office use. The Conservation Officer has raised no objection to the proposal which is considered to meet with the provisions of the NPPF where there is minimal harm caused to the significance of the heritage asset. The investment in the fabric of the building is noted as being positive and should prevent the deterioration of the landmark building at a prominent location within the town.

The proposed change of use of the existing building is not considered to result in a harmful impact on the historic character and appearance of the existing building and the proposed development is considered to be in keeping with the provisions of Policies ST04, ST15, DM04, DM07 and DM19 of the NDTLP in this regard.

## **3. Impact on Residential Amenities**

NDTLP Policies DM12 and ST22 note that proposed employment / community activities should be carried out without undue detriment to residential amenity, and this is also set out in Policies DM04 and DM01. Policy DM01 specifically states that; *'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’.*

The proposed sport and fitness use would include three main spaces within the previous library building with existing accesses to the east and north being retained for use. The application site is immediately adjacent to residential dwellings at Tantons Court to the south and in close proximity to properties in Church Walk which extend to the west. It is noted that the main spaces to be associated with the sport and fitness use include windows to the front and rear (east and west) of the building.

Concerns have been raised in representations received in relation to potential noise disturbance given the proximity to neighbouring dwellings, existing windows and the listed status of the building which may limit the likely methods of acoustic attenuation.

The application form proposes the use will operate between 06:30 and 21:00 Monday to Friday, 09:00 to 17:00 on Saturdays & Sundays and 10:00 to 18:00 on Bank Holidays.

Comments have been received from the Council’s Environmental Protection Officer which note that the application premises adjoins a residential development to the southern boundary with the potential for disturbance to residential amenity from the proposed development, in terms of people, music and plant noise associated with the sport and leisure facility. In addition, the Environmental Protection Officer notes that the proposed hours of operation overlap with noise sensitive times, especially weekday mornings, Sundays, and Bank Holidays. Further information was therefore sought in relation to the sound insulation qualities of the application premises and the proposed locations of any noise generating plant or equipment to allow a full assessment on the potential amenity impact.

An acoustic assessment has been undertaken to address these concerns. This assessment confirms that the party wall between the application site and the adjacent residential building (Tantons Court) is of a solid stone construction and approximately 900mm thick. As a result, no acoustic treatment of the wall is required.

In relation to the windows to the rear of the site, it is proposed that sound insulation be incorporated to these openings via secondary glazing by acrylic sheeting set within an independent frame to that of the existing windows. This takes account of the listed nature of the building and is considered to improve the sound insulation of the building.

The acoustic report also comments on potential ventilation and extraction measures which are proposed to be fitted to the building, making use of the existing valley of the roofline. These details are not part of the current application and will be included within any subsequent planning and listed building consent submissions. The proposal at this stage is limited to the change of use of the site.

The Council’s Environmental Protection Officer has provided further comments on the acoustic report confirming that they are satisfied that the sound insulation properties of the application building will be sufficient and the report addresses the amenity concerns previously raised.

The details of the proposed secondary glazing can be secured via a separate Listed Building Consent application. However, a condition has been recommended as part of any planning permission granted to secure the submission of details of these works prior to the commencement of the sport and fitness use.

On this basis, the proposed development is not considered to result in a harmful impact on residential amenities and a condition can be added to the recommendation to secure the opening hours of the sport and fitness use and to prevent other uses within Class E without the further granting of planning permission.

#### **4. Access and Parking**

NDTLP Policy DM12 emphasises that new employment development should include an adequate and safe access and not give rise to excessive or inappropriate traffic and should contribute to the general aim of reducing the need to travel by private car. Policy ST22 notes that proposals for community



facilities should be accessed without generating unacceptable levels of traffic on the local road network and/or reducing highway safety.

Policy DM05 specifically relates to highways impacts noting:

*'(1) All development must ensure 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 existing public rights of way, footways, cycleways and bridleways and facilitate improvements to existing or provide new connections to those routes where practical to do so.'*

Policy DM06 relates to car parking provision stating that development proposals will be expected to provide an appropriate scale and range of parking provision to meet anticipated needs.

No parking spaces would be provided on site as part of the proposal. It is noted that the application site is located within close proximity to a number of town centre car parks and is located sustainably within the town centre of Bideford.

The proposed access points into the building itself would not be altered by the proposed use with the pedestrian entrances to the east and north being retained.

Comments have been received from the County Council's Highways Officer which notes the concerns raised in representations about the lack of parking and identifies that there would have been a degree of trip generation from the extant permission as a library which is relevant for the assessment of the current application. The Highways Officer further notes the site's relatively sustainable location in terms of walking and cycling facilities as well as public transport opportunities. On this basis, the Highways Officer has not raised any objections to the proposed development.

Taking account of the previous use of the site, the nature of the proposed use and the relatively sustainable location, the proposed use of the building is considered to be in keeping with the provisions of Policies DM05 and DM06 of the NDTLP, as well as Policies ST22, DM12 and DM19.

## **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 Policy DM08 which requires new development to *'avoid adverse impacts on existing ecology features as a first principle, and enable net gains by designing in biodiversity features'*.

A completed Wildlife Trigger List has been submitted in support of the application which does not identify any likely impacts on protected species or their habitats as a result of the proposed change of use. Having reviewed the proposed plans and noting the lack of external alterations to the existing building, Officers agree with this conclusion.

In relation to Biodiversity Net Gain, the proposed development relates only to the change of use of the existing building and does not include any external alterations. As a result, the proposal is considered to be exempt from the requirement for BNG by virtue of its *de minimis* nature, impacting less than 25m<sup>2</sup> of on-site habitat.

On this basis, the proposed development is not considered to result in a harmful impact on protected species or their habitat and would be in keeping with the provisions of Policies DM08 and ST14 of the NDTLP.

## **Conclusion**

The proposed change of use to a sport and fitness facility is considered to be acceptable in principle within this town centre location, would not result in harmful impact on the historic nature of the listed building or the character and appearance of the surrounding area. Subject to conditions, a harmful

impact on the amenities of neighbouring occupiers is not considered to result and suitable access would be provided.

## Human rights

Consideration has been given to the Human Rights Act 1998.

## 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. Notwithstanding the provisions of the Town and Country Planning (use Classes) Order 1987 (as amended) and Article 3, Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) Orders 1995 (or any Order revoking or re-enacting these Orders the premises shall be used as a sport and fitness facility and for no other purpose, including any other purpose within Class E, without the further grant of planning permission.

Reason: To restrict the use of the premises to one which is compatible with the surrounding area and listed building and to comply with the development plan.

4. The premises shall not be used except between the hours of 06:30 and 21:00 Monday to Friday, 09:00 to 17:00 on Saturdays & Sundays and 10:00 to 18:00 on Bank Holidays.

Reason: In the interests of the amenities of neighbouring occupiers.

5. Prior to the first use of the application site as a sport and fitness facility, details of the proposed secondary glazing measures to windows on the western elevation shall be submitted to and approved in writing by the Local Planning Authority. The mitigation measures shall be installed prior to the building first being used as a sport and fitness facility and shall be retained as such in perpetuity.

Reason: In the interests of the amenities of neighbouring occupiers.

## Plans Schedule

Reference	Received
Block Plan	08.05.2024
Location Plan	08.05.2024
Proposed Flood Plan	07.06.2024

## Statement of Engagement

The National Planning Policy Framework (paragraphs 38) requires local planning authorities to work positively and proactively with applicants to achieve sustainable development. Throughout the

application process guidance has been given to the applicants and all outstanding issues have been identified.

In this instance the Council required additional information following the consultation process. The need for additional information was addressed with the applicant and submitted for further consideration.

The Council has therefore demonstrated a positive and proactive manner in seeking solutions to problems arising in relation to the planning application.

## Informatives

### 1. Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

(a) a Biodiversity Gain Plan has been submitted to the planning authority, and

(b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be Torridge District Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below are considered to apply.

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

4. The permission which has been granted is for development which is exempt being:

4.1 Development below the de minimis threshold, meaning development which:

does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and

impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

#### Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

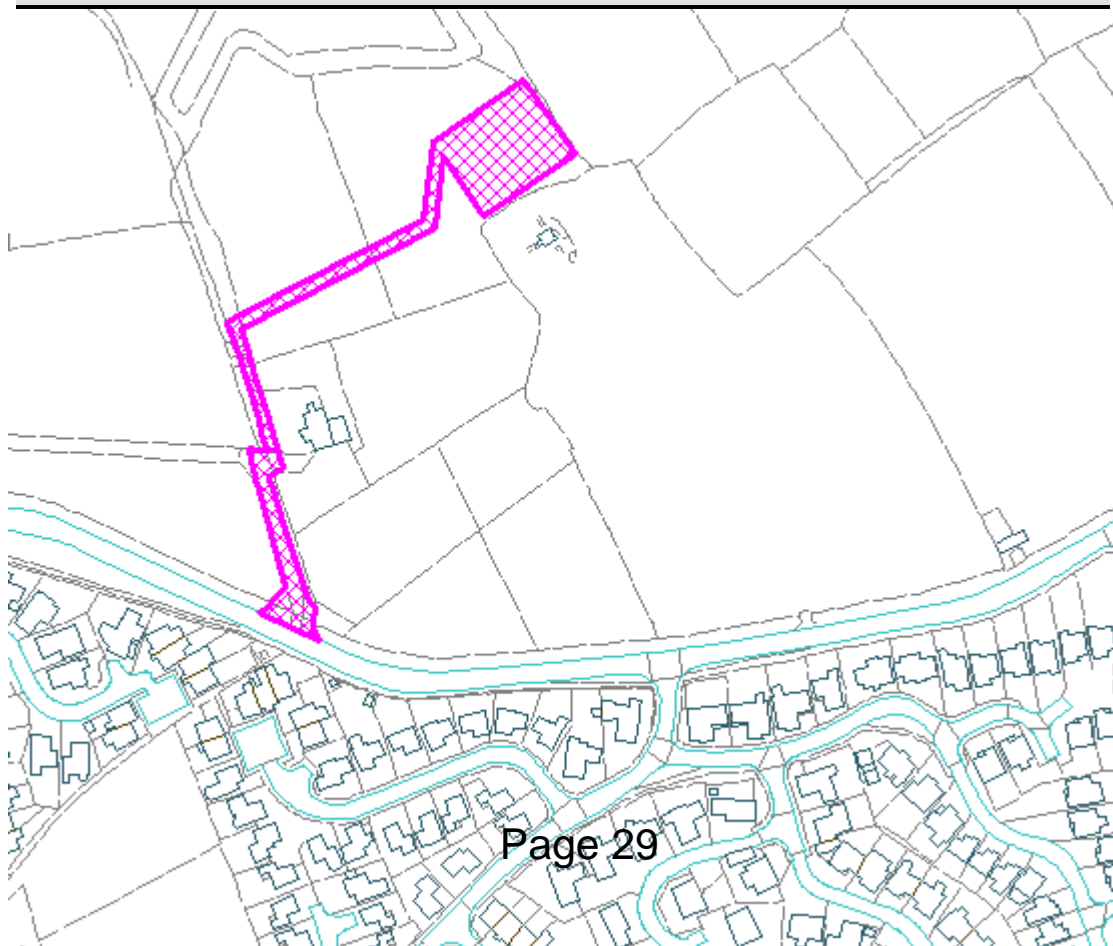
The effect of section 73D of the Town and Country Planning Act 1990

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission ("the earlier Biodiversity Gain Plan") there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted: do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

## Committee Report – 11.07.2024

<b>Application Number:</b>	1/0433/2024/FUL
<b>Registration date:</b>	13 May 2024
<b>Expiry date:</b>	8 July 2024
<b>Applicant:</b>	Miss Sally Jobson-Scott
<b>Agent:</b>	Tree Tops Planning
<b>Case Officer:</b>	Ryan Steppel
<b>Site Address:</b>	Land At Grid Reference 244858 129911, Northam, Devon,
<b>Proposal:</b>	Part retrospective application for all weather turnout (Variation of Condition 7 of planning permission 1/0838/2023/FUL) (Amendment to Wording)
<b>Recommendation:</b>	Refuse



## Reason for referral:

The application has been called in by Cllr Ford as Ward Member, for the following reason:

*'I wish to call in if officer is minded not to remove Condition 7 as set out. I believe there has been undue time spent on this application and it seems to me mainly in a negative manner.'*

## Relevant History:

Application No.	Description	Status	Closed
1/1068/2021/FUL	The erection of two barns for continued equestrian use and associated works	REF	16.02.2022
1/0838/2023/FUL	Part retrospective application for all weather turnout	PER	26.02.2024
1/0040/2024/DIS	Discharge of conditions 2 & 3 of planning approval 1/0838/2023/FUL (Landscaping Plan and Written Scheme of Investigation)	PCO	

## Site Description & Proposal

### Site Description:

The application site comprises a section of former agricultural land approximately 200m north of Appledore Road. The site sits approximately 170m south of Northam Burrows. Overall, the land is characterised by its open and broadly levelled appearance. As a result, the wider site is visible to long-distance views from much of Appledore Road and Northam Burrows. The application site currently comprises of an extensive area of excavated land with large earth constructed bunds located on the northern, eastern and southern borders of the sand school. The 'all weather turnout' measures 46m x 35m.

The application site is surrounded by a significant amount of heritage associated with the Chain Home Station and RAF Northam. These heritage features are listed individually (Grade II) but also form part of a wider group of listed war-related infrastructure connected with RAF Northam and the Chain Home Station. In addition, the application site is located within the Coast and Estuary Zone. The site is located 170m south of the Northam Burrows which forms part of the Area of Outstanding Natural Beauty (AONB) designation and is a Site of Special Scientific Interest (SSSI).

The Council consented the retrospective erection of an 'all-weather turnout' in 2024 subject to planning conditions. Condition 7 of 1/0838/2023/FUL states:

*No jumps, mobile or temporary structures or buildings shall be placed within the all-weather turnout area.*

*Reason: To protect the character and appearance of the surrounding area, which is designated as Undeveloped coast, and nearby heritage assets.*

### Development:

This application seeks to vary condition 7 to remove 'jumps, mobile or temporary structures' from the wording of the condition.

## Consultee representations:

### **Northam Town Council:**

Northam Town Council recommended that the proposal be granted permission.

### **Conservation Officer:**

In this case the previous comments for the application remain relevant and will be reproduced below for completeness.

The current proposal seeks to introduce equipment that is not of a natural form and could be brightly coloured into an area of natural landscape on the fringe of Northam Burrows Park. The proposal should be refused as being harmful to the setting of the listed landscape of RAF Northam which includes features within a 400-metre radius around the site. The level of harm is less than substantial as the harm can be reversed when the equipment is removed but as there is no authorised storage on site the equipment will remain in situ. The balance remains with the officer as there needs to be public benefit demonstrated to offset any harm to a heritage asset. (paragraph 205-208 of the NPPF)

The concerns from the previous application are demonstrated by this application in that it is creeping domestication of a wild landscape area and that the cumulative harm caused by introducing equestrian provision in the form of a stable has already been refused at appeal.

This application seeks to vary a permission that members debated keenly and allowed with provisos which made the scheme acceptable. The scheme now wishes to remove this control which the members considered made the application acceptable.

### Previous response to 1/0838/2023.

This is another development proposal on a visually sensitive margin between Northam and the Northam Burrows. The application follows the refusal of a stable block on the adjoining field and has highlighted the cumulative nature of development now sought in this area. It is now understood that this is not an expansion to the Follyfoot riding stables but seeks a new independent facility. While officers can only comment on the proposal submitted, the additional pressure on this fringe land forming the buffer between the wild landscape of the burrows and the urban expansion of Northam, causes challenges to officers. In this case the potential harm to the landscape is exacerbated by the designation of the area as 'listed'. The actual area of RAF Northam was more widely spread than realised when the development areas were designated but the land on which Follyfoot stables was eventually granted permission was always considered to be rural. The business on site has urbanised the approach to the burrows and the new proposal continues this process along the Appledore road.

In terms of the setting of the listed structures the introduction of modern features such as fencing, structures and the uncovering of the listed type 'C' receiver block have catastrophically altered the views across the site and to the burrows park beyond. This is not helped by the storage of paraphernalia such as a caravan, vans including a horse transporter and assorted domestic items such as gas canisters.

In the consideration of this proposal for a sand school of dimensions 46 metre by 35 metres together with works to level the area, which has resulted in bunds of over 3.5 metres on the south east boundary of the site and has resulted in visual and operational intrusion into this part of the site which is at the south eastern edge of the designated area.( which includes structures related to the Northam Chain Home station).

The proposal will cause harm the setting of this heritage asset in that it introduces an urbanised feature within an area which is currently experienced as an undeveloped rural area on the fringe of a country park. While at the time of operation RAF Northam would have been a busy station the appearance of this area (and its success) was that apart from the towers, the paraphernalia was covert and assimilated into the landscape in this coastal fringe area.

The proposal is required to be considered under guidance set out in paragraphs 194-202 of the NPPF and paragraph 66 of the Planning (Listed Buildings and Conservation areas) Act 1990.

The level of harm is considered to be less than substantial, but the cumulative visual harm associated with the creation of a new separate equestrian business on site does make this at the higher level of less than substantial.

The officer has to consider whether the proposal would be outweighed by any public benefit which in this case have not been demonstrated or quantified.

The proposal is also considered at odds with section 66 of the Planning (Listed Buildings and Conservation areas) Act 1990 the local planning authority *shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.*

The introduction of a large flat area surfaced with a non-native material is considered to harm the wider setting of the listed assets on the RAF Northam Chain Home Station and as such considered to be contrary to section 66.

The proposal should be resisted.

**DCC Archaeology Section:**

I refer to the above application and your recent consultation. The all-weather turnout lies in an area of heritage sensitivity within the area occupied by the WWII Northam Chain Home Radar Station. The surviving buildings that formed this radar station are protected as listed buildings.

The information submitted in support of this variation of condition application does not contain any information on the nature, scale and location of any proposed “jumps, mobile or temporary structures” that might be required here. In addition, the application does not include any detail on the landscaping of the site as required by condition 2 applied to the consent granted for application 1/0838/2023/FUL which will mitigate the impact upon the designated heritage assets and surrounding landscape. In the absence of this information and given the heritage landscape sensitivity of the site I would advise that this application is not determined until information on the on the nature, scale and location of any proposed “jumps, mobile or temporary structures” that might be required, and the landscaping mitigation is made available for consideration to enable an informed and reasonable planning decision to be made.

**Natural England:**

No response.

**AONB Team:**

No response.

**The Environment Agency:**

No response.

**Devon County Council (Highways):**

Standing Advice.

**Environmental Protection Officer:**

The Environmental Protection Team has no objections.



## Representations:

Number of neighbours consulted:	23
Number of representations received:	3
Number of objection letters:	0

Number of letters of support:	3
Number of neutral representations:	0

No objections received.

There have been three letters of support submitted, for the reasons set out below:

- Not part of the Committee discussion
- Prevents use for the '*training young horses*' and the use of the turnout
- The applicant has a successful record with showjumpers and is a successful local business.
- Once the turnout was completed there will be no visual impact
- Use of condition is unpractical

## 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); ST09 (Coast and Estuary Strategy); ST10 (Transport Strategy); ST14 (Enhancing Environmental Assets); ST15 (Conserving Heritage Assets); DM01 (Amenity Considerations); DM02 (Environmental Protection); DM04 (Design Principles); DM05 (Highways); DM06 (Parking Provision); DM07 (Historic Environment); DM08 (Biodiversity and Geodiversity); DM08A (Landscape and Seascape Character); DM16 (Equine 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

This application proposes to vary condition 7 of 1/0838/2023/FUL. The relevant material considerations for the overall scheme are the same as those considered under the extant approval, and these are:

- Principle of Development
- Impact on Character, Heritage and Landscape
- Impact on Residential Amenity
- Highways, Access and Parking
- Drainage Provision
- Ecology

The application seeks the removal of '*jumps, mobile or temporary structures*' from the wording of Condition 7, so the planning assessment below focuses on this matter.

The application is supported by a planning statement prepared by Tree Tops Planning and submitted on behalf of the applicants. In accordance with the scheme of delegation, the previous application was considered by the Plans Committee on the 1st February 2024. The agenda and minutes confirm that the application was resolved to be granted subject to the wording of conditions being delegated to officers in conjunction with the Committee's Chair and Vice-Chair. Following that process, the application was subsequently approved subject to seven conditions. The applicant only appears to dispute one of the seven conditions imposed.

The approved application described the proposal as a 'turnout'. The submitted heritage statement did not include any reference to jumps, equestrian infrastructure or temporary buildings. The supporting statement stated:

*'To support her thriving breeding program, she wishes to develop an all-weather turnout area. This will allow her to turn out her stallion, brood mares, and foals separately and in a safe enclosed environment.'*

*The proposal has no 'mass' as it is simply a drained surface surrounded by banks and fence so has no impact upon the listed structure.'*

The application site is located within a sensitive landscape, namely, the Undeveloped Coast, and within the setting of the AONB/National Landscape which sits within 200m of the site. Planning conditions were proposed to reflect the permission/development granted as per the description of development. The Applicant has not been entirely consistent on what the 'turnout' was for, and with the objection to condition 7, appears to seek an all-functioning sand school/arena.

Instead, the applicant has permission for a turnout and intends to use it in a way beyond the remit of what was approved. Normally, such a use would be to simply turnout into a safe and enclosed environment where the horses can be fed. It is not normal practice for turnouts to include jumps or riding equipment. The previous application was assessed in the context of the importance of the historic landscape as well as the open and tranquil location within which it sits.

Policy ST09 (7) of the NDTLP states: *'development within the undeveloped coast will be supported where it does not detract from the unspoilt character, appearance and tranquillity of the area, nor the undeveloped character of the heritage coasts, and it is required because it cannot reasonably be located outside the undeveloped coast and estuary.'*

The site and its wider surroundings also share a significant relationship with heritage assets of cultural and historical importance. As such, NDTLP Policies DM07 and ST15 are relevant which require the conservation of heritage assets and their landscapes, noting the importance of the historic dimension of the surrounding landscape.

Policy DM04 of the NDTLP sets out key design principles for proposed development stating that these should be appropriate and sympathetic to their setting in terms of scale, density, massing, height, layout appearance, fenestration, materials and their relationship to buildings and landscape features within the local area.

In addition, Policy DM08A of the NDTLP recognises the value of designated and undesignated landscapes, taking account of the sensitivity of such landscapes and evaluating impact, utilising guidance from the Joint Landscape and Seascape Character for North Devon and Torridge (LCT). Furthermore, Policies ST09, ST14 and DM16 require any development to be appropriately located, with tranquillity and openness a key factor in the consideration of any harm.

The comments for further information by the Historic Environment Officer are noted. However, the application submitted does not seek to provide detail about the jumps or equipment onsite as instead the application wishes for the limitation on equipment on site to be removed. Therefore, any information about the jumps or equipment provided would be of little benefit and instead, the Local Authority must instead consider whether the use of jumps or equipment is appropriate or not, noting the permission of a turnout.

The Council's Plans Committee has previously decided that a levelled area purely for turning out horses would have a limited effect on wider character. It is considered that the unfettered use of equestrian equipment, 'temporary' buildings and jumps would add visual clutter to a landscape characterised by its openness, lack of development, and tranquillity. The proposed variation would therefore result in the uncontrolled use of equestrian paraphernalia in a sensitive location, and thus have a detrimental impact upon the character of the countryside, protected landscapes and nearby heritage assets.

On this basis, the proposal is considered to be contrary to Policies ST04, ST09, ST14, ST15, DM04, DM07, DM08A and DM16 of the NDTLP.

### Human rights

Consideration has been given to the Human Rights Act 1998.

### Recommendation

REFUSE for the following reasons:

- 1 The proposed variation of condition would result in a development which would not integrate effectively to the surrounding landscape by directly affecting the special qualities of the area such as tranquillity and openness. The unfettered use of equestrian paraphernalia, jumps, and temporary buildings would cause harm the Undeveloped Coast and setting of the AONB/National Landscape and consequently the variation is contrary to policies ST04, DM04, ST09, ST14, DM07, ST15, DM16 and DM08A of the adopted North Devon & Torrridge Local Plan, and Chapters 12 & 15 of the National Planning Policy Framework.

### Plans Schedule

Reference	Received
21212 - 01 G	20.11.2023
PROPOSED SECTION AND ELEVATION	01.09.2023

### Statement of Engagement

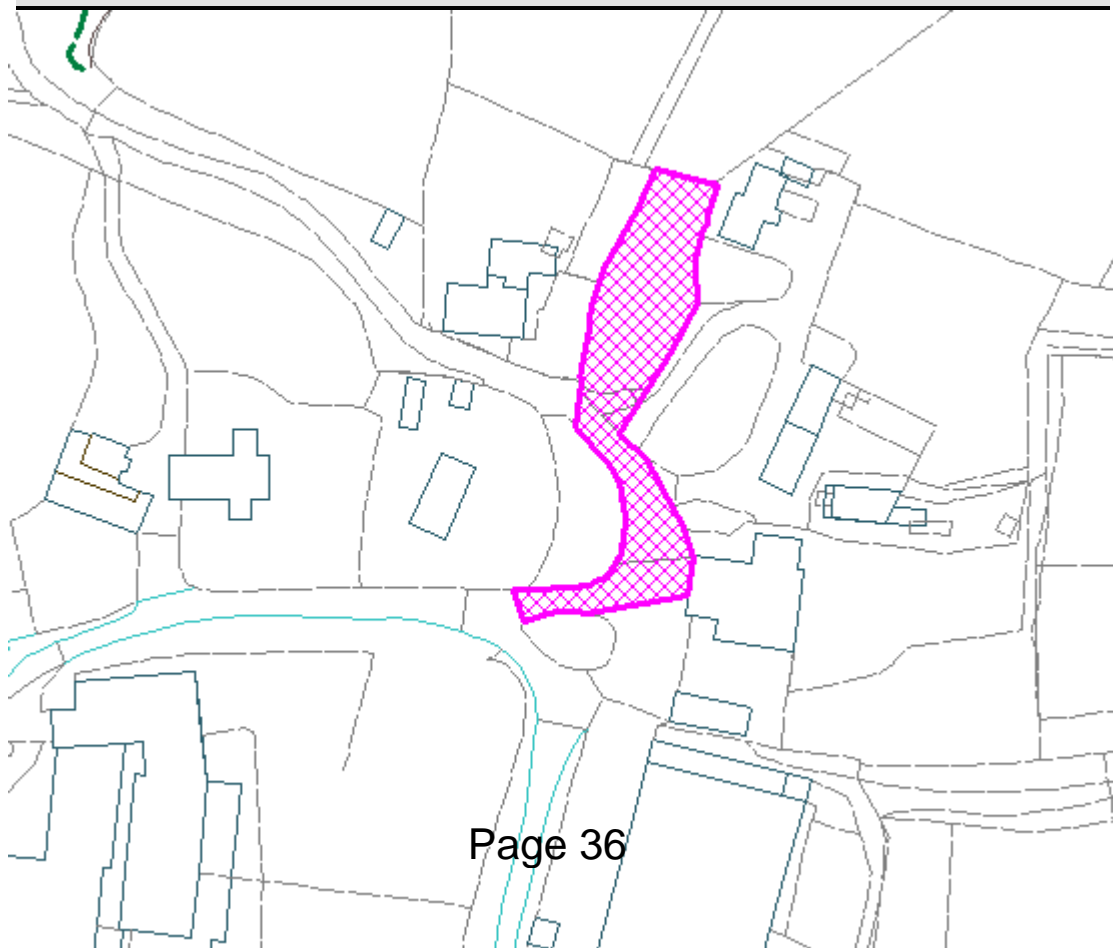
In accordance with Paragraph 38 of the National Planning Policy Framework (NPPF) in dealing with this application, the Council has worked with the applicant in the following and positive and proactive manner. We have made available detailed advice in the form of our statutory policies in the Development 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.

In this instance the applicant started works without planning permission. When a planning application was submitted, the applicant was advised and made aware of such concerns. The applicant was made aware of the likely recommendation.

# Agenda Item 7c

## Committee Report – 11.07.24

<b>Application Number:</b>	1/0116/2024/FUL
<b>Registration date:</b>	28 February 2024
<b>Expiry date:</b>	24 April 2024
<b>Applicant:</b>	Mr Jago & Miss Vincent
<b>Agent:</b>	Piper Architecture Ltd
<b>Case Officer:</b>	Mrs Nicola McGill
<b>Site Address:</b>	The Old Granary, Pyworthy, Holsworthy, Devon, EX22 6SJ
<b>Proposal:</b>	Erection of a local needs dwelling
<b>Recommendation:</b>	Refuse



## Reason for referral:

In the event of a recommendation for refusal, the application was called in to be heard at Plans Committee by Councillor James. The reasons given are as follows:

- This is a local young couple that has grown up in the area.
- Their employment is local.
- The site is an infill site in an established settlement that includes a highly regarded Rural Tourism enterprise which has provided local employment opportunities.

## Relevant History:

Application No.	Description	Status	Closed
1/0437/1978	CONVERSION OF BARN TO FAMILY HOLIDAY APARTMENTS & SEPTIC TANK, LOWER LEWORTHY,	REF	23.05.1978
1/0871/1978	CONVERSION OF BARN TO FAMILY HOLIDAY APARTMENTS, LOWER LEWORTHY, HOLSWORTHY	PER	01.08.1978
1/1324/1978	CONVERSION OF EXISTING BARN TO PROVIDE 3 HOLIDAY UNITS, LEAWORTHY, HOLSWORTHY	REF	07.11.1978
1/0112/1979	CONVERSION OF A BARN TO 4 HOLIDAY UNITS, LOWER LEWORTHY HOLSWORTHY	PER	27.03.1979
1/0328/1993	CHANGE OF USE FROM AGRICULTURAL STORE TO DWELLING	PER	05.05.1993

## Site Description & Proposal

### Site description

The application site is a rectangular parcel of land of approximately 665 sq m adjacent to the Old Granary and is located in the open countryside approximately 3 kilometres southwest of the town of Holsworthy. The site forms part of Leworthy Farm holding which is comprised of a mix of dwellings and barn conversions restricted to holiday accommodation use. The farmhouse currently offers bed and breakfast accommodation.

Access to the site is via a track approximately 600 metres in length leading from the public highway to the west. Public Right of Way (PRoW) Clawton Footpath 7 follows the track before heading south at Lower Leworthy Barn.

The site does not fall within any allocated land designation and is not located within close proximity to any protected heritage asset. The Devon Character Area for this site is 66 (Western Culm Plateau) and the Landscape Character type for this site is 1F (Farmed Lowland Moorland and Culm Grassland). 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 therefore considered a low probability of flooding.

### Proposed development

The application seeks full planning permission for the erection of a local needs dwelling. The proposed dwelling would be single storey and accommodate two bedrooms, open plan kitchen, dining, living area, family bathroom, additional toilet, and plant room. Proposed materials include render on the west elevation and timber or composite cladding on other elevations; sheet metal roof with integrated solar PV panels; aluminium or coloured Upvc windows, aluminium or Upvc glazed/composite doors. No details of rainwater treatments have been provided.

Other design features include a vehicle access and hardstanding comprised of permeable stone chippings over weed suppressant membrane and compacted hardcore. The existing hedge bank will be retained and reinforced as a boundary treatment. External downward facing motion sensitive LED security lighting will also be provided.

The proposal includes surface mounted solar PV panels on the roof of the proposed dwelling and air source heat pump on the west elevation.

### **Consultee representations:**

#### **Clawton Parish Council:**

With reference to the planning application above Clawton Parish Council have no objections but would like the following points to be considered:

The access lane is in very poor condition despite several appeals to highways which are now being supported by the Parish Council. A S106 would be preferred so that the house remains as a Local needs' property. The Councillors assume that a contamination survey will be carried out.

#### **Devon County Council (Highways):**

Standing advice.

#### **Environmental Protection Officer:**

*First comment received 28 February 2024:*

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

Having regard for the application site, the Environmental Protection Team considers there to be no conflicting neighbouring land use and as such, the proposed development accords with Policy DM01. Having regard for the presence and proximity of existing dwellings, there is the potential for residential amenity to be adversely affected on a temporary basis from the construction works if control measures are not in place. Should planning consent be granted, the Environmental Protection Team recommends the imposition of a condition restricting construction works and site deliveries to Monday to Friday 0700 to 1900 hours and Saturdays 0800 to 1300 hours only with no works permitted on Sundays and Bank Holidays in order to protect residential amenity.

The application contains no detailed information on the historic use and subsequent land quality of the application site. Former land use and activity can result in ground contamination and ground conditions that are potentially harmful to human health or unsuitable for occupation without remediation. Given the sensitive end use, it is essential that the application site is appropriately assessed for any potential contamination that may impact future occupants and, where identified, remediated accordingly. Should planning consent be granted, the Environmental Protection Team recommends the imposition of the Authority's full standard contaminated land condition.

The proposed dwelling is to be served by a new package treatment plant discharging to a watercourse. DEFRA's General Binding Rules stipulates that the watercourse should normally contain a continual annual flow. The applicant will need to demonstrate compliance with DEFRA guidance by providing video footage and photographic images as well as any formal maps marking the watercourse. The Environmental Protection Team will provide further comments on the suitability of the foul drainage scheme upon receipt of the aforementioned information.

Second comment received 20 May 2024:

Thank you for forwarding the additional information in relation to the foul drainage proposal. Having reviewed the video footage, the watercourse flow does not appear conclusive and furthermore, it is not marked on the accompanying map. I would ask the applicant to provide more comprehensive video footage as well as identify the watercourse on the map.

### Representations:

Number of neighbours consulted:	6	Number of letters of support:	3
Number of representations received:	3	Number of neutral representations:	0
Number of objection letters:	0		

Three letters in support of the application have been received and are summarised below:

- Dwelling provision for young people
- Improvement of existing land

### Policy Context:

#### North Devon and Torridge Local Plan 2011-2031:

ST07 (Spatial Development Strategy for Northern Devon's Rural Area); ST04 (Improving the Quality of Development); DM04 (Design Principles); DM08A (Landscape and Seascape Character); DM01 (Amenity Considerations); DM08A (Landscape and Seascape Character); ST14 (Enhancing Environmental Assets); ST10 (Transport Strategy); DM05 (Highways); DM06 (Parking Provision); DM02 (Environmental Protection); ST03 (Adapting to Climate Change and Strengthening Resilience); DM24 (Residential Development in Rural Settlements)

#### Government Guidance:

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

### Planning Considerations

The main considerations in the determination of this application are:

1. Principle of development
2. Character and appearance
3. Residential amenity
4. Ecology and biodiversity
5. Highways
6. Drainage

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.

Paragraph 83 of the NPPF guides Local Planning Authorities in the provision of rural housing and states in part, '*To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services*'.

Policy ST07 of the North Devon and Torridge Local Plan (NDTLP) sets out the spatial development strategy for Torridge's rural area and guides support for development in a hierarchical approach with an overarching aim to direct development in accordance with the local spatial strategy to identified Local Centres (set out in Policy ST07 Schedule A) and Villages (set out in Policy ST07 Schedule B).

Rural Settlements (set out in Policy ST07 Part 3) are generally considered to be locations whereby new housing is resisted due to their rurality and lack of services, however provision is made in exceptional circumstances subject to certain criteria being satisfied. However, it is important to note that policy support for local needs dwellings is restricted to proposals located within qualifying Rural Settlements, subject to compliance with the requirements of NDTLP Policy DM24.

Policy ST07 (3) sets out qualifying 'Rural Settlement' as '*Rural Settlements which contain at least one prescribed service or community facility, appropriately located development of a modest scale will be enabled to meet locally generated needs*'. The Local Plan Glossary defines Rural Settlements as: '*a small, closely grouped cluster of housing that contains at least one local service or community facility.*' The policy supporting text at Paragraph 4.15 clarifies: '*appropriately scaled and located development to meet locally generated housing needs will be supported in qualifying Rural Settlements (requiring the settlement to have at least one service or community facility from the following:- community/village hall, post office, public house, convenience shop, place of worship, sports playing field, primary school), as enabled by Policy DM24: Rural Settlements.*'

In this case, the application site is not part of a qualifying Rural Settlement, therefore Policy ST07, Part 4 of the NDTLP applies. This policy sets out the spatial development strategy for northern Devon's rural area, and asserts that 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*'.

Consequently, there is no 'in principle' policy support for a local needs dwelling in this location, and the proposal can be considered as an open market dwelling only. For this reason, the proposal is contrary to the NDTLP as there is no policy basis for a local needs dwelling in the proposed location.

The Applicant sought pre-application advice prior to the submission of this proposal. The Officer concluded that the principle of development on this site is likely to be unacceptable due to its distance from any settlement, and the subsequent harm which arises from new residential development in the countryside.

On the above basis, it is not possible to support the proposed development as matter of principle.

## 2. Character and appearance

NDTLP Policy DM04 outlines that development proposals adhere to the standards of good design. The policy states that, '*good design seeks to guide overall scale, density, massing, height, landscape, layout, materials, access and appearance of any new developments. It seeks not just to manage land use but supports the creation of successful places and responds to the challenges of climate change.*' The policy provides fourteen design principles that developments should have regard to.

Policy ST04 supports development proposals 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.*'

Part 12 of the NPPF attaches great importance to the design of the built environment and states that developments should be sympathetic to local character and history, including the surrounding built environment, while not preventing or discouraging appropriate innovation or change. Great weight should be given to outstanding or innovative designs which promote high levels of sustainability or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.



In addition, Policy DM08A requires development to respect the landscape character of both designated and undesignated landscapes and seascapes.

A Joint Landscape Character Assessment (2023) has been prepared for North Devon Council and Torrington District Council. It supersedes the previous Landscape Character Assessment which was adopted by both Councils in 2011. The Devon Character Area for this site is 66 (Western Culm Plateau) and the Landscape Character type for this site is 1F (Farmed Lowland Moorland and Culm Grassland). Distinctive characteristics include a local vernacular of white-washed or local sandstone buildings, often with red brick detailing, and with slate or thatched roofs and landscape guidelines direct for the protection of the landscape's variety of traditional building styles, including white-washed and exposed stone, often with red brick detailing, and slate or thatch as roofing materials.

The proposed dwelling would be single storey and accommodate two bedrooms, open plan kitchen, dining, living area, family bathroom, additional toilet, and plant room. The proposed materials include render on the west elevation and timber or composite cladding on other elevations; sheet metal roof with integrated solar PV panels; aluminium or coloured Upvc windows, aluminium or Upvc glazed/composite doors. No details of rainwater treatments have been provided.

The composite cladding and coloured Upvc window frames would conflict with the local vernacular and should be resisted. It is recommended that, should this application be approved, a condition is included requiring the use of timber cladding. Subject to compliance with the condition, the proposed design would be acceptable and compliant with the above policy requirements.

### 3. Residential amenity

Policy DM01 of the NDTLP confirms that development will be supported where it would not significantly harm the amenities of neighbouring occupiers or uses, or result in harm to the future occupiers of the development from existing or allocated uses. Part (i) of Policy DM04 also includes a similar policy direction.

It is noted that no objections have been received from neighbouring occupiers or the Parish Council in respect of residential amenity.

An existing hedge bank currently runs along the east and west boundaries of the plot. It is proposed to reinforce the hedge bank with a native hedge mix and a condition should be included securing the provision and retention of the hedge bank.

The Council's Environmental Protection Team have been consulted in respect of this application and while not objecting, have recommended conditions in relation to construction hours and unexpected contamination. Assuming inclusion of and compliance with the recommended conditions, the proposal is considered to accord with NDTLP Policy DM01 and part (i) of Policy DM04.

### 4. Ecology and biodiversity

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 also supported by Policy DM08 of the NDTLP. Policy ST14 of the NDTLP seeks to deliver biodiversity net gain (BNG) where possible.

The application was accompanied by Devon County Council's Wildlife Trigger List, which confirms that an ecological survey and report is not required.

In relation to biodiversity enhancement, this application was submitted prior to the implementation date for mandatory BNG as set out under Schedule 7A of the Town and Country Planning Act 1990 which enables Schedule 14 of the Environment Act 2021. The application includes a statement which confirms that the proposal would reinforce native species hedge banks. Additionally, a condition could be included to install at least 1no. bird box and 1no. bat box on the north or east facing elevations of the building.

Subject to the above conditions, it is concluded that the proposal accords with NDTLP Policies DM08 and ST14, as well as the other legislation referred to above.

## 5. Highways

Policies ST10 and DM05 of the NDTLP seek, inter alia, to ensure that development does not adversely affect the local or strategic highway network and that vehicular accesses are safe and well designed. In addition, Policy DM06 of the NDTLP seeks to ensure that appropriate parking provision is delivered as part of development. Policies ST10 and DM06 also seek to encourage the use of sustainable modes of transport and reduce reliance on the use of private motor vehicles.

The proposal seeks to utilise an existing access track approximately 600 metres in length leading from the public highway to the west. The Highway Authority has referred to its standing advice document. The Parish Council submitted observations as follows, *'the access lane is in very poor condition despite several appeals to highways which are now being supported by the Parish Council'*.

Despite the condition of the track which was poor in places, the entry onto the public highway is considered to be suitable and sufficient. The proposed site plan shows that acceptable parking and turning facilities can be provided. Taking account of the above, it is concluded that the proposal accords with NDTLP Policies DM05, ST10 and DM06.

## 6. Drainage

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. Policy ST03 seeks to reduce flood risk.

The NPPF and Planning Practice Guidance (PPG) provide further advice on foul drainage, with a hierarchal approach being used. The PPG notes new development should aim to discharge foul water into the public sewer; however, if this is not possible then a package treatment plant may be used. It proceeds to note if a package treatment plant is not possible to use, then a septic tank will be considered. Justification for the use of alternative drainage systems other than mains drainage is required.

Surface water is proposed to be addressed via storm water attenuation crates to the north. The initial foul drainage proposal considered a new package treatment plant and the Council's Environmental Protection Team offered the following comments:

*'The proposed dwelling is to be served by a new package treatment plant discharging to a watercourse. DEFRA's General Binding Rules stipulates that the watercourse should normally contain a continual annual flow. The applicant will need to demonstrate compliance with DEFRA guidance by providing video footage and photographic images as well as any formal maps marking the watercourse. The Environmental Protection Team will provide further comments on the suitability of the foul drainage scheme upon receipt of the aforementioned information'*.

*'Thank you for forwarding the additional information in relation to the foul drainage proposal. Having reviewed the video footage, the watercourse flow does not appear conclusive and furthermore, it is not marked on the accompanying map. I would ask the applicant to provide more comprehensive video footage as well as identify the watercourse on the map'*.

The drainage proposal was subsequently changed and will now consist of a sewage treatment plant to discharge to a drainage field. Subject to compliance with the Environment Agency's 'general binding rules' and the proposal is in accordance with the above policy considerations.

## 7. Conclusion

As discussed above, the site is located within the countryside, outside of any defined development boundary. The principle of residential development in this location is not supported by adopted planning policy and is therefore unacceptable. The Council can demonstrate a five-year housing land supply, as such the NDTLP has primacy in relation to planning decisions.

Accordingly, it is concluded that the proposal does not accord with the provisions of the Spatial Strategy set out in the NDTLP. Given that there are no other material considerations that suggest that the development plan should be set aside, your Officer recommends that planning permission be refused.

## Human rights

Consideration has been given to the Human Rights Act 1998.

## Recommendation

REFUSE for the following reasons:

- 1 The proposed dwelling would be located within a countryside location, outside of any defined development boundary. Without any justification being provided for a dwelling in this countryside location, the principle of residential development is unacceptable, and the proposal is contrary to Policies ST07 and DM24 of the North Devon and Torridge Local Plan 2011-2031.

## Plans Schedule

Reference	Received
1203 10	09.02.2024
1203 11	09.02.2024
1203 12	09.02.2024
1203 13 B	21.06.2024
1203 14 B	21.06.2024

## Informatives

01. The applicant is informed that the drainage mound must be located, designed and constructed in line with the recommendations in British Standard BS 6297:2007 set out in guidance from the Environment Agency <https://www.gov.uk/guidance/general-binding-rules-small-sewage-discharge-to-the-ground>.

## Statement of Engagement

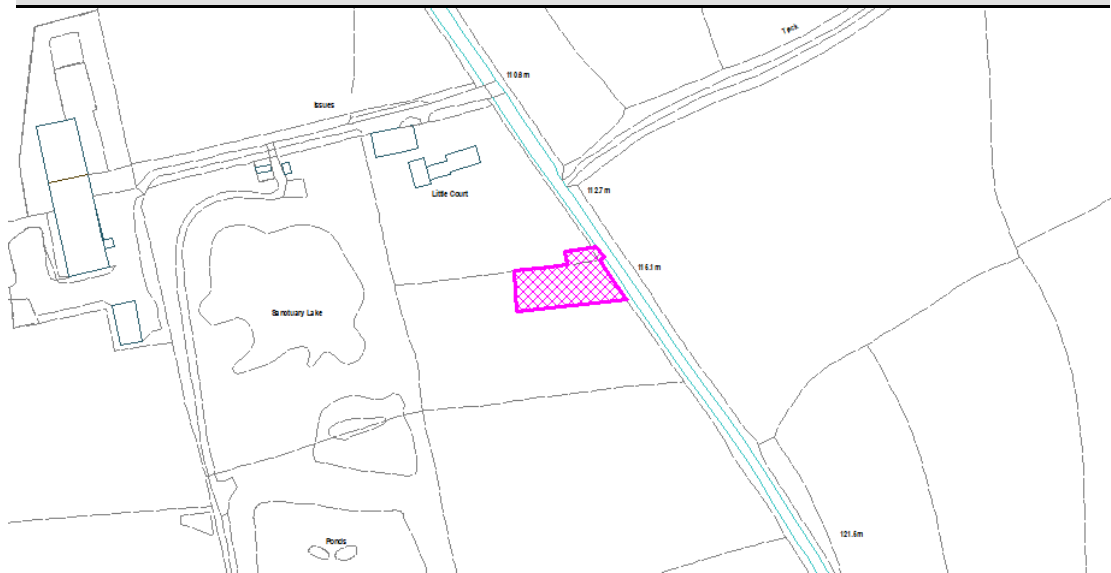
In accordance with paragraphs 38 of the National Planning Policy Framework (NPPF) in dealing with this application, the Council has worked with the applicant in the following and positive and proactive manner. We have made available detailed advice in the form of our statutory policies in the Development 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. In such ways the Council has demonstrated a positive and proactive manner in seeking solution to problems arising in relation to the planning application.

The applicant entered into pre-application discussions where key issues were identified. The documents submitted have failed to address the issues raised at a pre-application stage therefore no further discussion was deemed necessary at application stage, as these issues has not been adequately addressed.

# Agenda Item 7d

## Committee Report – 11.07.24

<b>Application Number:</b>	1/0148/2024/OUT
<b>Registration date:</b>	22 February 2024
<b>Expiry date:</b>	18 April 2024
<b>Applicant:</b>	Mr Bradley Ley
<b>Agent:</b>	GW Architects Ltd
<b>Case Officer:</b>	Ryan Steppel
<b>Site Address:</b>	Land At Grid Reference 240438 106247, Cookbury, Devon
<b>Proposal:</b>	Outline application for 1 no. local needs dwelling with all matters reserved
<b>Recommendation:</b>	Refuse



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## Reason for referral:

Cllr James has called-in this application for the following reason:

*'I wish application 1/0148/2024/OUT to go to plans Committee should the officer is minded to refuse for the following reasons*

- 1 The applicant and partner are local, both from established local farming families*
- 2 They have both grown up in the immediate area and by attending local village schools have added to maintaining the fabric of the Rural Communities*
- 3 Bradley has built a successful Contracting, earth moving business supporting this dispersed Rural Community (illustrated by local support)*
- 4 This type of business and the equipment needed is needed to be based in the area it operates*
- 5 Similar successful businesses all have dwellings connect to it*
- 6 The government has woken up to 30 years of Urbanisation that has led to deprivation in Rural areas hence money given to DEFRA to engage Rural Enables*
- 7 It complies with 7.11 NPPF DM 24  
Economic objective .....strong responsive economy  
Social objective...strong vibrant healthy communities  
Environment objective....moving to low carbon economy (ensuring placement in area of need)*
- 8 DM 24 of the Local Plan.'*

## Relevant History:

<b>Application No.</b>	<b>Description</b>	<b>Status</b>	<b>Closed</b>
1/1146/1994	ERECTION OF AN AGRICULTURAL WORKERS BUNGALOW AND GARAGE	PER	28.09.1994
1/0343/2011/FUL	Construction of a fishing lake	PER	14.06.2011
1/0344/2012/FUL	4 holiday log cabins to support 2 fishing lakes	WDN	06.08.2012
1/0447/2024/OUT	Retrospective application for the erection of a shed/stables and creation of an access	INVAL	24.06.2024

## Site Description & Proposal

### Site Description:

The application site comprises of a parcel of land to the south of Little Court, in the parish of Cookbury. The site measures 1000 sqm (0.1ha) and is agricultural land 237m north of Cookbury. The site is accessed from a narrow rural lane to the east. The northern and eastern boundaries consist of established hedgerow. The site falls within Zone 1 Flood Risk and therefore it has less than 1 in 1,000 annual probability of river flooding and is considered a low probability of flooding.

### Proposal:

This application seeks outline permission with all matters reserved for the erection of a local needs dwelling.

## Consultee representations:

### Bradford & Cookbury Parish Council:

The Parish Council support this application. We are keen to keep our young people in our community.

### Devon County Council (Highways):

Standing Advice.

### Environmental Protection Officer:

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

Having regard for the application site, the Environmental Protection Team considers there to be no conflicting neighbouring land use and as such, the proposed development accords with Policy DM01. Having regard for the presence of existing dwellings in close proximity, there is the potential for residential amenity to be adversely affected on a temporary basis from the construction works if control measures are not in place. Should planning consent be granted, the Environmental Protection Team recommends the imposition of a condition restricting construction works and site deliveries to Monday to Friday 0700 to 1900 hours and Saturdays 0800 to 1300 hours only with no works permitted on Sundays and Bank Holidays in order to protect residential amenity.

The application contains no detailed information on the historic use and subsequent land quality of the application site. Agricultural use and activity can result in ground contamination and ground conditions that are potentially harmful to human health or unsuitable for occupation without remediation. Given the sensitive end use, it is essential that the application site is appropriately assessed for any potential contamination that may impact future occupants and, where identified, remediated accordingly. Should planning consent be granted, the Environmental Protection Team recommends the imposition of the Authority's full standard contaminated land condition.

The proposed dwelling is to be served by a new package treatment plant discharging to a drainage field. The percolation test results provided indicate that the ground has suitable permeability and sufficient land is available to accommodate the proposed foul drainage scheme.

## Representations:

Number of neighbours consulted:	4
Number of representations received:	6
Number of objection letters:	0

Number of letters of support:	6
Number of neutral representations:	0

No objections received.

There have been six letters submitted in support of the application, for the following reasons –

- Has worked on 'our' farm many times whilst working with his fathers contracting business and in recent years with his own excavators
- The applicant has lived and worked in Cookbury all his life
- He is an asset to the community providing valuable work with various excavator work
- Planning via the Local Needs route many young local people have an opportunity to get a foothold in the housing market.
- House prices are often out of reach of the local community
- Security is a contributing factor i.e. theft of equipment
- Living on site will allow his company to grow

## 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); DM08A (Landscape and Seascape Character); DM24 (Residential Development in Rural Settlements);

### 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. Access and Parking
5. Drainage Provision
6. Ecology
7. Conclusion

#### 1. Principle of Development

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). The Local Planning Authority is required by law to determine applications in accordance with the Local Plan, unless there are material planning considerations which would indicate otherwise.

The Spatial Strategy aims to guide development towards established settlements within the urban and rural area in accordance with the hierarchies, as set out within Policies ST06 and ST07 of the NDTLP. In planning terms, the site is not well related to or within any established, qualifying settlement and is therefore considered to be within the Countryside.

Part (4) of Policy ST07 is therefore relevant which 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'*.

National Policy contained within the National Planning Policy Framework (NPPF) emphasises that to promote sustainable development in rural areas housing should be located within existing settlements where it will enhance or maintain the vitality of rural communities and isolated new homes within the countryside will not normally be permitted. Paragraph 84 of the NPPF states that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of a number of circumstances apply:

- o There is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
- o 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;
- o The development would re-use redundant or disused buildings and enhance its immediate setting;
- o The development would involve the sub-division of an existing residential dwelling; or

o The design is of exceptional quality, in that it is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to 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.

The NDTLP supports the provision of local occupancy dwellings within rural settlements. Policy DM24 states:

*"in qualifying Rural Settlements, proposal for local occupancy dwellings to meet a locally identified housing need will be supported where:*

- (a) The development site forms part of a small closely grouped or contiguous built form of housing that is physically separate from the urban areas of other defined settlements;*
- (b) The scale is proportionate to the settlement's size, form and character;*
- (c) The site is within or directly adjoining the built form of the settlement;*
- (d) The size of the dwellings are no larger than can be justified by the established need;*
- (e) It would not harm the settlement's rural character and setting; and*
- (f) Secure arrangements are made to ensure the dwellings remain available to meet the locally identified housing needs of the local community both initially and in the long term provided the needs exists."*

Paragraph 13.133 states:

*'the primary purpose for allowing limited housing in Rural Settlements is to sustain their vitality and to meet the needs of the local community by identifying that a 'locally generated need' can be demonstrated. Speculative development will not be supported in the view of sustainability considerations. New dwellings will be allowed either as affordable housing or subject to secure arrangements to ensure occupancy is limited both initially and in the future to:-*

- (1) At least one adult in the household was resident continuously in the Rural Settlement for a minimum of five years immediately prior to the occupation; or*
- (2) At least one adult of the household was resident in the Rural Settlement for five years within the previous ten years immediately prior to occupation; or*
- (3) At least one parent, guardian, child or sibling, of at least one adult in the intended household, has been resident in the Rural Settlement for a minimum of 5 years immediately prior to occupation; or*
- (4) At least one adult in the household has been in continuous employment for at least 16 hours per week in the Rural Settlement for at least five years immediately prior to occupation; and in all cases*
- (5) At least one adult in the household needs a separate home or whose present accommodation is sub-standard or unsuitable to their present circumstances because of their age, an impairment, medical condition or to meet the needs of a growing family or there is no suitable accommodation available.'*

The application site is within the Countryside, and not in a qualifying rural settlement, therefore Policy DM24 is clearly not relevant in the determination of this application. In policy terms, the proposal is treated as a dwelling within the open countryside, for which there is no basis to support the application which conflicts with the spatial strategy contained in the NDTLP and the principles established within the NPPF.

The proposed development seeks one local needs dwelling. Paragraph (3) of Policy ST07 of the development plan states:- *'In Rural Settlements which contain at least one prescribed service or community facility, appropriately located development of a modest scale will be enabled to meet locally generated needs.'* However, the Local Planning Authority considers the application site is located in an isolated open countryside location. The definition of 'Rural Settlement' in the NDTLP, 'Glossary' states *'A small, closely grouped cluster of housing that contains at least one identified local service or community facility.'* It is evidentially the case that the site is in an isolated location a significant distance from the nearest qualifying settlement which would allow local needs housing, in conflict with Policy DM24 which states that:

*"in qualifying Rural Settlements, proposals for local occupancy dwellings to meet a locally identified housing need will be supported where:*



(a) *The development site forms part of a small closely grouped or contiguous built form of housing that is physically separate from the urban areas of other defined settlements;*

Policy DM24 clearly directs that local needs housing should be *in* qualifying rural settlements, part of a *'small, closely grouped or contiguous built form of housing'* – the application site does not meet this policy requirement.

Furthermore, the application is not for a rural worker's dwelling therefore paragraph (4) of ST07 is applicable, which 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 submitted Planning Statement, call-in reasons and letters of support refer to the Applicant's business being located at Little Court and the benefits / need to be located nearby. The Local Planning Authority has no record of planning permission being granted for the use of Little Court as a contracting business and the application does not propose a rural worker's dwelling so Policy DM28 and the Rural Worker's Dwellings SPD cannot be applied. The Applicant and Agent have confirmed that the application is for a local needs dwelling. In any event, there is already a dwelling at Little Court so residential surveillance exists.

Little Court is a rural worker's dwelling which is occupied and owned by the applicant's father. The nearby agricultural buildings are used in association with the farm at the end of Little Court Lane, and this is owned by the applicant's grandfather. The planning statement suggests that the dwelling is required to supervise the equipment stored at *'Little Court'* however it should be stressed that contracting does not fall within the definition of agriculture and there is no permission for the use of any buildings or land for this purpose. For clarification, this would likely be a Sui Generis use class.

Taking account of the above, the provision of a newly erected dwelling within the Countryside is not considered to benefit from any policy support and is accordingly considered in conflict with Policy ST07 of the NDTLP and the NPPF.

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Your Officer is not aware of any material considerations that would justify this departure from the application of the Council's Local Plan policies.

## 2. Character and Appearance

NDTLP 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 ensures that development is of an appropriate scale, mass and design, and respects landscape character of designated and undesignated landscapes avoiding such harm wherever possible.

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 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 131 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.

The application is made in outline terms with all matters reserved. Notwithstanding this, it is considered that the proposal would result in an adverse impact upon the rural character of the site and its immediate surroundings. This is because any form of residential dwelling within this plot would be visible from the highway and thus would create additional visual intrusion where currently there is none. The views from this rural lane when travelling south to north offer long-reaching views, including this site, the dwelling known as Little Court, and the fields beyond. At present, this view from the highway only includes one residential dwelling and a series of agricultural buildings in a condensed form. The application would create further development to the south of the site on a prominent section of land to the north of Cookbury. It is not only the permitted residential use which causes harm, but also the inclusion of a domestic access and land used to create external amenity for the proposed dwelling, along with any domestic paraphernalia. As such, the impact of the dwelling whether in outline form or not, would be damaging upon this otherwise undeveloped plot of agricultural land and thus impact the wider rural character of the site and its surroundings.

It is therefore considered that the development of this site would be at odds with the surrounding character of the area. Therefore, the proposal is considered contrary to Policies ST04, DM04 and DM08A of the NDTLP.

### 3. Impact on Residential 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. 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 application is made in outline form. The detailed design of the proposed dwelling is subject for the reserved matters stage. It is considered that a scheme could be achieved without causing adverse amenity impacts upon any neighbouring properties. The site is within close proximity to a rural worker dwelling. The submitted justification relies upon an unpermitted contracting business which could have an adverse impact the residential amenity of Little Court. This application does not permit the contracting business and instead relates to the dwelling itself, but the Local Planning Authority would otherwise be concerned regarding a contracting business so near to other residential dwellings – even if they are rural workers dwellings.

Notwithstanding this, the presence of a dwelling accords with policies DM01 and DM04 of the NDTLP.

### 4. Access and Parking

Policy ST10 of the NDTLP seeks to ensure that development proposals would not adversely impact local or strategic transport networks. Policies DM05 and DM06 of the NDTLP expect that all development must ensure safe and well-designed vehicular access, the protection and enhancement of existing pedestrian routes, and an acceptable range of parking provision.

Paragraph 115 of the National Planning Policy Framework states that permission should only be refused on highway grounds, if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The application is not supported by detailed access drawings however this is a matter for the Reserved Matter stage. It would be important for any subsequent applications to confirm visibility splays associated with any vehicular access to ensure safe entrance and egress into the site.

As a result, the proposal is considered to have the potential to comply with Policies DM05, DM06 and ST10 of the NDTLP at Reserved Matters stage.

## 5. 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 proposed dwelling is to be served by a new package treatment plant discharging to a drainage field. The application is supported by percolation tests which indicate the land has suitable permeability to accommodate the proposed foul drainage scheme.

Therefore, the application is considered to contain sufficient evidence to demonstrate the method of foul drainage to support the dwellings and is considered in accordance with Policies ST03 and DM02 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.

The application is accompanied by a wildlife trigger list and report which confirms that no protected species would be adversely affected. However, the proposed development appears to require the removal of an existing hedgerow to create a new vehicular access. As such, a hedgerow assessment has been provided by 'Design with Ecology'. The recommendation of the hedgerow assessment is set out in Section 6.2 of the report and identifies that some of the existing hedgerow would be removed and translocated to partially fill gaps in the remainder of hedgerow 'B'. The report thusly concludes:

*'There will be no net loss of hedgerow habitat. It is considered that, if this mitigation strategy is strictly adhered to, it is unlikely the re-location of the hedgerow section will impact negatively on commuting bats, feeding mammals and invertebrates in the long term.'*

If supported, a condition should be attached to ensure the development is undertaken in accordance with the recommendations of the hedgerow assessment.

In terms of Biodiversity Net-Gain, the application is considered exempt from the statutory BNG requirements due to the application being submitted before 2nd April 2024.

On this basis your Officer is satisfied that the proposal would not result in an adverse impact upon any protected species and is therefore considered to be in accordance with Policies ST14 and DM08 of the NDTLP.

#### 7. Conclusion:

The application proposal is not considered to benefit from policy support in relation to the principle of development and development of a dwelling and associated curtilage in this location would result in an adverse character impact to this rural, countryside setting. The proposal would not result in an adverse impact with respect to amenity, highways and ecology however the conflict with the NDTLP Spatial Strategy directs that the proposal is not acceptable as a matter of principle. Accordingly, the recommendation is one of refusal.

### Human rights

Consideration has been given to the Human Rights Act 1998.

### Recommendation

REFUSE for the following reasons:

- 1 The proposed dwelling would be located within a countryside location, outside of any defined development boundary or qualifying settlement. Without any planning justification being provided for a dwelling in this countryside location, the principle of residential development is unacceptable. The impact of the change of use and a dwelling would be damaging upon this otherwise undeveloped agricultural land and thus impact the wider rural character of the site and its surroundings. The proposal is therefore contrary to Policies ST04, ST07, ST14, DM04, DM08A and DM24 of the adopted North Devon and Torridge Local Plan 2011-2031.

### Plans Schedule

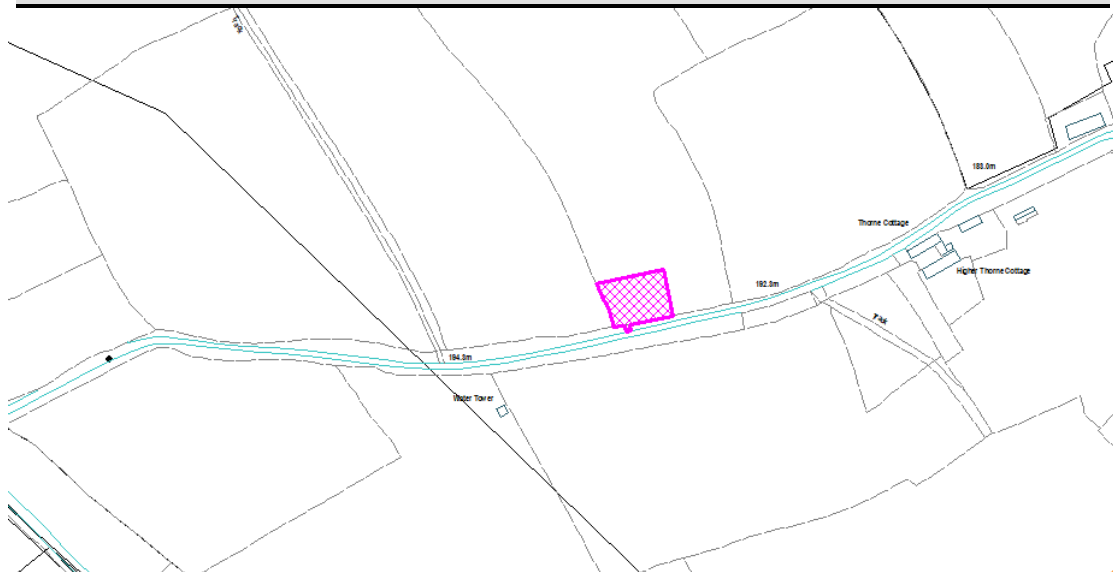
Reference	Received
0615-02 REV A	29.04.2024

### 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. In this instance the applicant did not enter into pre-application discussions with the Council.

## Committee Report – 11.07.24

<b>Application Number:</b>	1/0418/2024/OUT
<b>Registration date:</b>	3 May 2024
<b>Expiry date:</b>	28 June 2024
<b>Applicant:</b>	Mr and Mrs Andrew
<b>Agent:</b>	GW Architects Ltd
<b>Case Officer:</b>	James Clements
<b>Site Address:</b>	Land Adjacent Higher Thorne Cottage, Buckland Brewer, EX39 5NU
<b>Proposal:</b>	Outline application with all matters reserved for no.1 local needs dwelling
<b>Recommendation:</b>	Refusal



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### Reason for referral:

The application has been called to planning committee by Councillor Hicks for the following reasons:

*'The proposal is well sited adjacent to this rural community.*

*Whilst agricultural need could easily be established, especially in this instance personal problems preclude such a development so that the proposed local needs application is an ideal solution to this extremely difficult problem.'*

### Relevant History:

None.

### Site Description & Proposal

#### Site Description:

The application site comprises a parcel of agricultural land (improved grassland) measuring 0.09ha in size. The site is within an isolated countryside location on the northern side of an unclassified road some 1.5 miles to the northwest of Stibb Cross and 2.6 miles from Buckland Brewer. The site falls from south to north and northeast and has far reaching views to the north and particularly to the northeast.

The land forms part of the agricultural holding associated with Silklands Farm. The main holding and farmhouse is located approximately 800m to the north of the site, approximately 1 mile by road.

The nearest residential property is Higher Thorne Cottage, which is a Grade II listed building, located approximately 135m to the southeast of the site. To the east of Higher Thorne Cottage is Thorne Widger Farmhouse which is also Grade II listed building with associated listed buildings and structures.

The site is not within a formal landscape or wildlife designation.

The site falls within flood risk zone 1 and therefore it has less than 1 in 1,000 annual probability of river flooding which is considered a low probability of flooding.

#### Proposal:

This application seeks outline permission with all matters reserved for the erection of a local needs dwelling. The area of land measure 0.09ha and would be accessed via an existing agricultural access from the adjacent highway. The south and west boundaries are delineated by native hedgerows. The north and east boundaries of the redline site relate to the wider agricultural field.

### Consultee representations:

#### **Buckland Brewer Parish Council:**

This application was supported by BBPC (8 votes for and 1 against)

#### **South West Water:**

With reference to the planning application at the above address, the applicant/agent is advised to contact South West Water if they are unable to comply with our requirements as detailed below.

#### Surface Water Services

The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off

Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):

1. Water re-use (smart water butts, rainwater harvesting, grey flushing toilets)
2. Discharge into the ground (infiltration); or where not reasonably practicable,
3. Discharge to a surface waterbody; or where not reasonably practicable,
4. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
5. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that method proposed to discharge into the ground (infiltration) is acceptable and meets with the Run-off Destination Hierarchy.

### **Devon County Council (Highways):**

Standing advice issued.

### **Representations:**

Number of neighbours consulted:	2	Number of letters of support:	0
Number of representations received:	0	Number of neutral representations:	0
Number of objection letters:	0		

### **Policy Context:**

#### **North Devon and Torridge Local Plan 2011-2031:**

ST01 (Principles of Sustainable Development); 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); DM08A (Landscape and Seascape Character); DM08 (Biodiversity and Geodiversity); DM24 (Residential Development in Rural Settlements).

#### **Government Guidance:**

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

### **Planning Considerations**

The main planning consideration are considered to be:

1. Principle of development
2. Character, appearance and setting of heritage assets
3. Neighbouring amenity
4. Environmental impact
5. Highway safety
6. Ecology

1. Principle of Development

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). The Local Planning Authority is required by law to determine applications in accordance with the Local Plan, unless there are material planning considerations which would indicate otherwise.

The Spatial Strategy aims to guide development towards established settlements within the urban and rural area in accordance with the hierarchies, as set out within Policies ST06 and ST07 of the NDTLP. In planning terms, the site is not well related to any established settlement and is therefore considered to be within open countryside.

Part (4) of NDTLP Policy ST07 is relevant which 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'*.

National Policy contained within the National Planning Policy Framework (NPPF) emphasises that to promote sustainable development in rural areas housing should be located within existing settlements where it will enhance or maintain the vitality of rural communities and isolated new homes within the countryside will not normally be permitted. Paragraph 84 of the NPPF states that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of a number of circumstances apply:

- o There is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
- o 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;
- o The development would re-use redundant or disused buildings and enhance its immediate setting;
- o The development would involve the sub-division of an existing residential dwelling; or
- o The design is of exceptional quality, in that it is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to 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.

The NDTLP supports the provision of local occupancy dwellings within rural settlements. Policy DM24 states:

*"in qualifying Rural Settlements, proposal for local occupancy dwellings to meet a locally identified housing need will be supported where:*

- (a) *The development site forms part of a small closely grouped or contiguous built form of housing that is physically separate from the urban areas of other defined settlements;*
- (b) *The scale is proportionate to the settlement's size, form and character;*
- (c) *The site is within or directly adjoining the built form of the settlement;*
- (d) *The size of the dwellings are no larger than can be justified by the established need;*
- (e) *It would not harm the settlement's rural character and setting; and*
- (f) *Secure arrangements are made to ensure the dwellings remain available to meet the locally identified housing needs of the local community both initially and in the long term provided the needs exists."*

Paragraph 13.133 states:

*'the primary purpose for allowing limited housing in Rural Settlements is to sustain their vitality and to meet the needs of the local community by identifying that a 'locally generated need' can be demonstrated. Speculative development will not be supported in the view of sustainability considerations. New dwellings will be allowed either as affordable housing or subject to secure arrangements to ensure occupancy is limited both initially and in the future to:-*

- (1) *At least one adult in the household was resident continuously in the Rural Settlement for a minimum of five years immediately prior to the occupation; or*
- (2) *At least one adult of the household was resident in the Rural Settlement for five years within the previous ten years immediately prior to occupation; or*
- (3) *At least one parent, guardian, child or sibling, of at least one adult in the intended household, has been resident in the Rural Settlement for a minimum of 5 years immediately prior to occupation; or*
- (4) *At least one adult in the household has been in continuous employment for at least 16 hours per week in the Rural Settlement for at least five years immediately prior to occupation; and in all cases*



(5) *At least one adult in the household needs a separate home or whose present accommodation is sub-standard or unsuitable to their present circumstances because of their age, an impairment, medical condition or to meet the needs of a growing family or there is no suitable accommodation available.'*

The application site is within the countryside, rather than a rural settlement, therefore Policy DM24 is clearly not relevant in the determination of this application. In policy terms, the proposal is treated as a dwelling within the open countryside, for which there is no basis to support the application which conflicts with the spatial strategy contained in the NDTLP and the principles established within the NPPF.

The proposed development seeks one local needs dwelling. Paragraph (3) of Policy ST07 of the development plan states:- *'In Rural Settlements which contain at least one prescribed service or community facility, appropriately located development of a modest scale will be enabled to meet locally generated needs.'*

However, the Local Planning Authority considers the application site is located in an isolated open countryside location. The definition of 'Rural Settlement' in the NDTLP, 'Glossary' states *'A small, closely grouped cluster of housing that contains at least one identified local service or community facility.'* The nearest community facility is at Stibb cross some 1 mile (1600m) to the southeast. It is essentially the case that the site is in an isolated location a significant distance from Stibb Cross in conflict with Policy DM24 which states that:

*"in qualifying Rural Settlements, proposal for local occupancy dwellings to meet a locally identified housing need will be supported where:*

*(a) The development site forms part of a small closely grouped or contiguous built form of housing that is physically separate from the urban areas of other defined settlements;'*

In addition, at circa 1 mile along unlit rural roads with no pavements the facilities at Stibb Cross are clearly not within safe walking distance.

Furthermore, the application is not for a rural worker's dwelling therefore paragraph (4) of ST07 is applicable, which 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 submitted Design and Access Statement (D&S) and call-in reasons suggest that a rural worker's dwelling could be justified. However, it is not clear why this is not the subject of this application. The primary reason is most likely because the dwelling is not within 'site and sound' of the main built-up part of the farm, existing farmhouse and associated buildings. This is for understandable reasons due to a family tragedy. It is not evident, however, why the dwelling would need to be 800m to the south of the holding and why a closer site could not be identified. In any event, an agricultural worker's justification has not been provided and the agent has confirmed that the application is for a local needs dwelling.

Taking account of the above, the provision of a newly erected dwelling within the countryside is not considered to benefit from any policy support and is accordingly considered in conflict with Policy ST07 of the NDTLP and the NPPF.

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

The personal circumstances of private individuals, in this case the applicants, (unless relating to a disability, for example) are not a material planning consideration and should not be taken into account in the determination of this planning application.

## 2. Character, appearance and setting of heritage assets

NDTLP Policy ST04 supports development proposals 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. NDTLP Policy DM08A ensures that development is of an appropriate scale, mass and design, and respects landscape character of designated and undesignated landscapes avoiding such harm wherever possible. Policy ST14 (Enhancing Environmental Assets) states that *'the quality of northern Devon's natural environment will be protected and enhanced by ensuring that development contributes to: (g) protecting and enhancing local landscape and seascape character, taking into account the key characteristics, the historical dimension of the landscape and their sensitivity to change.'*

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 131 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 National Design Guide 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.

NDTLP Policies ST15 and DM07 seek to protect the setting of heritage assets.

The site is within Landscape Character Type (LCT) 1F: Farmed Lowland Moorland & Culm Grassland. The key characteristics, amongst other characteristics, are 'Gently undulating landform, in some places of a plateau-like character; Elevation affording long views across the landscape and beyond; open areas of culm grassland surrounded by a regular pattern of medium-scale post medieval and modern fields; landscape crossed by frequent streams, springs, wet ditches and small ponds fringed by wet woodland; Sparse settlement pattern with scattered farmsteads, small clustered hamlets and nucleated villages often occupying ridgetop positions; variety of traditional building styles, particularly white/cream cob render with slate; straight roads crossing ridgeline.

The special qualities, amongst other aspects, are:

- Distinctive culm grassland habitats and associated birdlife;
- Traditional management regimes;
- Small field patterns enclosed by thick Devon banks and surrounded by open grazing land.
- Isolated farms and farmsteads.
- High levels of tranquillity and remoteness.

The application is made in outline terms with all matters reserved. Notwithstanding this, it is considered that the proposal would result in an adverse impact upon the rural character of the site and its immediate surroundings. This is because any form of residential dwelling within this plot would be visible from the highway and would create additional visual intrusion where currently there is none. The site is also in an elevated location and is likely to be seen in longer distance views.

In addition to a dwelling, the site would be formalised for domestic purposes including parking turning and garden spaces as well as any associated domestic paraphernalia. An appropriate design and

suitable boundary treatments and landscaping could ameliorate this to a degree. However, the impact of the change of use and dwelling whether in outline form or not, would be damaging upon this otherwise undeveloped plot of this isolated agricultural land and thus impact the wider rural character of the site and its surroundings.

As regards heritage assets, there are a number of listed buildings a significant distance to the east of the site, with the nearest being some 135m (Higher Thorne Cottage), separated and screened to an extent by intervening hedgerows. Furthermore, the site does not appear to form the historic setting of these buildings. As such, it is considered that there would be no harm to the significance of the listed building therefore the application is considered to accord with NDTLP Policies ST14 and DM07.

It is therefore considered that the development of this site would be at odds with the surrounding character of the area. Therefore, the proposal is considered contrary to policies ST04, ST14, DM04 and DM08A of the NDTLP.

### 3. Impact on Residential 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. 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 application is made in outline form. The detailed design of the proposed dwelling is a subject for the reserved matters stage. It is considered, given the isolated nature of the site, that a scheme could be achieved without causing adverse amenity impacts upon any neighbouring properties.

On that basis, the proposal accords with policies DM01 and DM04 of the NDTLP.

### 4. Highways, Access and Parking

Policy ST10 of the NDTLP seeks to ensure that development proposals would not adversely impact local or strategic transport networks. Policies DM05 and DM06 of the NDTLP expect that all development must ensure safe and well-designed vehicular access, the protection and enhancement of existing pedestrian routes, and an acceptable range of parking provision.

Paragraph 115 of the NPPF states that permission should only be refused on highway grounds, if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Devon County Highways have issued their standing advice.

The application is not supported by detailed drawings to confirm the visibility splays associated with any potential access however this is likely to be a matter for the Reserved Matter stage. Were the application supported, a condition could be imposed to ensure that suitable visibility splays are provided.

The proposal is therefore considered to comply with Policies DM05, DM06 and ST10 of the NDTLP.

### 5. 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 proposed dwelling would be served by a new package treatment plant discharging to a drainage field. The application is supported by percolation tests which indicate the land has suitable permeability to accommodate the proposed foul drainage scheme.

Therefore, the application is considered to contain sufficient evidence to demonstrate the method of foul drainage to support the dwellings and is considered in accordance with Policies ST03 and DM02 of the NDTLP.

#### 6. Ecology and Biodiversity Enhancement

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.

The application is accompanied by a wildlife trigger list which indicates that an ecology report is not required because the site falls under 0.1ha. As such no ecology report has been submitted. A condition could ensure that a reserved matters application provides biodiversity enhancements such as bat and bird boxes, hedgerow planting and wildflower meadow grass.

The application was submitted following the mandatory net-gain for small sites came into effect. The application form states that the proposal is for a self-build property, which is exempt from providing mandatory net-gain.

On this basis your officer is satisfied that the proposal would not result in an adverse impact upon any protected species and is therefore considered to be in accordance with NDTLP Policies ST14 and DM08.

#### 7. Conclusion:

On balance, the proposal is not considered to benefit from policy support in relation to the principle of development. The proposal would also result in an adverse character impact to the setting of the countryside. The proposal would not result in an adverse impact with respect to amenity, highways and ecology. As such, the proposal is not considered to be acceptable and is accordingly recommended for refusal.

## Human rights

Consideration has been given to the Human Rights Act 1998.

## Recommendation

- 1 The proposed dwelling would be located within a countryside location, outside of any defined development boundary or qualifying settlement. Without any planning justification being provided for a dwelling in this countryside location, the principle of residential development is unacceptable. The impact of the change of use and a dwelling would be damaging upon this otherwise undeveloped and isolated agricultural land and thus impact the wider rural character of the site and its surroundings. The proposal is therefore contrary to Policies ST04, ST07, ST14, DM04, DM08A and DM24 of the adopted North Devon and Torridge Local Plan 2011-2031.

## Plans Schedule

Reference	Received
0620 - 01	03.05.2024
0620 - 02	03.05.2024

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

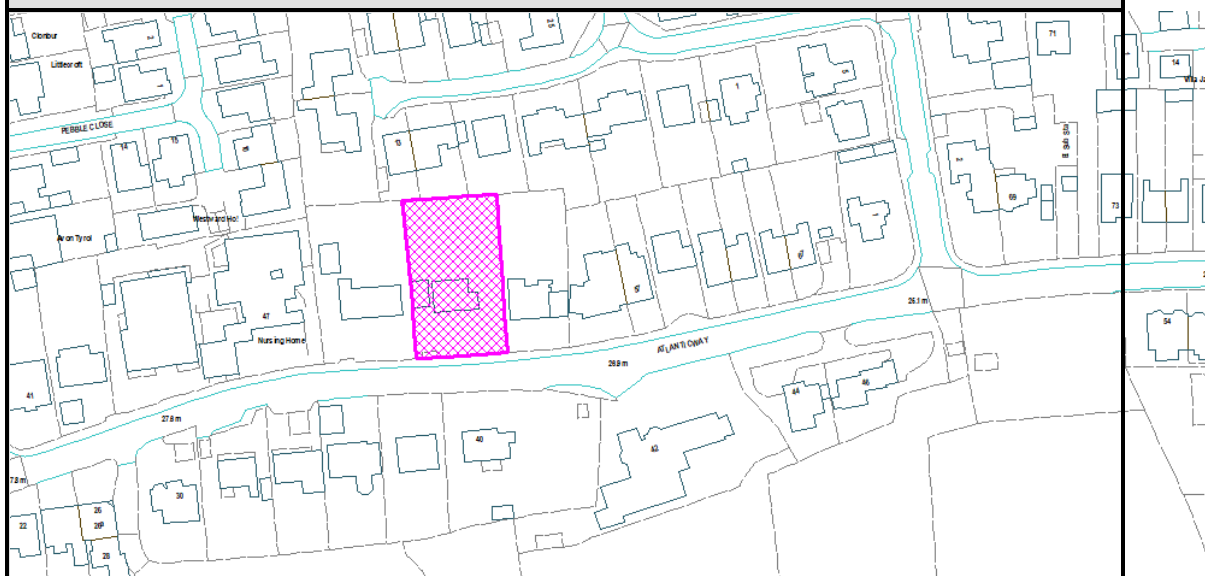
In this instance the applicant did not enter into pre-application discussions. The agent/applicants were informed of the officer recommendation.

# Agenda Item 7f

## Committee Report – 11th July 2024

(Addendum to Committee Report – 6<sup>th</sup> June 2024)

<b>Application Number:</b>	1/0254/2024/FUL
<b>Registration date:</b>	19 March 2024
<b>Expiry date:</b>	14 May 2024
<b>Applicant:</b>	Majic Property (Two) Limited
<b>Agent:</b>	Woodward Smith Chartered Architects
<b>Case Officer:</b>	James Clements
<b>Site Address:</b>	Site Of 51 Atlantic Way Westward Ho! Devon
<b>Proposal:</b>	Part retrospective demolition of 1no. dwelling and erection of 3no. dwellings in relation to 1/0172/2022/FUL (Amended Plans)
<b>Recommendation:</b>	Grant



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### Reason for referral:

The application has been called to committee by Councillor Claire Hodgson and countersigned by Councillor Ken James, for the following reason:

*'Given the extreme concern expressed in a high level of objection, this contentious and controversial application needs to be determined by the Planning Committee to demonstrate a clear and transparent decision-making process.'*

### Reason for Addendum:

This Addendum is intended to be read in conjunction with the original Committee Report presented to Plans Committee on 6<sup>th</sup> June 2024.

The Committee resolutions for refusal and approval were not determinative which left the application undetermined. As such the only option for the applicant was to appeal the application for non-determination or to amend the scheme in such a way that it was materially different from the application previously in front of members.

In this case the applicant has submitted amended plans in an attempt to address the perceived concerns of the committee. The proposed development has now been reduced by a storey to a 2-storey development with the character and appearance reverting more closely to the approved scheme. During the consultation process, and as part of their design review, the case officer requested changes to the design to remove the proposed Atlantic Way external staircases. Amended plans were subsequently received removing this element and altering the frontage ground levels to those previously proposed. The lower and upper ground floor levels would remain as they have been constructed.

A 21-day consultation process has taken place with neighbours and the Town Council being consulted. At the time of writing one additional representation has been received from a local resident supporting the amended 2-storey scheme. Furthermore, the Northam Town Council comments have not, as yet, been received; Members will be verbally updated at Planning Committee. Officers considered that a further consultation period for the removal of the external staircase and revised levels was not required as these changes do not materially affect the scheme.

### Relevant History:

<b>Application No.</b>	<b>Description</b>	<b>Status</b>	<b>Closed</b>
1/0172/2022/FUL	Demolition of existing dwelling and erection of 3 dwellings	PER	10.08.2022
1/1252/2023/FUL	Demolition of existing dwelling and erection of 3 dwellings (Variation of condition 2 of planning approval 1/0172/2022/FUL)	REF	26.02.2024
DEM/0002/2023	One and a half storey bungalow	REC	

## Site Description & Proposal

### Site Description:

The application site is located at no.51 Atlantic Way, in Westward Ho! within the development boundary, which is designated as a Main Centre in the North Devon and Torridge Local Plan (NDTLP). The site is also located within the Coast and Estuarine Zone.

The site measures 1.11ha and previously consisted of one detached dwelling (now demolished). The site is accessed via an existing access onto the classified highway, Atlantic Way, to the south. The site is within a built-up part of the settlement, surrounded by residential properties. The surrounding area is characterised by a range of dwellings of differing ages and styles, including detached dwellings, chalet bungalows and semi-detached dwellings. The northern side of Atlantic Road in the vicinity of the site is characterised primarily by relatively modest 2-storey dwellings, set back from the highway, many of which have hipped roofs. The exception being the chalet bungalow to the east of the site.

The site is subject to planning permission 1/0172/2022/FUL for the demolition of the existing dwelling and erection of a terrace of three 4-bed dwellings over three storeys. The design concept of the scheme was to provide a modestly scaled 2-storey frontage facing Atlantic Way with front doors at pavement level. The approved development was to utilise the slope of the land to provide 3 storeys at the rear with a lower groundfloor level accessible from the rear parking area and garden spaces.

Construction works started on the site in the second half of 2023. However, the works were not undertaken in accordance with the approved plans: the lower groundfloor finished floor levels (FFLs) are approximately 2.1m higher with a knock-on effect to the upper floors with an eaves height 2m higher than approved; the groundfloor facing Atlantic Way is 0.7m higher than as approved. Subsequently, a planning enforcement investigation took place and works ceased on the site in December 2023. The building has been constructed to eaves height.

A S73 application recently sought to resolve this matter by altering the design to accommodate the onsite changes which would have seen a building with higher eaves and ridge height. The applications was refused for the following reason:

*'By reason of inappropriate design, scale and massing, which will result in harm to the street scene and character of the area, as well as resulting in overbearing impacts on the neighbouring dwellinghouse, the proposed development constitutes poor quality design that diminishes the original approval contrary to Policies ST04 and DM04, of the North Devon and Torridge Local Plan and Part 12 of the National Planning Policy Framework.'*

### Proposed Development

Planning permission is now sought to provide a terrace of three 2-storey 3-bed dwellings. As a consequence, the ridge height would be 0.8m lower than the approved scheme, with the eaves height remaining as approved. The existing block work on site would be brought down at eaves level to achieve this. The slab, lower ground floor level and upper ground floor level would be retained as currently built (circa 2.1m higher than as approved) with the upper ground floor addressing Atlantic Way being 0.7m higher than that approved.

The design and appearance of the scheme is more closely aligned with the 1/0172/2022/FUL approved scheme with the provision of a hipped slate roof, cladding and windows with a horizontal emphasis. As per the approved scheme, the dwellings would be finished in white render, Cedral boarding and stone cladding for the elevations and natural slate for the roof. The windows and doors would be anthracite grey uPVC.

The Atlantic Way frontage levels are now shown level with the public highway. The planters will screen the drop in levels to the lower ground floor and provide the steps up to the upper ground floor (first floor) front doors. The lower ground floor contains the bedrooms, utility room, shower room and bathroom. The first floor would be an open plan kitchen-dining-living room.



**Consultee representations:**

**Northam Parish/Town Council:**

13<sup>th</sup> April

Northam Town Council recommend that the proposal be noted to the alterations that has been made.

1<sup>st</sup> July

Northam Town Council recommended that the proposal be granted permission.

**Devon County Council (Highways):**

Standing advice issued.

**Environmental Protection Officer:**

20<sup>th</sup> March

In relation to the above application, the Environmental Protection Team has no objections in principle.

Due to the presence and proximity of existing dwellings, there is the potential for residential amenity to be adversely affected from the construction works on a temporary basis if control measures are not in place. Should planning consent be granted, the Environmental Protection Team recommends the imposition of a condition restricting construction works and site deliveries to Monday to Friday 0700 to 1900 hours and Saturdays 0800 to 1300 hours only with no works permitted on Sundays and Bank Holidays in order to protect residential amenity.

12<sup>th</sup> June

The Environmental Protection Team refers to its previous consultation response dated 20 March.

**South West Water:**

20<sup>th</sup> March

Having reviewed the applicant’s current information as to proposed surface water disposal for its development, please note that method proposed to discharge into the ground (infiltration) is acceptable and meets with the Run-off Destination Hierarchy.

13<sup>th</sup> June

South West Water has no additional comments to add.

**Representations:**

Number of neighbours consulted:	14	Number of letters of support:	0
Number of representations received:	46	Number of neutral representations:	0
Number of objection letters:	45		

Original consultation process:

46 representations have been received raising the following material planning concerns:

- Loss of residential amenity: overlooking, overbearing impact and loss of light;
- Noise;
- East and west windows cause adverse level of overlooking;
- Unsympathetic design which is out of character with other properties the area;
- Excessive height uncharacteristic of nearby properties;
- Harm to the character of the area;
- Increase in vehicular use.

June re-consultation:

1 representation has been received in support of the revised scheme. 1 representation has been received with a neutral view supporting the proposed changes to the dwellings but raising some concern regarding the drainage and boundary treatments.

## Policy Context:

### North Devon and Torridge Local Plan 2011-2031:

ST04 (Improving the Quality of Development); ST06 (Spatial Development Strategy for Northern Devon's Strategic and Main Centres); NOR (Northam Spatial Vision and Development Strategy); ST09 (Coast and Estuary Strategy); ST14 (Enhancing Environmental Assets); ST17 (A Balanced Local Housing Market); DM01 (Amenity Considerations); DM02 (Environmental Protection); DM04 (Design Principles); DM05 (Highways); DM06 (Parking Provision); DM08A (Landscape and Seascape Character); DM08 (Biodiversity and Geodiversity); ST03 (Adapting to Climate Change and Strengthening Resilience);

### Government Guidance:

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

## Planning Considerations

The main planning considerations with this application are:

1. Principle of Development
2. Impact on Character and Appearance
3. Impact on Amenity
4. Highway Safety
5. Drainage
6. Ecology
7. Conclusion

The majority of the above considerations were comprehensively addressed within the Officer's Committee Report dated 6th June 2024 and will not be repeated within this Addendum. The changes relate to the design and scale of the dwellings therefore only considerations related to design (character and appearance) and residential amenity will be discussed.

### Impact on Character and Appearance

The NDTLP encourages good design, which is reflected within national policy. Policy ST04 notes: *"Development will achieve high quality inclusive and sustainable design to support the creation of successful, vibrant places. Designs 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 DM04 then proceeds to detail 14 design principles which should be taken into consideration within any new development. The crux of DM04 requires new developments to be of high-quality design, including being well related to their surroundings, be of an appropriate scale, include quality materials, and to be sympathetic to the character and appearance of the local area.

Policy DM08A of the NDTLP relates to landscape character and notes that developments should be of an appropriate scale, mass and design that recognises and respects landscape character of both designated and undesignated landscapes.

The NPPF also supports the creation of well-designed places through Part 12 (Achieving well designed places), which lists 6 design principles to ensure that developments achieve well designed places. Additionally, Paragraph 126 and 132 of the NPPF states that development should respect local character, history and reflect the identity of local surroundings.

In addition to this, the National Design Guide is the most up to date national guidance in relation to design. The design guide 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.

The reason this application has been submitted is because the existing partly constructed site has not been built in accordance with planning permission 1/0172/2022/FUL approved in August 2022. The application as submitted has been designed in effect to retrospectively agree the slab level and most of the structure present onsite, which is currently constructed in block to eaves levels.

The proposed changes are outlined above. The revised scheme seeks the reduction from a 3 to 2-storey development with a design more closely related to the 1/0172/2022/FUL approval with the use of a hipped natural slate roof, white render, Cedral boarding and stone cladding.

It was mentioned at the June committee that because the original permission cannot be implemented (due to drainage) that the approved scheme does not constitute a 'fall-back'. Strictly speaking, while this may be the case, the approval is a strong material consideration given that a building of a certain design and scale has already been approved by the Council.

As regards design and appearance, given that the revised scheme is closely related to the approved scheme but now has a ridge height 0.8m lower (now lower than the residential property to the west), the development now proposed is considered to be acceptable. The lowering of the ridgeline reduces impact on the streetscene. The proposed low level screen wall and Atlantic Way front door accesses have been appropriately re-designed to overcome the concerns raised regarding the difference in levels between the lower and upper ground floors and the previous design iteration, which included incongruous external staircases.

In conclusion, it is considered that the proposed design, including scale and proportions, is appropriate in this context having regard to the surrounding character and the approved scheme. There would be no harm to the streetscene. Indeed, the reduction in the overall ridge height can be seen as an enhancement on that previously approved.

For the above reasons, this proposal is considered to accord with local and national policies relating to design together with Policies DM04, ST04, DM08A, and ST09 of the NDTLP.

#### 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 existing or allocated uses.

DM04 also aims to ensure the amenities of existing and future neighbouring occupiers are safeguarded. 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 site shares a boundary to the east and west with no's 49 & 53 respectively. To the north of the site are properties on Swanswood Gardens. To the south of the site, on the opposite side of Atlantic Way, are no's 38 & 40.

The revised 'amenity' drawings identify that the loss of a storey, the gabled roof and dormers, combined with the reduction in ridge by 0.8m will ensure that the impacts on adjoining neighbours with regards to overlooking, overshadowing and overbearing impacts have been reduced from the previous iteration and the approved scheme.

As regards overlooking, as previously noted, the balconies would be fitted with 1500mm obscure screens to the front and up to 1.8m on the flanks; these screen heights were considered appropriate

as part of the approved scheme. A condition is proposed to ensure that the screening is obscure glazed. Furthermore, the cross sections provided in the revised amenity drawings indicate that the distance from the balconies to the northern boundary fence is approximately 20m and 28m from the rear habitable rooms. These distances are significant which combined with an appropriate boundary treatment would ensure that amenity is not adversely harmed with regard to overlooking. The reduction from 3 to 2 storeys will allow the shared boundary fencing with properties on Swanswood Gardens to be decreased to 1.8m, whilst still preventing overlooking.

Given the urban character of the site and surroundings, with the site surrounded by existing dwellings, it is accepted that there already is a level of overlooking to some degree. The proposed dwellings would not increase this overlooking to an unacceptable degree.

As regards loss of light and overbearing impact, the building would be lower than that consented. Three revised approved/proposed sun analysis site plans have been submitted covering winter, spring and summer. The plans demonstrate that when compared to the approved scheme there would be no change in overshadowing.

In terms of noise, whilst the additional balconies on the first floor would create additional outdoor space, their use by future residents would not adversely harm the amenity of existing or future residents. Noise from construction works can be appropriately controlled by condition.

The Council's Environmental Protection Team has no objections to the proposed development subject to a construction hours condition.

The proposed development is considered to be in accordance with NDTLP Policy DM01.

#### Conclusion

The impacts of the scheme with regard to design/character & appearance and residential amenity are considered to be acceptable in accordance with local plan policy.

In terms of access/parking, landscaping, ecology and drainage, there are no changes proposed therefore the conclusions of the committee report are considered to still be relevant.

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.

#### **Human rights**

Consideration has been given to the Human Rights Act 1998.

#### **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 The operating hours of construction works, including deliveries, shall be restricted to Monday to Friday 0700 to 1900 hours and Saturday 0800 to 1300 hours with no works permitted on Sunday or Bank Holidays.
- Reason: To protect the amenities of neighbouring properties.
- 4 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order) no development of the types described in Part 1, Class A, B, C and D; of Schedule 2, other than that hereby permitted shall be carried out without the further grant of planning permission.
- Reason: In the interest of residential amenity.
- 5 The development hereby approved shall be carried out in accordance with the recommendations contained in the Ecological impact Assessment prepared by GE Consulting received 16th February 2022. The enhancement measures set out at Section 6 shall be implemented prior to occupation and retained thereafter.
- Reason: In the interests of enhancing the habitats of protected species in accordance with the duties outlined in the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006 and The Conservation of Habitats and Species Regulations 2010 (Habitats Regulations 2010) and requirements of the NPPF.
- 6 Notwithstanding the details shown on approved plan M339 21 204 K details of all boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment details shall be implemented as approved prior to occupation and retained as such thereafter.
- Reason: In the interests of visual and residential amenity, and biodiversity interests at the site.
- 7 Visibility splays shall be provided, laid out and maintained for that purpose at the site access in accordance with the attached diagram M339 21 204 C where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 1.05 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 43 metres in both directions.
- Reason: To provide adequate visibility from and of emerging vehicles.
- 8 Prior to their use in the development hereby approved samples or details of the materials to be used on the external surfaces, to include walls, roofs, windows, doors and rainwater goods, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter proceed in accordance with the approved materials. The use of cladding for the garage will not be supported.
- Reason: In the interest of visual amenity and to ensure the development will harmonise visually with the character and appearance of the site and its surroundings.
- 9 The development shall be carried out in accordance with the hard and soft landscaping scheme identified on drawing no.M339 21 204 K - 'Proposed Site Plan and Landscaping' prior to the occupation of any dwellings hereby approved and thereafter shall be retained and maintained. The northern boundary hedgerow shall be maintained at a minimum height of 2m.
- Reason: In the interests of good design.

- 10 The balcony screens, as identified on the approved drawings, shall be obscure glazed to a minimum of Pilkington Glass obscurity level 3 equivalence and retained and maintained as such thereafter.

Reason: In the interests of residential amenity.

### Plans Schedule

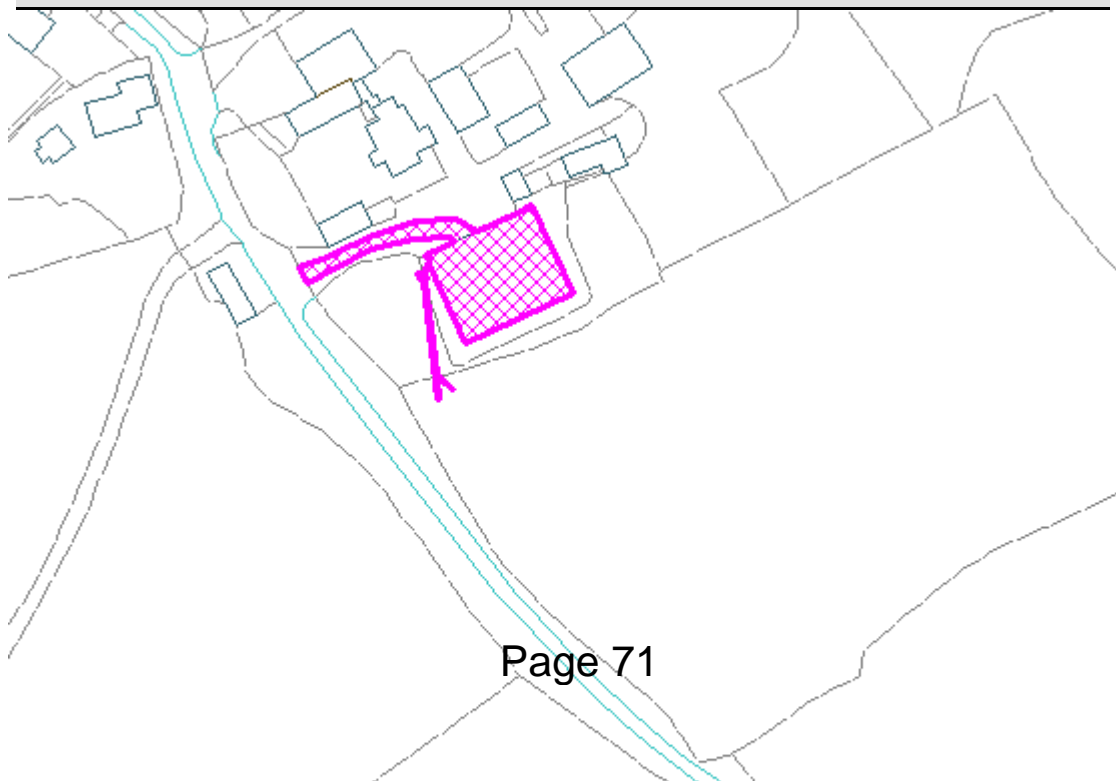
Reference	Received
M339 21 204 K	01.07.2024
M339 21 205 O	28.06.2024
M339 21 801 B	28.06.2024
M339 21 201 B	14.03.2024
DR01 A	14.03.2024

### 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.

## Committee Report – 11.07.24

<b>Application Number:</b>	1/0471/2024/FUL
<b>Registration date:</b>	21 May 2024
<b>Expiry date:</b>	16 July 2024
<b>Applicant:</b>	Mr S Gibson
<b>Agent:</b>	Drawfun Ltd
<b>Case Officer:</b>	James Clements
<b>Site Address:</b>	Agricultural Building At Grid Reference 239692 090081, Broadwoodwidge, Devon.
<b>Proposal:</b>	Retrospective change of use of an agricultural building from agriculture to a mixed use of agriculture, agricultural & domestic workshop, domestic storage including domestic garaging and farm & business office.
<b>Recommendation:</b>	Grant



**Reason for referral:**

The Applicant is a TDC councillor.

**Relevant History:**

<b>Application No.</b>	<b>Description</b>	<b>Status</b>	<b>Closed</b>
LB/0073/2017	Breaches to Listed Building Consent	XPE	02.03.2017
LB/0665/2017	Proposed replacement windows	XPE	21.11.2017
LB/0709/2017	Return to original appearance.	XPE	09.02.2018
1/1284/2017/FUL	Part retrospective application for retention of replacement slate roof covering and re-built gable chimney stack. Proposed replacement rainwater goods and reinstating of inglenook fireplace.	PER	02.08.2018
1/1285/2017/LBC	Regularisation of replacement slate roof covering and re-built gable chimney stack. Proposed replacement rainwater goods and reinstating of inglenook fireplace.	PER	02.08.2018
1/0189/2018/FUL	Proposed conversion of redundant agricultural buildings into 2no units of holiday accommodation (Barns 1 & 3)	WDN	18.06.2018
1/0190/2018/LBC	Proposed conversion of redundant agricultural buildings into 2no units of holiday accommodation (Barns 1 & 3)	WDN	18.06.2018
1/0191/2018/FUL	Proposed conversion of barn into residential dwelling (Barn No. 2)	WDN	18.06.2018
1/0192/2018/LBC	Proposed conversion of barn into residential dwelling (Barn No. 2)	WDN	18.06.2018
1/0315/2024/LBC	Removal of lean-to structure and replace with link to barn conversion for ancillary use	PCO	
1/0321/2024/FUL	Removal of lean-to elements and erection of a link structure for ancillary accommodation and carport	INVAL	26.04.2024



## Site Description & Proposal

### Site description:

Upcott Barton is a former agricultural holding and Grade II\* farmhouse with associated historic barns.

This application specifically relates to an agricultural building located on the southern side of the farmyard and main access into the farm complex, which is a typical modern Atcost type agricultural building with central pitched roof with lean-to wings either side. The building measures approximately 29m in width, 23m in depth, 3.7m to eaves height and 7.7m to ridge height. The building is divided into three cells and is predominately single-storey but the central part of the building has a mezzanine floor measuring approximately 10 by 10m, used as a farm/business office.

The submitted floor plan identifies that the ground floor is used as follows:

Northern cell – agricultural workshop & mixed storage;  
Central cell – agricultural and general storage;  
Southern cell – agricultural workshop.

The western part of the building includes a WC.

The applicant reclad the building between 2020 and 2021 prior to bringing the building in to the present use. Windows were added during the recladding replacing unclad sections provided for ventilation, and sliding doors were installed on the front (west) elevation.

At the time of the officer site visit the groundfloor as a whole was being used in accordance with the description but not constrained to the uses in each cell as shown on the floor plan.

The area to the north of the building, as well as other areas around the farm access and farmyards, provide a significant area for the parking and turning of vehicles.

The site does not fall within a formal landscape or wildlife designation and is within flood zone 1.

This application has been submitted following a planning enforcement case identified that the building requires a change of use to a mixed use.

The uses now undertaken within the building include: agricultural storage, agricultural workshop, farm business office, general domestic storage including garaging and the holding of up to four meetings per year. These meetings relate to fund raising events for the local church with a maximum attendance of circa 50 attendees.

### Proposed development:

This application seeks a retrospective change of use of an agricultural building from agriculture to a mixed use of agriculture, agricultural and domestic workshop, domestic storage including domestic garaging and farm and business office.

The applicant has confirmed that at groundfloor the uses described in the description are taking place throughout the building and are not confined to individual parts of the building.

## Consultee representations:

### **Broadwoodwidge Parish Council:**

The Parish Council support the application subject to the building itself complying with all required building and fire regulations in order to be used for public events.

### **Devon County Council (Highways):**

Standing advice issued.

### **Environmental Protection Officer:**

The Environmental Protection Team has no objections to the proposed development in principle. The proposed development is to be served by an existing non-mains foul drainage provision. It is the responsibility of the applicant to ensure the provision has sufficient capacity to accommodate any additional loading.

## Representations:

Number of neighbours consulted:	2	Number of letters of support:	0
Number of representations received:	0	Number of neutral representations:	0
Number of objection letters:	0		

None received.

## Policy Context:

### **North Devon and Torridge Local Plan 2011-2031:**

ST01 (Principles of Sustainable 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); DM08A (Landscape and Seascape Character); DM08 (Biodiversity and Geodiversity); DM14 (Rural Economy); DM27 (Re-use of Rural Buildings).

### **Government Guidance:**

WACA (Wildlife & Countryside Act 1981); NERC (Natural Environment & Rural Communities); NPPF (National Planning Policy Framework); NPPF (National Planning Policy Framework).

## Planning Considerations

The following considerations are pertinent to the proposed development:

1. Principle of development
2. Character, appearance and setting of heritage assets
3. Highway matters
4. Residential amenity
5. Drainage and flood risk
6. Ecology and biodiversity net-gain
7. Other matters

### **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.

In planning terms, the site is located in the countryside. Policy ST07 of the North Devon and Torridge Local Plan (NDTLP) sets out the spatial development strategy for northern Devon's rural area, and clarifies that 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 application doesn't easily fit into any of the NDTLP policies but the closest are considered to be DM14 (Rural economy) and DM27.

Policy DM27: Re-use of Disused and Redundant Rural Buildings states:

*'The conversion of redundant and disused rural buildings will be supported where:*

- (a) such conversion would not harm any intrinsic qualities and historic interest of the building;*
- (b) the proposal will have a positive impact on the immediate setting of the building and the wider rural character is protected;*
- (c) development can be achieved without significant external alteration, extension or substantive rebuilding;*
- (d) suitable highway access can be provided and the surrounding highway network can support the proposed use(s); and*
- (e) any nature conservation interest within the building or wider site is retained.'*

Policy DM14: Rural Economy states:

*'To support the rural economy, new small scale economic development at Rural Settlements and in the Countryside will be supported on the following basis:*

- (a) change of use or conversion of a permanent and soundly constructed building; or*
- (b) sites or buildings adjoining or well related to a defined settlement or a Rural Settlement; or*
- (c) the proposed employment use has a strong functional link to local agriculture, forestry or other existing rural activity; provided that:*
- (d) there is no adverse impact on the living conditions of local residents;*
- (e) the scale of employment is appropriate to the accessibility of the site and the standard of the local highway network; and*
- (f) proposals respect the character and qualities of the landscape and the setting of any affected settlement or protected landscape or historic assets and their settings and include effective mitigation measures to avoid adverse effects or minimise them to acceptable levels.'*

The planning statement states that NDTLP Policy DM27 is not relevant because the agricultural use was still active. However, whilst Upcott Barton does have associated agricultural land, it was not evident that the barn is being used in any meaningful way for agricultural purposes. It would appear that the building is being primarily used for domestic purposes ancillary to Upcott Barton as a residential property. Indeed, over the last few years, many of the other modern agricultural buildings have been removed or are now disused, the slurry pit has been filled in and the other traditional buildings are used for purposes associated with the main dwelling. Therefore, it can be argued that the previous agricultural farm business and use has ceased and that Policy DM27 is of relevance.

The principle of development is therefore considered to be acceptable subject to full compliance with Policy DM27, the elements of which are considered under the relevant headings below.

2. Character, appearance and the setting of heritage assets:

The NDTLP encourages good design, which is reflected within national policy. Policy ST04 notes: *"Development will achieve high quality inclusive and sustainable design to support the creation of successful, vibrant places. Designs 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 DM04 then proceeds to detail 14 design principles which should be taken into consideration within any new development. The crux of DM04 requires new developments to be of high-quality design, including being well related to their surroundings, be of an appropriate scale, include quality materials, and to be sympathetic to the character and appearance of the local area.

Policy DM08A of the NDTLP relates to landscape character and notes that developments should be of an appropriate scale, mass and design that recognises and respects landscape character of both designated and undesignated landscapes.

The NPPF supports the creation of high quality, beautiful and sustainable buildings and places, which is fundamental to what the planning and development process should achieve. This is outlined through Part 12 (Achieving well designed and beautiful places), which lists 6 design principles to ensure that developments achieve well designed places.

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

Policies ST15 and DM07 seek to protect the setting of heritage assets.

The application is primarily for a change of use of the building. The only operational development relates to windows which were added during the recladding, replacing unclad sections provided for ventilation, and sliding doors were installed on the front (west) elevation. These relatively minor changes would not harm the character of this utilitarian building with the renovation of the building generally having a positive impact on the immediate setting of the listed building.

In the context of the site, which is screened for public views by other buildings and vegetation, with limited intervisibility with the grade II\* listed farmhouse, these minor domesticating changes are considered to be acceptable both in terms of landscape impacts and the setting of the listed building.

The proposal is therefore considered to be in accordance with Policies ST04, DM04, ST15, DM07, DM08A & DM27(a), (b) & (c).

### 3.Highway matters:

NDTLP Policy DM05 seeks to ensure that development maintains safe and well-designed access and egress, adequate parking and layouts which consider the needs and accessibility of all highway users including cyclists and pedestrians. In addition, it seeks to protect and enhance existing 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. Policy DM06 aims to ensure that an appropriate scale and range of parking provision is delivered and that sustainable modes of transport are encouraged. Part (d) of Policy DM27 requires that suitable highway access can be provided, and that the surrounding highway network can support the proposed use.

The existing vehicular access to the site from the public highway to the west will continue to be used to serve the barn. There is ample parking and turning available adjacent to the site. Taking account of the previous agricultural use as part of a working farm, the proposed use of the building in association with the main dwelling is not likely to generate an increase in traffic. The proposed community events, whilst likely to generate an increase in traffic movements, would be limited to a four times year and as such there is no demonstrable harm to highway safety.

The proposal is considered to be in accordance with Policies ST10, DM05, DM06 and DM27(d).

### 4.Residential Amenity:

Policy DM01 of the NDTLP seeks to ensure the protection of the amenities of the neighbouring occupiers of the site, as well as future occupiers of the development.

The building is existing and the uses compatible in a residential setting. The nearest third-party dwelling is located some 75m to the northwest of the site with no intervisibility, separated by existing buildings and vegetation, which ensures that there is no harm to residential amenities.

## 5. Drainage and Flood Risk

Policy DM02 of the NDTLP aims to protect ground water from any forms of pollution, whilst Policy ST03 seeks to ensure that flood risk is not exacerbated by development.

The site is located within Flood Zone 1. There are no changes proposed to the existing surface water drainage (soakaway) therefore there are no concerns in this regard.

The toilet within the barn is connected to an existing septic tank to the southwest of the site. The Environmental Protection Team have stated:

*'The Environmental Protection Team has no objections to the proposed development in principle. The proposed development is to be served by an existing non-mains foul drainage provision. It is the responsibility of the applicant to ensure the provision has sufficient capacity to accommodate any additional loading.'*

It is considered that the development is in accordance with Policies ST03 and DM02 of the NDTLP.

## 6. Ecology and Biodiversity Net-Gain

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 Policy DM08 of the NDTLP. Part (e) of Policy DM27 requires that any nature conservation interest within the building or wider site is retained.

Policy ST14 aims to deliver biodiversity enhancement.

A wildlife trigger list has been submitted which confirms that as the site falls under 0.1ha, and given the nature of the proposal, that a wildlife report is not required.

The development is exempt from mandatory biodiversity net-gain because the change of use would fall below the de minimis threshold as no habitat would be affected.

It is concluded that the proposal accords with policies ST14, DM08 and DM27(e) as well as the other legislation referred to above.

## 7. Other matters

The Parish Council have no objections subject to the barn complying with all building and fire safety requirements for the hosting community events. This point is noted, however, as this relates to legislation separate to the planning system, this is a matter for the applicant to ensure compliance.

## 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 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.

- 2 The uses hereby approved for the barn are: agriculture, agricultural & domestic workshop, domestic storage including domestic garaging and farm & business office. The building shall be used for a maximum of 4 fund raising events per annum.

Reason: For the avoidance of doubt to define the permission.

- 3 The development hereby approved shall only be used ancillary to Upcott Barton.

Reason: For the avoidance of doubt, to protect the setting of the heritage assets and in the interests of highway safety.

## Informatives

01. There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below are considered to apply.

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

4. The permission which has been granted is for development which is exempt being:

4.1 Development below the de minimis threshold, meaning development which:

does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and

impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

Irreplaceable habitat:

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

The effect of section 73D of the Town and Country Planning Act 1990:

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions

previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission ("the earlier Biodiversity Gain Plan") there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted. Those circumstances are that the conditions subject to which the section 73 permission is granted:

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
- ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

### Plans Schedule

Reference	Received
G002 24 300 A	21.05.2024
PW1	21.05.2024

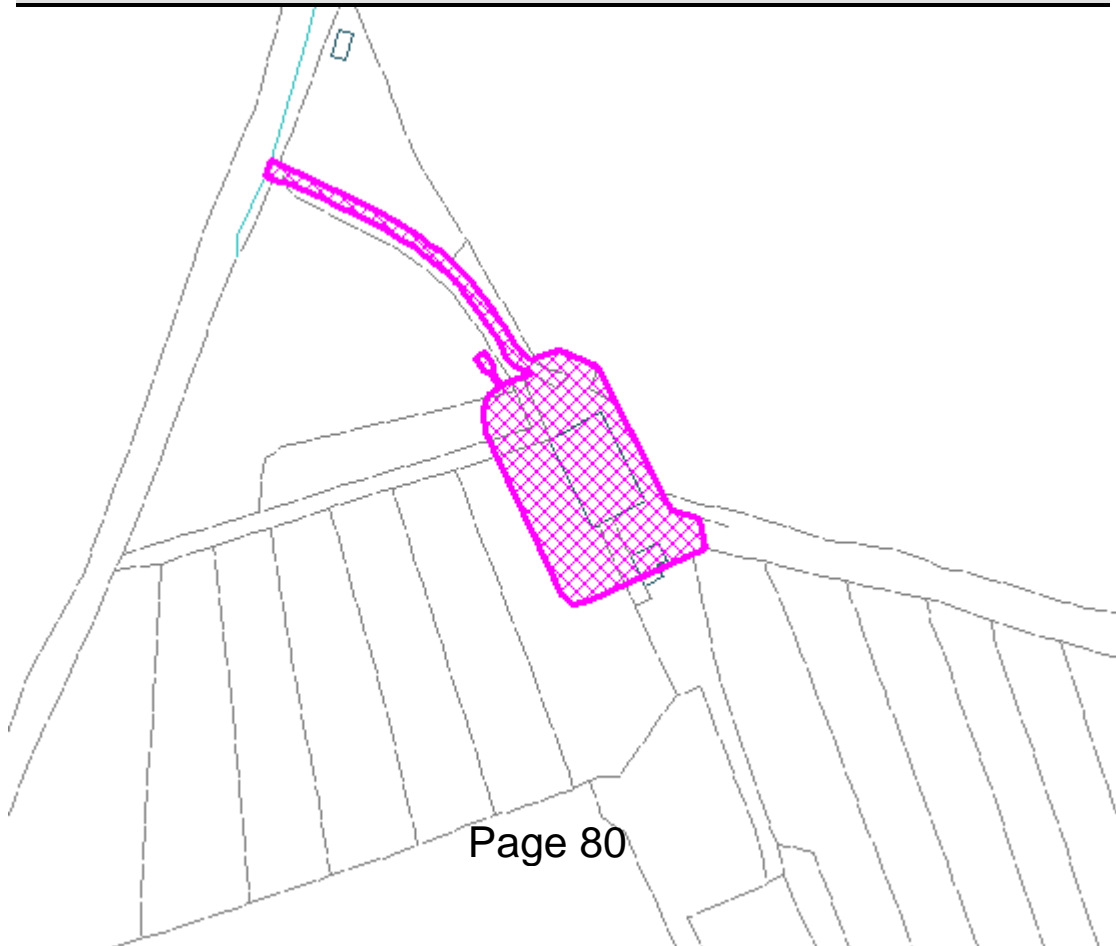
### Statement of Engagement

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 7h

## Committee Report – 11.07.24

<b>Application Number:</b>	1/0366/2024/FUL
<b>Registration date:</b>	17 May 2024
<b>Expiry date:</b>	12 July 2024
<b>Applicant:</b>	Mr and Ms Jeferies and Martin
<b>Agent:</b>	GW Architects Ltd
<b>Case Officer:</b>	Mary-Ellen Whalley
<b>Site Address:</b>	Agricultural Building At Grid Reference 251261 121636, Torrington, Devon
<b>Proposal:</b>	Conversion of barn to dwelling (Resubmission of 1/0654/2023/FUL)
<b>Recommendation:</b>	Refuse





## Reason for referral:

The application has been called-in by Councillor Bright for the following reasons:

*'- The applicant believes that they have sufficient grounds to argue the case for their application to go ahead despite the comments from Environmental Protection around the noise levels of the near by wind turbine.*

*-I believe TDC officers are compliant of following the policies and guidance given, however I cannot help but feel that the policies themselves makes little sense. A development can be granted with sound levels higher if it is built right beside a main road in an estate, compared with a single dwelling in an empty field and a distant wind turbine.*

*-The sound level inside the building when development is completed will not be an issue (once the mitigations are put in place during the construction phase), it seems to be only the garden space which is of concern.*

*-The sound levels outside of the development are near the limit of what is acceptable, and if the dwelling was about 50m further away, it may well be acceptable. Because the sound levels are so close to the acceptable limit, and yet still below the noise levels of a road and will simultaneously bring an unused building back into use, this application should be scrutinised further by committee.'*

## Relevant History:

Application No.	Description	Status	Closed
1/0654/2023/FUL	Conversion of barn to dwelling	WDN	05.12.2023

## Site Description & Proposal

### Site description:

The site at Darracott is approximately 2.2km to the north-east of Great Torrington and 1km from the B3232 to the east. It is accessed from the public highway to the north-west of the site along an existing stone track.

The modern barn is surrounded by a concreted area to the east and north of the building and a low blockwork wall, wooden post and metal railing fence to the east of the site.

The barn is approximately 330m to the north of the nearest of the three wind turbines forming Higher Darracott Wind Farm which was given permission under application 1/1026/2023/FUL to extend its permission until 31/12/2046. The nearest other residential properties to the windfarm are Higher Darracott Farm approximately 580m to the north-west and Three Oaks 470m to the east of the site.

The barn is composed of blockwork with timber cladding to the upper portion of the walls with profiled metal sheeting to the roof and metal gates to the northern elevation and an opening to the southern elevation.

The barn measures approximately 23m in length and 13.7m in width with the height to the eaves approximately 2.3m and 5.5m to the ridge of the building.

### Proposed development:

Planning permission is sought to convert the barn to a dwelling.

The dimensions of the proposed dwellings are to be the same as the existing barn with the walls to be clad with black timber and the roof to be replaced with a metal one. The windows and doors are to be aluminium. There is proposed to be private amenity space to the west and south of the dwelling with a patio/deck area to the west. The existing access track of approximately 80 metres in length from the public highway to the northwest will reach a parking and turning area to the north-east of the site with space for at least two vehicles.

The dwelling is to provide three bedrooms, studio/store, ensuite, dressing room, bathroom, snug, larger, family room, study/guest suite, wet room and utility/plant all at ground floor level.

### Consultee representations:

#### Great Torrington Town Council:

Members of Great Torrington Town Council's Planning Committee had no objections to this application, however, did note the comments made by the Environmental Protection Officer regarding the potential for noise disturbance from the nearby wind farm and recommend that the developer takes this into consideration when assessing the future viability of this development.

#### Environmental Protection Officer:

The Environmental Protection Team acknowledge the new planning application 1/0366/2024/FUL. In light of this new application, I refer back to the comments previously made by Environmental Protection dated 15th of November 2023.

The Environmental Protection Team has reviewed the Noise Representation provided by the applicant. The Noise Representation acknowledges that mitigation was required to the existing wind farm in order to meet the ETSU-R-97 noise limits at existing properties, located further in distance than the proposed dwelling subject of the above application. Furthermore, it acknowledges that it would not be possible to achieve these limits at the application site across a range of wind speeds. Subsequently, the proposed development would not be protected from the ETSU noise limits that existing properties are afforded. The Noise Representation suggests that the predicted noise levels meet the LA90 45dB noise limit for financially involved properties across all wind speeds. Table 4 indicates there would be an exceedance of this limit across wind speeds of 7m/s and greater albeit this is a very slight exceedance.

It is assumed that the applicant has no financial involvement with the wind farm and therefore, the greater noise limit is irrelevant. The Noise Representation mentions the desired LAeq 50dB criterion for external areas outlined in British Standard BS8233. This criterion relates to steady anonymous noise, such as road traffic noise and does not consider acoustic features such as tones that can be associated with wind turbines. Given the relatively tranquil locality, the noise arising from the wind farm would undoubtedly be prominent at the application site, especially considering the noise levels reported. It is worth mentioning that if the application were to be approved and subsequent justified noise complaints from future occupants are received, this could have implications for the operation of the wind farm.

Having reviewed the latest application 1/0366/2024/FUL I have also noted the foul drainage assessment form FDA which was originally submitted on the 3rd of July 2023 along with the percolation tests carried out by GW Architects limited. There has been no photo evidence submitted to substantiate the percolation tests and the intervals at which they were tested. However, the foul drainage scheme is acceptable and no further information is required.

Having regard for the above, the Environmental Protection Team considers the existing wind farm to have a detrimental impact on the living conditions of the proposed dwelling contrary to Policy DM01 and reiterates its objection to the application.

#### Devon County Council (Highways):

Standing advice.

### Representations:

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

Number of letters of support:	0
Number of neutral representations:	0

No representations received.

## Policy Context:

### North Devon and Torridge Local Plan 2011-2031:

ST01 (Principles of Sustainable Development); ST02 (Mitigating Climate Change); ST04 (Improving the Quality of Development); ST07 (Spatial Development Strategy for Northern Devon's Rural Area); ST14 (Enhancing Environmental Assets); DM01 (Amenity Considerations); DM02 (Environmental Protection); DM04 (Design Principles); DM05 (Highways); DM06 (Parking Provision); DM08A (Landscape and Seascape Character); DM08 (Biodiversity and Geodiversity); DM27 (Re-use of Rural Buildings);

### 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 planning considerations

1. Principle of development
2. Character, appearance
3. Access, Parking and Highway Safety
4. Residential amenity
5. Flooding and drainage
6. Biodiversity

1. Principle of development:

In planning terms, the site is located in the open countryside. The North Devon and Torridge Local Plan (NDTLP) seeks to restrict development within the open countryside (beyond villages, local centres and rural settlements) 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,'* (Policy ST07: 'Spatial Development Strategy for Northern Devon's Rural Area'). Therefore, rural building re-use is supported in principle.

This is subject to more detailed consideration under Policy DM27 (Re-use of Disused and Redundant Rural Buildings), which supports the conversion of redundant or disused rural buildings where:-

- '(a) Such conversion would not harm any intrinsic qualities and historic interest of the building;*
- (b) The proposal will have a positive impact on the immediate setting of the building and the wider character is protected;*
- (c) Development can be achieved without significant external alteration, extension or substantive rebuilding;*
- (d) Suitable highway access can be provided and the surrounding highway network can be support the proposed use(s); and*
- (e) Any nature conservation interest within the building or wider site is retained.'*

The barn is currently disused. A structural report was prepared by Mills Engineering and submitted in support of the application on 18<sup>th</sup> April 2024 which concluded that in general terms the conversion should be able to be achieved without significant external alteration, extension or substantial rebuilding. The proposed conversion of this disused barn is acceptable in principle subject to full compliance with the criteria in Policy DM27 and other relevant policies in the NDTLP, as considered below.

## 2. Character and appearance:

Policies DM04: 'Design Principles' and ST04: 'Improving the Quality of Development' in the NDTLP aim to ensure good quality design.

Policy DM04 seeks to guide overall scale, density, massing, height, landscape, layout, materials access, and appearance of development. The policy requires development to be appropriate and sympathetic to its setting in terms of scale, density, massing, height, layout appearance, fenestration, materials and relationship to buildings and landscape features in the local neighbourhood. Policy ST04 states *'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 DM04.'*

In terms of design, Policy DM27 supports the conversion of rural buildings where:-

*'(a) Such conversion would not harm any intrinsic qualities and historic interest of the building;  
(b) The proposal will have a positive impact on the immediate setting of the building and the wider character is protected;  
(c) Development can be achieved without significant external alteration, extension or substantive rebuilding.'*

The existing building is built of blockwork and timber cladding with profiled sheeting roof and is not considered to have any intrinsic qualities or historic being composed of rendered blockwork. Therefore, it is considered that criterion (a) has been satisfied. The conversion would have a positive impact on the immediate setting by tidying up the appearance of a disused and dilapidated barn in accordance with criterion (b). The proposed dwelling is to be composed of black cladding to the walls and a metal roof with aluminium windows and doors. The conversion will be achieved without significant alteration, extension or re-building in compliance with criterion (c). Provided Permitted Development Rights were removed as a condition on this permission to prevent a change in the appearance of the building and a negative impact on the wider character and appearance of the surrounding rural area, it is considered acceptable in design terms. A hedgebank is proposed to be planted to the west and south of the building as shown on the proposed location and site plan (0559-01) with additional tree planting surrounding the property. This would be required to be retained to minimise the impact of the development on the wider landscape.

The proposed redesigned development is considered to be in accordance with NDTLP Policies ST04, DM04 and DM27 and national guidance.

## 3. Access, Parking and Highway Safety:

Paragraph 115 of the NPPF advises that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy DM05 in the NDTLP requires development to have 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, and all development shall protect and enhance existing 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.

Policy DM06 of the NDTLP states that proposals will be expected to provide an appropriate scale and range of parking provision to meet anticipated needs. Policy DM04: 'Design Principles' has a criterion related to *'safe and appropriate highway access.'*

Policy DM27 criterion (d) requires development to provide suitable highway access and the surrounding highway network can support the proposed use(s).

There is an existing hardcore track of approximately 80 metres in length from the building to the public highway to the north-west of the site. There is adequate space for parking of at least two vehicles and

turning on site. The Highway Authority directed towards their Standing Advice, and it is considered that the proposed development is in line with the requirements of this.

The proposed development therefore accords with Policies DM05 and DM06 of the NDTLP.

#### 4. Residential Amenity:

Policy DM01 of the NDTLP confirms that development will be supported where it would not harm the amenities of neighbouring occupiers or uses, or result in harm to the future occupiers of the development from existing or allocated uses. Policy DM04: 'Design Principles' aims to ensure the amenities of existing and future neighbouring occupiers are safeguarded. Policy DM02 'Environmental Protection,' of the Local Plan, states that development will be supported where it does not result in unacceptable impacts to smell, fumes, noise etc.

There are no neighbouring dwellings with the nearest being approximately 500m to the west of the site. There is therefore not considered to be any impact on neighbouring residential amenity caused by the development.

The proposed barn conversion has sufficient floor space to satisfy the Nationally Described Space Standards. There is adequate amenity space and parking for the barn.

The Local Authority's Environmental Protection Team (EPT) have been consulted on this application and raised concerns as follows regarding the proximity to the neighbouring Higher Darracott windfarm: *'The Environmental Protection Team has reviewed the Noise Representation provided by the applicant. The Noise Representation acknowledges that mitigation was required to the existing wind farm in order to meet the ETSU-R-97 noise limits at existing properties, located further in distance than the proposed dwelling subject of the above application. Furthermore, it acknowledges that it would not be possible to achieve these limits at the application site across a range of wind speeds. Subsequently, the proposed development would not be protected from the ETSU noise limits that existing properties are afforded. The Noise Representation suggests that the predicted noise levels meet the LA90 45dB noise limit for financially involved properties across all wind speeds. Table 4 indicates there would be an exceedance of this limit across wind speeds of 7m/s and greater albeit this is a very slight exceedance.'*

The proposed development is approximately 330m to the north of the nearest of the three wind turbines forming Higher Darracott Wind Farm, which was given permission under application 1/1026/2023/FUL to extend its permission until 31/12/2046. The nearest existing residential properties to the windfarm are Higher Darracott Farm approximately 580m to the north-west and Three Oaks 470m to the east of the site. Therefore, given that there were mitigation measures put in place to ensure that the existing residential dwellings were not significantly affected by the windfarm it is considered that as the barn is nearer to the wind turbines it would have a detrimental impact on the living conditions of the proposed dwelling for the applicant as well as future residents. It is acknowledged that the exceedance is only slight however the limits need to be put in place at a certain level and even a slight exceedance is considered to have an impact on future occupants of the proposed dwelling.

The EPT also commented that *'It is assumed that the applicant has no financial involvement with the wind farm and therefore, the greater noise limit is irrelevant. The Noise Representation mentions the desired LAeq 50dB criterion for external areas outlined in British Standard BS8233. This criterion relates to steady anonymous noise, such as road traffic noise and does not consider acoustic features such as tones that can be associated with wind turbines. Given the relatively tranquil locality, the noise arising from the wind farm would undoubtedly be prominent at the application site, especially considering the noise levels reported. It is worth mentioning that if the application were to be approved and subsequent justified noise complaints from future occupants are received, this could have implications for the operation of the wind farm.'* Subsequent communication with the agent and local ward member has suggested that the Applicant would be willing to accept a condition that they accept the noise level at the site and would not raise any complaints regarding noise levels. Unfortunately, it is not possible to include such a condition on any permission as consideration has to also be made to future residents of the site. It was also suggested that external noise barriers could be installed but due to the height of the wind turbines this is not possible as it might be if the noise was coming from a source at a lower elevation such as a road. It was also noted by the EPT that sound refraction is also a factoring element in how the sound waves

will travel over the given distance to the noise receptor and would again in turn render any noise barriers ineffective.

It is also acknowledged that there may be higher noise levels in city centres, urban areas and adjoining strategic transport networks, however in a relatively tranquil locality it is considered that the noise arising from the wind farm would be prominent and this has been found to be the case on numerous site visits carried out by the Case Officer as well as the EPT.

The use of the ETSU standard to assess the noise levels of the wind turbines has also been questioned but it is the most pertinent guidance available to wind turbines. It is usually applied to new wind turbines being introduced in an area of existing residential properties, but the principles remain and are relevant to the consideration of this application.

It was also raised by the applicant that there is an existing condition on the original permission for the wind farm (1/1345/2002) *"Unless the Local Planning Authority give consent to any variation, noise emissions from the site (as measured by LA90,10mins) in free field conditions, at any dwelling in existence prior to the development, shall not exceed the greater of 35dB(A) or 5dB(A) above the background noise level (LA90,10mins) during the day and evening (7.00hrs to 23.00hrs) and shall not exceed the greater of 43dB(A) or 5dB(A) above background noise level (LA90,10mins) during the night (23.00hrs to 7.00hrs), all at wind speeds up to 12ms<sup>-1</sup>. The noise emission values of the turbines shall include a tonal penalty if such is identified in accordance with the methodology set out in the ETSU-R-97 report."* As the proposed development is not an existing dwelling the above condition would not apply and therefore this condition would not be applicable.

It is also noted by Environmental Protection *'that the noise assessment indicated that predicted noise levels exceed those specified in ETSU, the recognised method for wind turbine measurement, which relates to external levels. However, noise associated with wind turbines (eg. mechanical noise, 'thumping' sound associated with amplitude modulation – which has not been mentioned in the assessment) can affect indoor living and EP has received and investigated noise complaints to this effect. Therefore, whilst the assessment demonstrates that external conditions are not compliant with ETSU, noise (as mentioned above) can affect indoor living as well.'* Therefore, it is considered that the location of the wind turbines in close proximity to the proposed development would have an impact on both external and internal amenity.

The EPT has had experience of dealing with the wind farm at Higher Darracott and the noise nuisance associated with it. As the proposed development is closer to the wind farm than existing properties, and the information submitted indicates that the noise levels would exceed the recommended noise limit, it must be concluded that the proposed development would be subject to adverse living conditions. It is only the existing dwellings that are protected by the planning condition attached to the wind farm consent.

Having regard for the above, it is considered that the existing wind farm would have a detrimental impact on the living conditions of the proposed dwelling contrary to Policy DM01 of the NDTLP.

#### 5. Flooding and drainage:

The site is not within an Environment Agency flood zone and/or Critical Drainage Area. There are no known surface water issues. Percolation tests results have been provided by the Applicant.

Having reviewed the latest application 1/0366/2024/FUL, the EPT has noted the foul drainage assessment form (FDA) is as that which was originally submitted on the 3rd of July 2023 along with the percolation tests carried out by GW Architects limited. There has been no photo evidence submitted to substantiate the percolation tests and the intervals at which they were tested. However, it was confirmed by the EPT on 21<sup>st</sup> June 2024 that the foul drainage scheme is acceptable and no further information is required.

#### 6. Biodiversity:

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.

A Wildlife Trigger List was submitted which indicated that there was to be works to the roof which triggered the need for an Ecology Report. An updated bat and nesting birds survey by Penpont Ecology was submitted on 30<sup>th</sup> May in support of the application.

It was concluded that roosting bats were absent from the building, and these species shall not provide a constraint to the proposed works being undertaken.

Evidence of swallows and sparrows nesting within the barn was found and it was recommended that works should commence outside of the bird nesting season which occurs between 1 March and 15 September. Works that have been started may continue into the bird nesting season provided they are sufficiently advanced by 1<sup>st</sup> March to deter returning pairs.

For enhancement it is recommended that continued provision for nesting swallows by incorporating deep overhangs at the eaves. Continued provision for nesting sparrows can be achieved by the incorporation of integrated nesting terrace boxes. These have been added to the approved plans. Provision for crevice type roosting bats has included retaining small gaps measuring 15-20mm width x 70mm length under fascias, timber cladding, barge boarding and/or at ridge tiles where a small section of pointing is missed and retaining "blind" holes in masonry.

The application was submitted with the Biodiversity Net Gain small sites metric but over the course of the application due to the querying of the proposed methods to achieve the biodiversity net gain it was amended to state that the dwelling would be a custom/self-build property. Any development on the site would need to be conditioned to ensure it is completed as such.

It is therefore considered that the proposal is in line with Policies ST14 and DM08 of the NDTLP.

#### Conclusion:

The principle of development is accepted as being in accordance with NDTLP Policy DM27, and technical requirements of design, highways, drainage, and ecology are satisfied. However, as stated above, the proposal conflicts with Policy DM01 of the NDTLP due to the adverse amenity impact on future occupiers arising from the sites proximity to the Higher Darracott Wind Farm. The conflict with Policy DM01 is considered to be such so as to direct that the application should be refused.

#### Human rights

Consideration has been given to the Human Rights Act 1998.

#### Recommendation

REFUSE for the following reasons:

- 1 The information submitted with this application has been assessed by the Council's Environmental Protection Team as not meeting the standards required for living areas of residential properties. Given this objection, it is considered that the amenities of the intended occupants of the proposed dwelling would be harmed as a result of the existing Higher Darracott Wind Farm meaning the proposed development is contrary to Policy DM01 of the North Devon and Torridge Local Plan.

## Plans Schedule

Reference	Received
0559-01	18.04.2024
0559-02	18.04.2024
0559-03 A	14.05.2024

## Statement of Engagement

The National Planning Policy Framework (Paragraph 38) requires local planning authorities to work positively and proactively with applicants to achieve sustainable development. Throughout the application process guidance has been given to the applicants and all outstanding issues have been identified. The Council has therefore demonstrated a positive and proactive manner in seeking solutions to problems arising in relation to the planning application.



**APPEAL DECISIONS SUMMARY**  
**Committee 11th<sup>th</sup> July 2024**

**Appeal decisions for the period 28/05/2023 –02/07/2024**

Application No.	Address/Proposal	Appeal Decision	Officer Recommendation	Committee/ Delegated	Costs
1/0661/2023/FUL	Land at Holwill Drive, Great Torrington, Devon EX38 7LQ  Part retrospective application for the erection of 1 no. dwelling including access, parking and retaining wall to the rear	Dismissed	Refused	Delegated	No
1/0380/2023/FUL	Land adjacent to Hill House, Abbotsham, Bideford, Devon  Erection of building for the provision of vehicle workshop, office & welfare and all ancillary facilities, access and cycle/pedestrian improvements	Allowed	Refused	Delegated	No
1/0813/2023/FUL	Land at Dowland, northwest of Bradworthy, Devon EX22 7QX  Enlargement and conversion of agricultural structure to no.1 holiday let unit.	Dismissed	Refused	Delegated	Yes
1/0114/2023/FULM	Land Adjacent to Windmill Road, Holsworthy, Devon EX22 6JN  Change of use of land to site 16no. holiday lodges, 6no. glamping pods, new pedestrian and cycle access, landscaping, roadways and drainage (Re-submission of 1/1185/2021/FULM)	Dismissed	Refused	Delegated	No
E/21/0377/UND	Land adjoining The Ship on Launch, EX39 4AE	Allowed	Enforcement		





# Appeal Decision

Site visit made on 21 May 2024

by **J Hills MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 June 2024

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**Appeal Ref: APP/W1145/W/24/3340091**

**Land at Holwill Drive, Great Torrington, Devon EX38 7LQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Wayne Pitts and Ms Aleena Foster against the decision of Torrington District Council.
  - The application Ref is 1/0661/2023/FUL.
  - The development proposed is one dwelling, access & parking including retaining wall to rear (retrospective).
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. During the course of the appeal, the Council has accepted that a typographical error was made within its decision notice. This was in respect of reference to Policy ST09 of the North Devon and Torrington Local Plan 2011-2031 (LP). ST09 refers to the Council's strategy for coastal areas which the appeal site does not lie within. There is therefore little evidence of any conflict with this policy. The Council says that it intended to reference Policy DM09 of the LP, which deals with safeguarding green infrastructure. This is consistent with the officer report. The appellant has had an opportunity to comment on this matter.
3. At the time of my visit, I saw that a wall and fencing had been erected and that the application has been submitted retrospectively, in part, for this element of the overall scheme to provide a single dwelling. I have dealt with the appeal on that basis.

## Main Issues

4. The main issues are the effect of the proposal on (i) the character and appearance of the area; and (ii) living conditions of nearby neighbours with regard to noise and the risk of crime.

## Reasons

### *Character and appearance*

5. The appeal site comprises an area of undeveloped open space within a sustainably located residential housing estate. Regardless of the status of conditions attached to a previous planning permission, and the site's private ownership, this space creates a natural break in the layout of properties. Here, attractive views of the countryside can be appreciated.

6. A highway-maintained path with good sight lines cuts across the appeal site. It provides an inviting and permeable access route towards the primary school. Even if low level fencing were to be introduced, or the path stopped up as asserted by the appellant, its undeveloped state forms a rare and locally distinctive characteristic of the area. For these reasons, the open space promotes an inclusive environment for local residents that adds to its quality.
7. Although tall, the fence above the retaining wall is set at a lower height than the building behind. Additionally, there are other tall walls and fences nearby. Consequently, although rather stark in its appearance, it does not stand proud or appear wholly out of place. Nevertheless, the evidence shows that the appeal site previously included planting that has been removed. This would have been likely to have softened the site's overall appearance. Had I been minded to allow the appeal, it would have been possible to ensure the planting of the proposed box hedge using an appropriately worded condition.
8. There is no dispute that the proposed scale, design, and use of materials would be similar to other nearby properties. However, despite the proposed tree planting, the dwelling would irrevocably erode the undeveloped qualities of the appeal site. Furthermore, in terms of layout, the diverted path would run alongside a narrow gap between the proposed property's front elevation/garden and the boundary features of existing properties. Although no demarcation is shown on the plans, it is likely that future occupants would wish to provide some form of screening here. Even if they did not, this layout would still lead to a significantly less open access route when compared with the current arrangement. Additionally, the immediate proximity of the path to the front of the property would introduce a competing use of space. This would not be a sympathetic design that responds positively to the characteristics of the site.
9. For the above reasons, the proposal would harm the character and appearance of the area. As such, it would be in conflict with policies ST04 and DM04 of the LP and Policy ENV3 of the Great Torrington Neighbourhood Plan. Collectively in this respect, and amongst other things, these policies seek to promote development that contributes positively towards local distinctiveness, providing sympathetic layout, relationship to buildings and landscape features. There would also be conflict with paragraph 135 of the National Planning Policy Framework where it says that decisions should ensure that developments function well and add to the overall quality of the area.

#### *Living conditions*

10. The Council's concerns in respect of noise and an increased risk of crime are confined to the living conditions of the occupiers of existing properties to the east of the site. In respect of a perceived fear of crime, I observed the adjoining walls and fences of neighbouring properties to be substantially constructed and tall. They form a clear distinction between spaces. As such, there is no firm evidence that pedestrians walking alongside these boundaries would be more likely to commit crime as a result of the diverted path.
11. Although a section of path would be closer to some neighbouring properties, its usage would be likely to be light and occasional, covering a very short distance. At the time of my visit, no pedestrians made use of the existing path. The most prominent background noise was emanating from the nearby school. It is acknowledged that my observations only represent a snapshot in time, and

that there may be busier times at school drop off or pick ups for example. However, in the absence of any compelling evidence to the contrary, it is most unlikely that the development would generate unacceptable levels of noise.

12. Therefore, I conclude on this main issue that the proposal would have an acceptable effect on the living conditions of nearby neighbours with regard to noise and the risk of crime. As such, there would be no conflict with policy DM01 of the LP which says, in part, that development will be supported where it would not significantly harm the amenities of any neighbouring occupiers.

### **Planning Balance and Conclusion**

13. Bringing together my conclusions on the main issues, I have found that the living conditions of the occupiers of existing properties would not be harmfully affected. However, this does not outweigh the harm I have found to the character and appearance of the area.
14. For the reasons above, and taking into account all other matters raised, I conclude that the proposed development fails 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



# Appeal Decision

Site visit made on 21 May 2024

by **J Hills MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 June 2024

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**Appeal Ref: APP/W1145/W/23/3334759**

**Land adjacent to Hill House, Abbotsham, Bideford, Devon**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Ms Gabrielle Horrell against the decision of Torridge District Council.
  - The application Ref is 1/0380/2023/FUL.
  - The application sought planning permission for construction of 4 bedroom detached dwelling, with associated access, parking, amenity space and landscaping. All matters reserved without complying with a condition attached to planning permission Ref 1/1134/2021/OUT, dated 27th January 2022.
  - The condition in dispute is No7 which states that: *Prior to the first occupation of the dwelling hereby permitted, a footpath from the site to the southern edge of the Glebe Houses carriageway shall be provided and retained as such thereafter, in accordance with details that shall first have been submitted to and approved by the local planning authority in conjunction with the local highways authority.*
  - The reason given for the condition is: *To provide pedestrian facilities from the site to the village, in the interests of highway safety and sustainability.*
- 

## Decision

1. The appeal is allowed and planning permission is granted for construction of 4 bedroom detached dwelling, with associated access, parking, amenity space and landscaping. All matters reserved at land adjacent to Hill House, Abbotsham, Bideford, Devon in accordance with the application Ref 1/0380/2023/FUL, without compliance with condition number 7 previously imposed on planning permission Ref 1/1134/2021/OUT, dated 27th January 2022 and subject to the conditions in the attached schedule.

## Preliminary Matters

2. The address is taken from the Council's decision notice as no address is provided in the application form. This address is similar to that provided in the appellant's appeal form.

## Background and Main Issues

3. Outline planning permission and the reserved matters have been granted for a single dwelling. The appeal seeks permission to carry out the development without complying with condition 7 of the outline permission. This requires the provision of a footpath from the appeal site to the southern edge of the Glebe Houses.

4. The Council is concerned that the footpath is necessary to achieve a safe and suitable access. Additionally, it does not consider that sufficient evidence has been provided to demonstrate the costs of providing the footpath would render the scheme unviable.
5. Furthermore, the Council says the development does not represent sustainable development, citing conflict with policies ABS, ST01 and ST07 of the North Devon and Torrington Local Plan 2011-2031 (LP). Amongst other things, these policies set out the housing strategy for Local Centres and Villages, and the overarching approach to sustainable development. Even though the appeal site is outside the defined settlement boundary, planning permission has already been granted for a dwelling. Whilst the reasons for granting the permission are acknowledged, section 73(2) is clear that consideration can only be given to the question of the conditions subject to which planning permission should be granted.
6. Therefore, the main issue is whether condition 7 is reasonable or necessary having regard to highway safety and viability.

### **Reasons**

7. There is no dispute that the appeal site is well related to the built form of Abbotsham, adjoining its development boundary. As described within the Manual for Streets and the National Design Guide (NDG), it is within a desirable walking distance of the village, which has modest service and facility provision. This includes a pre/primary school, church, pub, playground, village hall and bus stop. Future occupants would be likely to use private vehicles for day to day access to jobs and shops.
8. Like many rural villages there is a mix of paved areas and grass verges serving numerous properties. Those wishing to exercise, socialise, walk to school, or drivers and other road users would be likely to be aware of the existing arrangement of the shared use of space. In that context, it is acknowledged that older children are more vulnerable to collisions, though there is no submitted record of any incidents near the appeal site.
9. Whilst historic readings from 2010 and 2018 show traffic speeds above the posted limit, the appeal site is nevertheless well within the 30mph area. In that respect, the existing grass verge would not be an optimal choice for all road users, including those with reduced mobility or prams. However, parts of the verge are level with the road and could still be used for access or refuge. Furthermore, other existing properties on the opposite side of the road have driveway areas that offer additional pull in spaces for pedestrians or cyclists.
10. At my lunchtime visit, I walked along the roadside and grass verge where the footpath would be provided, as well as into the village. At that time, the volume and speed of passing vehicles was low and not noticeably excessive respectively. Consequently, the roadside walk did not feel unnerving. This experience was commensurate with a village environment. Moreover, I observed that there was a nearby traffic calming speed sign and a streetlight. These features would be likely to encourage speed reduction and improve visibility for all road users.
11. No recent speed counts have been provided. However, it is claimed that speeds have reduced since the 2018 survey as a result of 2 speed signs, a community

monitoring group and reporting to the police. It is acknowledged that my observations only represent a snapshot in time, recognising there may be busier times of the day. Notwithstanding this and having paid regard to the observations of the Council's highway officer, for the above reasons, I find it likely that vehicle speeds have reduced since 2018.

12. Furthermore, the fact that the proposal would introduce a single dwelling within a short walk or cycle from the village centre with its public transport links, means that any additional conflict between pedestrians, cyclists and vehicles would be likely to be negligible. As such, access to the site would be safe and suitable and there would be no unacceptable impact on highway safety as set out in the National Planning Policy Framework (the Framework) and Policy ST10 of the LP. Therefore, in respect of highway safety, the condition would not go to the heart of the permission, and it would not be necessary.
13. It is said that a length of about 160m or more of footpath would be required by the condition. Even though no detailed viability assessment is submitted, the Planning Practice Guidance (PPG) says that conditions that place unjustifiable financial burdens on an applicant will fail the test of reasonableness. This would apply even if the appellant has agreed to the condition, which is the case here. The appellant claims that the footpath would cost about £100k, and there is no substantive evidence to the contrary. Given the very small scale of the development, this sum of money would be likely to have significant financial implications on the overall deliverability of the scheme. Consequently, it would not represent a proportionate or practical new connection as supported within Policy DM05 of the LP.
14. Furthermore, the condition would require works on land that is not in the control of the appellant. The PPG says that this will often fail the tests of reasonableness. It adds that such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission. Based on the evidence, there is no prospect that the footpath would be delivered within such a timeframe. For the above reasons, the footpath would be a disproportionate and unnecessarily onerous requirement of the permission.
15. The Council's highway officer refers to part 1 of Policy DM05. However, this is primarily concerned with ensuring a safe vehicular access is provided that considers the needs of all highway users. It is understood that this has already been demonstrated with the approval of the reserved matters application. Accordingly, there is little evidence of conflict with this part of the policy.
16. Therefore, I conclude that condition 7 is not reasonable or necessary having regard to highway safety and viability. As such, there would be no conflict with policies ST01, ST07, ST10 or DM05 of the LP, section 9 of the Framework, the NDG or the Manual for Streets 2.

### **Other Matters**

17. My attention has been drawn to an appeal decision at Stibb Cross. That site was however next to a trunk road where up to 10 new dwellings were proposed. The scale and nature of that proposal is consequently materially different and not comparable with this appeal.



### **Conditions**

18. By allowing this appeal a new planning permission is created. The PPG advises that, for clarity, decision notices for the grant of planning permission under section 73 should restate the conditions imposed on earlier permissions that continue to have effect, unless they have already been discharged.
19. As the reserved matters application has already been granted, it is unnecessary for me to attach a condition requiring approval of these details. I have imposed an amended commencement of development condition to reflect the approved reserved matters application. It is necessary to require compliance with the submitted plan.
20. In accordance with the previous planning permission, a condition restricting the hours of work during development is reasonable in the interests of the living conditions of nearby residents. Additionally, conditions securing compliance with the ecological appraisal and the provision of a bat box and sparrow terrace are necessary in the interests of biodiversity.
21. I have not imposed the previous drainage condition as details were required prior to or accompanying the reserved matters application. As this has already been approved, there is little evidence that this condition is still necessary. I have imposed a condition in relation to unexpected contamination.

### **Conclusion**

22. For the reasons set out above, the appeal is allowed.

*J Hills*

INSPECTOR

## Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the reserved matters application ref 1/0386/2023/REM.
2. The development hereby permitted shall be carried out in accordance with the following approved plan: Location Plan received 28.09.2021.
3. The development hereby permitted shall only be carried out, (including the delivery of construction materials), during Monday to Friday between the hours of 07:00 to 19:00 and Saturday between the hours of 08:00 to 13:00 with no works, (or the delivery of construction materials) being carried out on Sundays and Bank Holidays.
4. The development hereby permitted shall be carried out in accordance with the biodiversity mitigation measures set out at section 5.2 of the Preliminary Ecological Appraisal Report prepared by Orbis Ecology dated 21 September 2021.
5. Prior to the first occupation of the dwellings hereby permitted, a bat box and sparrow terrace shall be installed as indicated within the Preliminary Ecological Appraisal Report prepared by Orbis Ecology dated 21 September 2021 and shall be retained as such thereafter.
6. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions a) to d) have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the local planning authority in writing until condition d) has been complied with in relation to that contamination.

### a) Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the local planning authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the local planning authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination.
- (ii) an assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the

Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Approval by the local planning authority of the report submitted at this stage will confirm whether there is a need to undertake remediation measures under conditions b), (c) and (e) below.

b) Submission of Remediation Scheme.

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c) Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority.

d) Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition a), and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition b), which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority in accordance with condition c).

e) Long Term Monitoring and Maintenance

Where an approved remediation scheme includes a requirement for a monitoring and maintenance scheme to ensure the long-term effectiveness of the proposed remediation over time, a report setting out monitoring and maintenance requirements must be submitted in writing for the prior approval of the local planning authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced and submitted to the local planning authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.



# Appeal Decision

Site visit made on 21 May 2024

by **J Hills MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 June 2024

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**Appeal Ref: APP/W1145/W/24/3337646**

**Land at Dowland, northwest of Bradworthy, Devon EX22 7QX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr C Bond against the decision of Torridge District Council.
  - The application Ref is 1/0813/2023/FUL.
  - The development proposed is described in the application as "enlargement and conversion of agricultural to a holiday let unit."
- 

## Decision

1. The appeal is dismissed.

## Applications for costs

2. An application for costs is made by Mr C Bond against Torridge District Council. The application is the subject of a separate decision.

## Preliminary Matters

3. The description of development in the banner heading above is incomplete. The Council's decision notice refers to the enlargement and conversion of agricultural structure. The appellant refers to this description in its submissions. I have dealt with the appeal on this basis.

## Main Issue

4. The main issue is whether the proposal would amount to the conversion of an existing building.

## Reasons

5. The appeal site comprises a very small agricultural building that measures approximately 6m x 3.5m in area. It has a mono pitch roof that slopes down from its frontage. It is proposed to convert and extend this building to create a single unit of tourist accommodation. Part of the works would include the forward extension of its entire frontage.
6. The extensions would cover a modest sized physical area and would closely reflect the building's design features. Additionally, despite the requirement for a new internal timber frame and floor, there is no dispute between the parties that the existing structure could be converted for the intended use.
7. However, new walls on 3 of the building's elevations, including its main frontage, together with a taller roof protection would be introduced to accommodate the extension. These cumulative interventions would

fundamentally alter and replace the principal elevation of the building. This amounts to substantive rebuilding works. Additionally, the extension would see an approximately increase in footprint of the building from 21sqm to 32sqm, or about 30%. When compared with the small scale of the original building, the scheme, when taken as a whole, would amount to a significant extension and substantive rebuilding to the main frontage elevation.

8. Therefore, I conclude that the proposal would not amount to the conversion of an existing building. As such, there would be conflict with Policy DM27(c) of the North Devon and Torridge Local Plan 2011-2031 (LP), which requires the conversion of buildings to be achieved without significant external alteration or extension.

### **Other Matters and Planning Balance**

9. The appellant claims that the proposed extension should also be considered under Policy DM25 of the LP. They refer to the Council's Frequently Asked Questions (FAQ) document. This provides informal guidance on various policies, including DM27 of the LP. In respect of extensions to rural buildings, it says, amongst other things, that if the conversion can be achieved without extension, regard will be given to the residential extensions policy DM25 of the LP. However, the FAQ also explains what constitutes 'significant external alterations'. As an example, the replacement of a large part of an external wall is said to normally constitute substantive rebuilding.
10. Policy DM25 of the LP supports the extension of a residential dwelling subject, in part, to the scale respecting existing development. The ordinary meaning of this policy wording is that there is already a residential dwelling to extend. Therefore, notwithstanding the informal guidance in the FAQ, there is little evidence that the Policy would be relevant to this proposal. In that context, my attention has been drawn to a previous permission for the conversion of the appeal building to a holiday let. There is a realistic fallback in terms of the ability to convert the existing structure. There is no reason this would not be implemented.
11. Even if Policy DM25 were relevant, I have already concluded above that this proposal would result in a significant extension and substantive rebuilding to the frontage elevation of the appeal building. This would be more harmful than the fallback. Moreover, whilst the content of the FAQ is noted, it does not form part of the development plan and is not determinative to the outcome of this appeal.
12. My attention has been drawn to some planning permissions where extensions to a rural building and outbuilding were granted by the Council. However, these were in a different location to the appeal. Additionally, I am not aware of their site-specific circumstances. Whilst the Council permitted extensions to these buildings, I am not bound by these decisions. In any case, I have concluded that the proposed extension would be unacceptable in scale.
13. I have paid regard to the appellant's comments in respect of the planning history. This includes pre-application engagement where support was offered to a similar proposal, without prejudice. However, this has no bearing on my decision which is based on the planning merits of the proposal.

14. The proposal would enlarge and improve tourism facilities, making a more suitable and accessible unit when compared with the fallback. The design, materials, and appearance of it would be acceptable. However, any such beneficial features would not sufficiently outweigh the identified harm.
15. The appellant refers to there being no objections to the scheme from the public. However, the lack of an objection is not a reason in itself to allow unacceptable development.

**Conclusion**

16. 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



## Appeal Decision

Site visit made on 21 May 2024

by **J Hills MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 June 2024

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**Appeal Ref: APP/W1145/W/24/3339643**

**Land Adjacent to Windmill Road, Holsworthy, Devon EX22 6JN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by 3H Investments Limited against the decision of Torridge District Council.
  - The application Ref is 1/0114/2023/FULM.
  - The development proposed is described in the application as “change of use of land for the siting of holiday lodge caravans for cycling and walking tourists, together with a new pedestrian and cycle access from the Ruby Way, the installation of tourist signage from the Ruby Way, and interpretation boards for visitors to the Royal Observer Corp monitoring bunker heritage asset, the creation of new site access, landscape planting, roadways, and drainage.”
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The description of development in the banner heading above is taken from the application form. It is noted that when the Council validated the application it changed the description. On several occasions during the validation process the Council advised the appellant that they must make contact within 7 days of the date of each of these letters if the Council’s revised description was not agreeable. Opportunities for engagement were therefore likely. At that stage, it has not been shown that the appellant did not agree with the Council’s description.
3. Having paid regard to the Hillside Parks and Barton Park Estates judgements referred to by the appellant, the scope and operative part of the application is to change the use of land to site holiday lodge caravans. The appellant has submitted detailed plans that show there would be 16 holiday lodges and 6 glamping pods (all within the definition of a caravan). The Council’s description of development is sufficiently precise, clear, accurate and reasonably understandable.
4. Even though the description of development in the application form does not refer to the inclusion of pods, reception block, or camping, the plans show that these elements form part of the application. In that context, any lack of reference to proposed tourist signage, which is shown on the plans, would not mean they would be excluded from the overall scope of the permission sought. I have dealt with the appeal on this basis.



5. There is a former nuclear bunker and Royal Observer Corp (ROC) outpost within the appeal site. The appellant submits that the reference to the restoration of the bunker in the Council's reason for refusal is prejudicial as restoration is not proposed. Their submission does however highlight that the bunker will be conserved through restoration of the interior (painting, repair, insertion of period materials). Even if these works did not require planning permission, it is evident that some restoration would be likely. For these reasons, the appellant would not be prejudiced in any way.

### **Main Issue**

6. The main issue is whether the site is a suitable location for the proposed development, having regard to the local tourism strategy; and if not, whether there are any other considerations that justify a decision otherwise than in accordance with the development plan.

### **Reasons**

#### *Tourism strategy*

7. The appeal site comprises 3 agricultural fields that cover an area of approximately 3.47ha. These fields are physically and visually separated from the built-up area of the town of Holsworthy by intervening fields. Access to Holsworthy from the appeal site can be gained using the busy trunk road. This would be uninviting for pedestrians or cyclists. Alternatively, a steep, unlit public footpath provides connectivity, though this is unlikely to be suitable for all users.
8. Holsworthy is defined as a Main Centre in the North Devon and Torridge Local Plan 2011-2031 (LP). The appeal site is about 370m from its defined settlement boundary. Despite footpath and cycle improvements that could be secured via the submitted legal agreement, it is not within or adjacent to a Main Centre.
9. Policy ST01 of the LP sets out the principle of sustainable development in the district, which, amongst other things, seeks to approve proposals that accord with policies in the LP. Where policies are out of date, it says that permission will be granted unless material considerations indicate otherwise.
10. The Council's spatial strategy in policies ST06 and ST07 of the LP is to focus most development to the largest centres, with modest growth permitted in the smaller settlements. In the countryside, development will be limited to that which is enabled to meet local economic needs, rural building reuse and development which is necessarily restricted to a countryside location. Policy HOL of the LP recognises the important role of Holsworthy as a service centre, building on its position to become an attractive destination for visitors.
11. In respect of local economic needs, the diversification of the rural economy is supported through Policy ST11 of the LP where there is no conflict with other policies. Policy ST13 of the LP is supportive of sustainable, high quality tourism development for a year-round industry that does not damage the natural or historic assets within the district. In respect of the latter, there is no dispute between the main parties that landscape features and heritage assets would be preserved by the development. I find no reason to disagree.

12. Whilst not having the force of policy, the supporting text to ST13 of the LP notes that sustainable tourism is achieved through enhancement, focusing on qualitative improvements, such as expanding existing facilities. The enhancement of existing attractions and destinations will be given support.
13. Beyond these strategic aims, detailed tourism policies are contained within DM17 and DM18 of the LP. Policy DM17 is supportive, in part, of new or existing tourism, visitor or leisure facilities. This is subject to various criteria being met, including a justified location, reuse of existing buildings, highways suitability, landscape, and heritage preservation.
14. The ROC outpost may have previously attracted visitors who are said to have broken in on a number of occasions. However, this type of use cannot mean the ROC is an existing visitor facility. Nonetheless, it is proposed to be made available to the public by appointment. This new tourism attraction would better reveal the ROC's significance as a non-designated heritage asset, albeit to a very modest extent. However, this is only a very small part of the operative part of the scheme, which is to provide tourism accommodation.
15. Policy DM18 of the LP is concerned with tourism accommodation. Part (1) of it supports new tourist accommodation within Main Centres where it *(a) improves the quality or increases the diversity of northern Devon's tourism offer; (b) is located and designed to protect and enhance the character and setting of the settlement; and (c) any rationalisation would facilitate the retention or improvement of the tourism accommodation.*
16. As mentioned above the appeal site is not within the settlement. Nevertheless, the appellant asserts that the policy should not be strictly interpreted to limit tourism development to within defined boundaries, noting the connections to the town. Additionally, they say that the setting of the settlement referred to in DM18 part 1(b) can only relate to development outside existing boundaries. However, it is conceivable that the setting of a settlement could be affected by development within a defined boundary.
17. Although sufficient available space for larger tourism accommodation developments may be limited within this Main Centre, smaller scale caravan developments or other forms of tourist accommodation could still come forward under part (1). This could include converted buildings or redeveloped sites for example. In any case, taking the ordinary meaning of the word and for the reasons given above, the appeal site is not 'within' the Main Centre. Therefore, even if criteria (a)(b) and (c) were met, there is little to demonstrate that part (1) of DM18 of the LP applies to the proposal.
18. Outside Main Centres such as Holsworthy, part (2) of Policy DM18 of the LP supports new tourism accommodation where it *(a) is related directly to and compatible in scale with an existing tourism, visitor or leisure attraction; or (b) reuses or converts existing buildings; or (c) improves facilities for or diversifies the range or improves the quality of existing tourism accommodation.* The appellant says criteria (b) and (c) are not applicable to the tourist accommodation proposed with this appeal.
19. In respect of part 2 (a), it is claimed Holsworthy, the Ruby Way which is part of the National Cycle Route, and the ROC collectively represent the existing tourism or visitor attraction. It is however necessary to examine each of these

- elements against the requirements of the policy. In that respect, I have already concluded above that the ROC is not an existing visitor attraction.
20. Whilst the benefits of the cycle network for tourists and visitors are acknowledged, the Ruby Way is part of a broad transport route that spans the UK. This is not the same as a woodland bike trail for example, which would be likely to be centred around a site-specific location. As such, it has not been clearly demonstrated that the Ruby Way is a tourist, visitor or leisure attraction in its own right.
  21. The tourism benefits of being located near a town with its various shops and food outlets are recognised. In that context, the Council's Northern Devon Tourism Strategy highlights the role of historic market towns for visitors and encourages investment in accommodation. Holsworthy is a settlement which includes a broad range of services, employment, housing, and facilities. It evidently contains elements that draw visitors as any Main Centres would be likely to do. These attributes are recognised by the support in part (1) of Policy DM18 of the LP for new tourism accommodation within the town.
  22. Even if Holsworthy were to be described as tourism, visitor or leisure attraction, the appeal site would still need to be 'related directly to' it. This matter is in dispute. In that context, my attention has been drawn to the Council's informal Frequently Asked Questions (FAQ) document. The FAQ says that 'related directly' requires a functional and spatial association. It adds that attractions in the wider geographical area would not fulfil the definition. However, this document is not adopted policy and can be afforded very little weight.
  23. The glossary of the LP defines 'well related' as sites adjoining the main built-up form of a settlement. I have already concluded that the appeal site is not within or adjacent to the town. Although referring to housing proposals, this definition is useful, as the ordinary meaning of the word 'directly' is far more restrictive. It means something that is 'exactly in a particular position'. Whilst the policy does not explicitly say that the existing facility must be on the site itself, neither does it use broad terminology such as 'nearby' or 'close to'.
  24. In that respect, the appeal site has a notably severed visual and spatial relationship with the town. The particularly steep public footpath adds to the overall sense of separation. At my visit, I walked from the appeal site to the town centre, which took approximately 8 minutes at a fast pace. This would be much slower for those less able than myself. Walking from the town centre along the main road to the appeal site took approximately 10 minutes. This was not a particularly safe option. On this route, it was evident that the appeal site was very much part of the countryside, rather than having any close visual connection to the town. For the above reasons, the appeal site is not related directly to an existing tourism, visitor, or leisure attraction.
  25. Given this, the requirement in the policy for the development to be compatible in scale would not be applicable. Notwithstanding this, the evidence goes some way towards demonstrating a need for this type of tourist accommodation in the broad area. There is however little to show any direct correlation between the number of proposed units of accommodation meeting the needs of users of the Ruby Way. Moreover, I have been provided with very limited information surrounding the site-specific circumstances of other sites located along the National Route.

26. As mentioned above, the appellant does not consider that (b) or (c) of part 2 to Policy DM18 are relevant. It is agreed that (b) would not apply as the scheme would not reuse or convert existing buildings for accommodation. Even if (c) were to apply, the evidence, including the submitted Economic and Tourism Needs Assessment, demonstrates that the proposal would be of a high quality and would add to existing provision in the district. Whilst these benefits are acknowledged, the evidence does not convincingly show how the proposed scheme would diversify by adding something different for example. Neither does it demonstrate how it would improve the quality of the wide range of caravan and camping accommodation in the nearby villages and countryside, as described in the Holsworthy Town Study.
27. For the above reasons, the site is not a suitable location for the proposed development, having regard to the local tourism strategy. There would be conflict with policies ST01, ST07, ST13 and DM18 of the LP.

*Other considerations*

28. I have found that the development would conflict with the development plan in that it is contrary to the Council's tourism strategy.
29. However, Section 38(6) of the Planning and Compulsory Purchase Act 2004 says development should be in accordance with the development plan 'unless material considerations indicate otherwise', and this is reaffirmed in the National Planning Policy Framework (the Framework).
30. The aforementioned ROC bunker amounts to previously developed land, though forms only a very small part of what is largely a greenfield site. Therefore, any benefits in terms of making efficient use of land, as set out in the Framework would be extremely modest. Additionally, there was a former medieval windmill within this area, though this is said to have been demolished in the late 19<sup>th</sup> century. Its remains are not visible, and I have assessed the appeal in its present-day sense. I therefore attach very little weight to this matter.
31. My attention has been drawn to a scoping review of the LP. Within it there is some commentary on the desire for a more flexible approach within future tourism policy. Additionally, there is reference to the demand for glamping that is said to be popular in rural areas. The report identifies a need to monitor policies such as ST13, DM17 and DM18. Whilst this is a material consideration, I have been provided with very little evidence that these discussions have evolved beyond the embryonic stage of a review to the LP. I have therefore afforded it very little weight.
32. There would be benefits associated development. It would provide good value, year-round tourism accommodation close to a Main Centre and next to a cycle route. This would deliver notable economic benefits though consumer spending and jobs. In that respect, the letter of support from Hoseasons is acknowledged. However, any such benefits could conceivably be achieved from elsewhere.
33. There would be social benefits in terms of encouraging healthy lifestyles, promoting wellbeing and a cultural experience. It is however unlikely that the scale of development proposed would address any housing shortages through the use of second homes or AirBNB. Although car usage would not be avoided, there would be some environmental benefits in respect of biodiversity gains

and reducing carbon emissions; including through the siting of caravans as opposed to buildings.

34. Additionally, I have paid regard to the submitted Tourism Recovery Plan and support for a prosperous economy as set out in the Framework. In my assessment, the LP has an approach to sustainable tourism development in rural areas. Here, policies enable such development both within and outside settlements. Therefore, I do not think that the LP competes with national policy to the extent where it could be considered out of date or inconsistent with it. Neither would any of the aforementioned benefits be sufficient to justify a decision otherwise than in accordance with the development plan. To do so would undermine the overarching strategic tourism objectives of the LP.

### **Other Matters**

35. I have paid regard to the appellant's comments in respect of the planning history. This includes pre-application engagement with various groups and individuals. However, even though this is commendable and in accordance with the Framework, this has no bearing on my decision which is based on the planning merits of the proposal.

### **Conclusion**

36. Whilst there is no compelling evidence of conflict with Policy DM17 of the LP, this does not outweigh the harm to the conflict with other policies in the development plan. 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



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## Appeal Decisions

Site visit made on 13 May 2024

**by V Bond LLB (Hons) Solicitor (Non-Practising)**

**an Inspector appointed by the Secretary of State**

**Decision date 18 June 2024**

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**Appeal A Ref: APP/W1145/C/22/3303224**

**Appeal B Ref: APP/W1145/C/22/3303225**

**Land adjoining The Ship on Launch, Barnstaple Street, East-the-Water, Bideford EX39 4AE**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Stephanie Croft (Appeal A) and Philip Clamp (Appeal B) against an enforcement notice issued by Torrridge District Council.
- The enforcement notice was issued on 13 June 2022.
- The breach of planning control as alleged in the notice is the unauthorised construction of a wall shown in Appendix B.
- The requirements of the notice are (i) Remove the unauthorised wall from the land shown outlined in red in Appendix B (ii) Remove all resultant debris from the land.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(c), (f) and (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 as amended have lapsed.

**Summary Decision: The appeals are allowed and the enforcement notice is quashed.**

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### Preliminary Matters

1. I have taken the postcode above from the appeal form since none was stated on the enforcement notice.
2. The appellant's ground (c) case includes submissions representing a hidden ground (b) appeal i.e. that the 'construction of a wall' has not occurred as works undertaken represent an alteration to an existing wall. The Council has already dealt with the content of the hidden ground (b) submissions in its ground (c) case, and I deal with these grounds together given their overlap.
3. Late representations were received from a party who recently purchased 3 Vinegar Hill ('No 3'). These were accepted in the interests of natural justice since this party was not aware of the appeal such as to have been able to comply with the appeal timetable. The parties were given an opportunity for comment and the Council's comments have been taken into consideration.

### The appeals on ground (b) and (c)

4. The ground (b) appeal is that the matters alleged have not occurred and the ground (c) appeal is that those matters (if they occurred) do not constitute a

breach of planning control. The onus is on the appellant to make their case on the balance of probability.

5. There is no suggestion that the appeal development is immune from enforcement action by way of the elapsing of time, nor that it does not represent development requiring planning permission under s55 of the Town and Country Planning Act 1990 ('1990 Act'). I have no reason to take a different view on these matters on the evidence before me.
6. The appellant's case then is that the works undertaken do not represent a new wall, but rather an alteration to an existing boundary wall/means of enclosure and as such, represent permitted development ('PD') under Schedule 2, Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 ('Class A'). Class A states that '*The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure*' is PD subject to meeting with the limitations in paragraph A.1.
7. The Council assessed that the appeal development represents a new wall that does not meet with the paragraph A.1(b) height limitation which is that '*the height of any other gate, fence, wall or means of enclosure erected or constructed would exceed 2 metres above ground level*'. The appellant's position is that the works represent an alteration to an existing enclosing wall/means of enclosure that does not exceed its former height and so accords with the limitation in A.1(c) that '*the height of any gate, fence, wall or other means of enclosure maintained, improved or altered would, as a result of the development, exceed its former height...*<sup>1</sup>'.

#### History/detail of the appeal development

8. The appeal site includes an area of land forming the car park associated with the adjacent building known as 'The Ship on Launch'. To the front boundary of the car park is a low boundary wall and set-back metal gate. Alongside the boundary with Vinegar Hill is a higher boundary wall which adjoins the gable end wall of No 3. Across the rear boundary of the car park (from roughly north to south) is No 3's gable end wall, a section of walling which adjoins a historic barn structure, which then is attached to a staircase (with a gate across) before terminating at the Ship on Launch building.
9. There is a lengthy history between the appellants and the former owner of No 3 regarding works undertaken to No 3's gable end by its former owner, which resulted in civil litigation. Whilst the civil law outcome is not determinative of lawfulness in this appeal, this history informs the nature of the appeal development and so is summarised below.
10. Historically there was a row of cottages from Vinegar Hill down to Barnstaple Street. A number of these cottages were demolished, with the appeal site car park formed at some stage after this. No 3's gable end wall is then a party wall between the appeal site and No 3 and this wall previously was formed of a sloped section which formed the wall of an outhouse, along with a flat section which enclosed the yard area at No 3.

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<sup>1</sup> or '*the height referred to in paragraph A.1 (a) or (b) as the height appropriate to it if erected or constructed, whichever is the greater*'

11. Around 2002, an opening was created in the sloped section of No 3's gable end. Later, around 2016 (following incorporation of the yard into the house at No 3) part of the flat-topped section of the gable end wall was demolished to enable insertion of French doors. Following civil litigation, a Court Order was made against the former owner of No 3 for damages related to the cost of repair works to the party wall (from damage from the demolition and insertion of French doors).
12. The works attacked by the notice represent the appellants' attempt to repair the wall in accordance with the terms of the Court Order. The appellants opted to construct the appeal development rather than infill No 3's openings due to concerns of causing criminal damage to No 3's window/door frames.
13. Turning to the development which is attacked by the notice, this is essentially formed of block work constructed on top of a pre-existing buttress which forms part of the end gable wall to No 3. The new blockwork has been tied into the pre-existing stone walling on either side.

#### Whether maintenance/alteration/improvement

14. The relevant terms 'maintenance, improvement or alteration' are not defined in either the GPDO or the 1990 Act. The appellant references case law<sup>2</sup> setting out principles related to construing these terms including that: these terms should be given their ordinary meaning and interpreted in a common sense manner; that it is a matter of fact and degree whether works of maintenance in fact amount to reconstruction; and that, by way of example, removal and rebuilding of one wall of a cottage would amount to alteration/improvement, whereas demolishing and rebuilding all four walls would amount to reconstruction. I share the appellant's view that the principles laid down in these judgements are relevant irrespective of how dated these cases may be.
15. The Council submits that the appeal development is a new wall on the basis that, as it extends upwards it 'projects beyond the face of the existing boundary/party wall' and that there is a 50mm cavity between the two; the 'original wall' is still in situ behind the appeal development; a significant amount of new building materials was required; and the appeal development does not only infill openings which were the subject of the civil dispute.
16. In my assessment, the appeal development plainly does not represent reconstruction of the gable end wall in the sense of it having been demolished and rebuilt from ground level up. Rather, blockwork has been added to the pre-existing wall on top of the existing buttress. Whilst there is a cavity as explained, the new blockwork is nonetheless attached to the pre-existing wall across the full width of the buttress; it is not a free-standing new wall.
17. As to the quantity of materials used, the appeal development has not used a significantly greater quantity of building materials than would have been used to infill the openings created by the French doors and window. The quantity used does not in my view take the appeal development outside of what could be deemed an alteration as a matter of common sense.

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<sup>2</sup> *Evans v Secretary of State for Communities and Local Government* [2014] EWHC 4111 (Admin); *Street v Essex CC* (1965) 19 EG 537; *Sainty v Minister of Housing and Local Government* (1964) 15 P. & C.R. 432



18. Indeed, whilst not determinative, I note that works representing an 'alteration' of a dwellinghouse<sup>3</sup> under the GPDO include, for example, works which would represent an enlargement of the dwellinghouse, and also works such as cladding. Both of these certainly could involve use of significant quantities of building materials relative to the amount of materials used in a dwelling's construction.
19. I find then as a matter of fact and degree that the appeal development does not represent the rebuilding of the pre-existing wall or a new wall, but rather an alteration/improvement to the pre-existing wall.

#### Whether an enclosing wall/means of enclosure

20. The Council's reasons for issuing the notice outline that the appeal development is 'not considered to be permitted development as it is a new wall over 2 metres in height, nor is it a means of enclosure'. In its statement, the Council explains its position that 'a new wall has been erected on site which exceeds the size thresholds within the GPDO'. The Council's reason for differentiating a wall and means of enclosure within the notice is apparently because they are 'specifically separated within Class A'.
21. The Council has thus assessed the appeal development against the size restrictions in Class A applicable to an enclosing wall. As such, there appears to be no dispute that the appeal development falls to be assessed under Class A. However, given the unusual site context here, I have assessed below for completeness whether the appeal development properly falls to be assessed under Class A as an enclosing wall/other means of enclosure.
22. There is no definition of a 'wall' or 'means of enclosure' in the GPDO or within the 1990 Act. Case law sets out that for an object to fall under Class A, it must have 'some function of enclosure' (i.e. a wall that does not play a part in the enclosure of anything will not fall under Class A), and that it is possible for certain walls to have a 'hybrid' function<sup>4</sup>. A complete surrounding of the land is not necessary and it will be a matter of fact and degree whether any gaps mean that the development falls 'outside the essential character of surrounding and so outside enclosure'<sup>5</sup>.
23. The appellant cites the view of my colleague Inspector in an earlier appeal decision<sup>6</sup> that an object is not precluded from having the function of enclosure because it is only part of the means of enclosure. This approach is consistent with wording in *Prengate Properties* related to excluding from Class A a wall that 'neither encloses nor plays any part in the enclosure of anything' (my emphasis).
24. Turning then to the appeal development, this meets with the *Prengate Properties* threshold of having 'some function' of enclosure since it plays a part in visually, physically and functionally surrounding the appellants' car park, forming an almost continuous barrier in conjunction with other structures detailed above. Indeed, it is apparent that the structures which form this almost continuous boundary do not do so by happenstance. Rather, sections of

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<sup>3</sup> Per Schedule 2, Part 1, Class A of the GPDO

<sup>4</sup> *Prengate Properties Ltd v SSE* [1973] 25 P&CR 311 ('*Prengate Properties*')

<sup>5</sup> *Wycombe DC v SSE* [1995] J.P.L. 223

<sup>6</sup> APP/C/92/J0405/621082

walling have been constructed between various structures seemingly to deliberately provide a continuous boundary.

25. Whilst the Council assessed the appeal development as against Class A size restrictions on the basis that it is an enclosing wall, as the original gable end wall in question formed part of the No. 3 dwelling house, it seems to fall to be assessed as an 'other means of enclosure' subject to the 'ejusdem generis' rule. This means that to be a 'means of enclosure', it must be similar to a gate, fence or wall<sup>7</sup>.
26. The clear difference as compared to a freestanding enclosing wall, fence or gate is that the gable end wall forms part of the structure of No 3's dwellinghouse which encloses an internal volume. Clearly, a structure which encloses internal space (such as a dwelling) cannot be a means of enclosure of itself; the internal space which is enclosed does not represent enclosure of land for the purposes of Class A. However, in my view, a structure which encloses a volume can potentially form part of a means of enclosure in combination with other structures.
27. In this case, the pre-existing gable end wall of No 3 was very similar in materials, construction and height to the adjoining boundary wall which runs alongside Vinegar Hill. Indeed, prior to the former owners of No 3 incorporating its external yard area into the house, a section of the gable end party wall functioned as an enclosing wall to No 3's yard. In combination with the other structures present, it visually and physically forms part of an almost continuous and seemingly deliberate barrier around the car park creating a character of enclosure. Taking the above matters together, the gable end wall is sufficiently similar to a freestanding enclosing wall as to represent an 'other means of enclosure' under Class A.

#### Whether exceeds former height

28. The appellant accepts that if the appeal development were considered a new enclosing wall, it would exceed the 2m height limit in Class A. However, as outlined above, Class A permits an alteration/improvement to a means of enclosure provided that the new height would not '*as a result of the development, exceed its former height*'. I have found that the appeal development represents an alteration/improvement and not a new wall.
29. In this regard, the appellant has produced photographic evidence which shows that, prior to the demolition and insertion of French doors by the former owner of No 3, the height of the flat section of the original wall continued at the same height as the adjoining section of wall running alongside Vinegar Hill. The Council does not appear to dispute that this represents the former height (if I found that the appeal development represented an alteration/improvement rather than a new wall). The appellant's evidence is sufficiently precise on this point and so, on the available evidence, I find that the altered/improved means of enclosure does not exceed its former height.
30. Drawing these matters together, the appeal development falls within Class A as an alteration/improvement to a means of enclosure which does not exceed its former height. It is accordingly granted deemed planning permission by Class A and is lawful. The appeals on ground (b) and (c) succeed.

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<sup>7</sup> *Ewen Developments Ltd v SSE and North Norfolk DC* [1980] JPL 404

### **Conclusion**

31. For the reasons given above, I conclude that the appeals should succeed on grounds (b) and (c). The enforcement notice will be quashed. In these circumstances, the appeals on grounds (f) and (g) do not fall to be considered.

### **Formal Decision**

32. The appeals are allowed and the enforcement notice is quashed.

*V Bond*  
INSPECTOR



### Costs Decision

Site visit made on 21 May 2024

**by J Hills MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12 June 2024**

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#### **Costs application in relation to Appeal Ref: APP/W1145/W/24/3337646 Land at Dowland, northwest of Bradworthy, Devon EX22 7QX**

- 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 C Bond for a full award of costs against Torridge District Council.
  - The appeal was against the refusal of an application for planning permission for enlargement and conversion of agricultural to a holiday let unit.
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#### **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 states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. An example of this includes preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The applicant considers that the Council behaved unreasonably and inconsistently by refusing the application despite providing positive pre-application advice. Some examples of other costs and appeal decisions are submitted by both parties that pull in different directions. However, within the applicant's examples, it is noted that the proposals were allowed or partially allowed, which is not the case with this appeal. Moreover, the detailed circumstances surround costs applications are case specific. I have determined this application on the evidence before me.
5. The Council's pre-application advice included a review of the proposed extension and highlighted that it was not considered to be so significant to the extent that it could not be supported. However, this advice was largely based on the stated compliance with the residential extensions Policy DM25 of the North Devon and Torridge Local Plan 2011-2031 (LP). Whilst the weight attributed to development plan policies is a matter of planning judgement, the principle of development section of the advice letter could have included a more rounded assessment of the proposed conversion and extension, including Policy DM27 of the LP.

6. As such, the applicant was led to believe that the nature and extent of the extension proposed was policy compliant. The applicant was therefore misled somewhat by the advice provided.
7. Nevertheless, the pre-application letter states clearly that the advice is not a formal decision by the Council, with views or opinions given in good faith, without prejudice to the formal consideration of a planning application. It adds that the final decision on any application can only be taken after the Council has consulted local people, statutory consultees, and any other interested parties. Additionally, it says that this advice will be carefully considered in reaching a decision or recommendation on any resulting applications; subject to the proviso that the circumstances and information may change or come to light that could alter the position.
8. In that context, it is not clear from the evidence that a full set of plans was provided or that the Officer visited the appeal site as part of the pre-application assessment. Furthermore, the Parish Council raised concerns during the determination of the application.
9. It is understood how the Council's actions may be frustrating for the applicant. However, the full considerations and various consultations within the planning application process would have evidently been known about. I have agreed with the Council that the proposal conflicts with the development plan. Therefore, it did not prevent development that should clearly be permitted, and the appeal could not have been avoided. Consequently, I find no unreasonable behaviour or any wasted expense in the appeal process.

*J Hills*

INSPECTOR

# Agenda Item 10

<b>AGMB DECISIONS 28.05.2024 – 02.07.2024</b>
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Application Number	Address/Proposal	Decision
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## Permitted

1/0262/2024/ AGMB	Ryan Steppel	Prior notification for the change of use of an agricultural building to 1no. dwellinghouse and associated building operations under Class Q (Barn 3) - Agricultural Building At Eastacombe Farm, Hollacombe, Holsworthy.	C Andrews, A Martin & C Skinner	<b>PER</b> 21.06.2024
1/0270/2024/ AGMB	Ryan Steppel	Prior notification for the change of use of an agricultural building to 2 no. dwellinghouses and associated building operations under Class Q (Barn 5) - Agricultural Building At Grid Reference 237843 103582, Hollacombe, Devon.	C Andrews, A Martin & C Skinner	<b>PER</b> 13.06.2024
1/0270/2024/ AGMB	Ryan Steppel	Prior notification for the change of use of an agricultural building to 2 no. dwellinghouses and associated building operations under Class Q (Barn 5) - Agricultural Building At Grid Reference 237843 103582, Hollacombe, Devon.	C Andrews, A Martin & C Skinner	<b>PER</b> 13.06.2024
1/0389/2024/ AGMB	Mary- Ellen Whalley	Prior notification for the change of use of agricultural building to 1no. dwellinghouse and associated building operations under Class Q - Building At Grid Reference 242414 098712, Halwill, Devon.	Ms H Chapman	<b>PER</b> 12.06.2024

## Torrige District Council

### Planning Decisions

**Between 25/05/2024 and 02/07/2024**

#### List of Applications

<b>Application No:</b>	<b>Officer</b>	<b>Proposal and Address</b>	<b>Applicant</b>	<b>Decision/Date</b>
<b>Permitted</b>				
1/1237/2022/ FUL	Debbie Fuller	Erection of one dwelling (amended description and red edge) - Land To The Rear Of 70 New Street, Town Park, Torrington.	Mr & Mrs S Roach	<b>PER</b> 29.05.2024
1/1051/2023/ FUL	Ryan Steppel	Retrospective retention and conversion of animal shelter into facilities for dog boarding kennels - Land At Dyers Moor Farm, Parkham, Bideford.	Mrs Amy Neil	<b>PER</b> 27.06.2024
1/0099/2024/ FUL	James Clements	Proposed business expansion through the siting of two glamping units (amended proposal). - Land At Grid Reference 229737 099122, Pyworthy, Devon.	Mr and Mrs Smith	<b>PER</b> 27.06.2024
1/0117/2024/ FUL	James Clements	Siting of mobile home for temporary rural workers dwelling and associated works - Trigon Farm, Derriton, Holsworthy.	Mr Aurel Nastase	<b>PER</b> 11.06.2024
1/0132/2024/ FUL	Mrs Nicola McGill	Retrospective application for conversion of stables to 1no. dwelling - Dux Barn Annexe 2, Derril, Pyworthy.	Mr and Mrs Nosworthy	<b>PER</b> 14.06.2024
1/0150/2024/ FUL	Kristian Evely	Erection of an outbuilding housing a swimming pool (Affecting a Public Right of Way) - Stafford Barton, Dolton, Winkleigh.	Mr and Mrs Doran	<b>PER</b> 28.06.2024
1/0151/2024/ LBC	Kristian Evely	Erection of an outbuilding housing a swimming pool - Stafford Barton, Dolton, Winkleigh.	Mr and Mrs Doran	<b>PER</b> 28.06.2024
1/0164/2024/ FUL	Miss Jess Wellington	Provision for new parking and turning area and enlarged opening to front wall (Resubmission of 1/1054/2023/FUL) - 35 Abbotsham Road, Bideford, Devon.	Mr William Lloyd	<b>PER</b> 07.06.2024

1/0222/2024/ FUL	James Clement s	Erection of 12no. industrial units (Use Classes E and B8) and provision of 10 storage units (Amended description) - Land At Valhalla Business Park, Dobles Lane, Holsworthy.	J & L Gardener	<b>PER</b> 30.05.2024
1/0262/2024/ AGMB	Ryan Steppel	Prior notification for the change of use of an agricultural building to 1no. dwellinghouse and associated building operations under Class Q (Barn 3) - Agricultural Building At Eastacombe Farm, Hollacombe, Holsworthy.	C Andrews, A Martin & C Skinner	<b>PER</b> 21.06.2024
1/0266/2024/ FUL	Miss Jess Wellington	Erection of general purpose agricultural building - Land At Grid Reference 232377 104317, Holsworthy, Devon.	Mr Sean Jones	<b>PER</b> 12.06.2024
1/0270/2024/ AGMB	Ryan Steppel	Prior notification for the change of use of an agricultural building to 2 no. dwellinghouses and associated building operations under Class Q (Barn 5) - Agricultural Building At Grid Reference 237843 103582, Hollacombe, Devon.	C Andrews, A Martin & C Skinner	<b>PER</b> 13.06.2024
1/0275/2024/ FUL	Mrs Nicola McGill	Removal of holiday let restriction on Orchard Cottage to allow unrestricted residential use and the addition of holiday let restriction on Stable Cottage - Orchard Cottage, Cheristow Farmhouse, Hartland.	Mr Quentin Craven	<b>PER</b> 04.06.2024
1/0297/2024/ FUL	Miss Beth Hobbs	Change of use of ground floor from business (Class E) use to residential use (Class C3) - 1A Castle Street, Torrington, Devon.	Mrs Christine Keeley	<b>PER</b> 29.05.2024
1/0301/2024/ FUL	Laura Davies	Single storey extension - Pinelands, Highampton, Beaworthy.	Mr Simon Burke	<b>PER</b> 29.05.2024
1/0304/2024/ FUL	Mrs Nicola McGill	Retrospective application for the demolition of structure and erection of replacement outbuilding - The Firs, Chapmans Well, Launceston.	Mr And Mrs Pearson	<b>PER</b> 13.06.2024
1/0308/2024/ FUL	Miss Jess Wellington	Single storey side extension and extension to the curtilage of the dwelling (Amended description) - Penbryn, Clawton, Holsworthy.	Mr & Mrs N & R Buckner	<b>PER</b> 04.06.2024
1/0314/2024/ FUL	Miss Beth Hobbs	Extension of garage with a first floor extension & associated works - Glenside , 5 Glenburnie Road, Bideford.	Mr & Ms S Cooper	<b>PER</b> 31.05.2024



1/0316/2024/ FUL	Miss Beth Hobbs	Proposed single storey extension. - Stars Barn Cottage , Chulmleigh Road, Winkleigh.	Neil Francis	<b>PER</b> 19.06.2024
1/0318/2024/ FUL	Miss Jess Wellington	Erection of single storey rear and front extensions and additional on site parking - 10 Stanbury Close, St Giles On The Heath, Launceston.	Mr & Mrs Fry	<b>PER</b> 19.06.2024
1/0319/2024/ FUL	Mrs Nicola McGill	Removal of existing kitchen and replacement with single storey kitchen, and new entrance porch - Lower Buttermoor, Milton Damerel, Holsworthy.	Mrs Sally Nicholls	<b>PER</b> 31.05.2024
1/0320/2024/ FUL	Mary- Ellen Whalley	Erection of a side and rear extension - The Heights, Petrockstowe, Okehampton.	Mr & Mrs W Parry	<b>PER</b> 31.05.2024
1/0323/2024/ FUL	Kristian Evely	Change of use & conversion of primary school into 2no. dwellings - Sutcombe Primary School, Sutcombe, Holsworthy.	Mr David Haywood	<b>PER</b> 13.06.2024
1/0327/2024/ FUL	Miss Jess Wellington	Retrospective application for the erection of a summer house - Higher Court, Welcombe, Bideford.	Mr B Huxtable	<b>PER</b> 29.05.2024
1/0329/2024/ FUL	Miss Beth Hobbs	Construction of garden room - 5 Lenwood Park, Bideford, Devon.	Mr And Mrs Wayne Richards	<b>PER</b> 04.06.2024
1/0332/2024/ LBC	Sarah Chappel I	Siting of aluminium composite artwork panel to the south gable end - Country Cottage Bakery, 22 Mill Street, Bideford.	Mr Graham Blight	<b>PER</b> 07.06.2024
1/0333/2024/ CPL	Debbie Fuller	Certificate of proposed lawful use for rear extension in relation to 1/0668/2023/FUL - 21 Clevelands Park, Northam, Bideford.	Mr & Mrs Packard	<b>PER</b> 05.06.2024
1/0338/2024/ FUL	Miss Beth Hobbs	Single storey extension to side/rear - Medlars, Beaford, Winkleigh.	Mr and Mrs Saunders Hill	<b>PER</b> 04.06.2024
1/0339/2024/ ADV	Mr Peter Stapley	Siting of aluminium composite artwork panel to the south gable end - Country Cottage Bakery, 22 Mill Street, Bideford.	Graham Blight	<b>PER</b> 07.06.2024
1/0341/2024/ FUL	Mr Peter Stapley	Part retrospective application for amendment to application 1/0781/2020/FUL and erection of a car port - The Round House, Annery, Monkleigh.	Messers Holmes, Winterbach, Patel	<b>PER</b> 04.06.2024

1/0347/2024/ FUL	Mary- Ellen Whalley	Replacement of all windows and doors, and retrospective permission for juliet balcony (Resubmission of 1/0025/2023/FUL) - Driftwood, Myrtle Street, Appledore.	Mrs Lynn Woolley	<b>PER</b> 01.07.2024
1/0343/2024/ FUL	Debbie Fuller	Roof over existing livestock feed yard - Battledown Farm, Shebbear, Beaworthy.	Mr R Dymond	<b>PER</b> 05.06.2024
1/0344/2024/ FUL	Mrs Nicola McGill	Replacement roof - The Granary, Parkham, Bideford.	Mr John Savage	<b>PER</b> 17.06.2024
1/0346/2024/ FUH	Mary- Ellen Whalley	Erection of sun room and creation of new first floor window opening - Alscott Farm, Alverdiscott, Barnstaple.	Mrs Amanda Ridd	<b>PER</b> 04.06.2024
1/0348/2024/ FUL	Miss Jess Wellington	Erection of summer house - 32 Oaklands, Bideford, Devon.	Mr Martin Turner	<b>PER</b> 11.06.2024
1/0349/2024/ FUL	Miss Beth Hobbs	Retrospective application for the installation of a sliding door with vertical timber cladding - 1 Searle Terrace, Churchill Way, Northam.	Mr Josh Skeet	<b>PER</b> 06.06.2024
1/0354/2024/ AGR	Debbie Fuller	Erection of agricultural storage building - Land At Kingsley Mill Farm, Black Torrington, Devon.	Ms Pauline Hill	<b>PER</b> 10.06.2024
1/0358/2024/ FUL	Miss Beth Hobbs	Demolition of porch and erection of extension, rear raised terrace, front balcony and alterations - 11 Riversmeet, Appledore, Bideford.	Mrs Crewdson	<b>PER</b> 07.06.2024
1/0360/2024/ FUL	Debbie Fuller	Extension to existing dwelling - 3 Tenement Park, Buckland Brewer, Bideford.	Mr & Mrs Bridge	<b>PER</b> 10.06.2024
1/0361/2024/ FUL	Miss Beth Hobbs	Part retrospective application for construction of domestic garage and associated landscape works including retaining walls - Mathorn, 4 Jackets Lane, Northam.	Mr Raymond Smith	<b>PER</b> 10.06.2024
1/0367/2024/ FUL	Mary- Ellen Whalley	Detached garage with first floor loft/home office above - 1 Pitt Avenue, Appledore, Bideford.	Mr Terry Bowden	<b>PER</b> 19.06.2024

1/0378/2024/ FUL	Miss Jess Wellington	Change of use of land from agricultural to residential including removal of existing garage and replacement with new dual pitch garage, new field gate and entrance to adjacent field - Higher Waytown Farm, Horns Cross, Bideford.	Mr J Richards	<b>PER</b> 14.06.2024
1/0379/2024/ TRE	Debbie Fuller	Lateral reduction of up to one metre on 4no. lime trees covered by TPO/0006/2010 (amended description) - Street Record, Hewetson Way, Bideford.	Rogers	<b>PER</b> 06.06.2024
1/0382/2024/ AGMB	Mrs Nicola McGill	Prior notification for the change of use of agricultural building to 1 no. dwellinghouse and associated building operations under Class Q - Agricultural Building At Grid Reference 240245 090869, Broadwoodwidge, Devon.	Mr Paul Breyley	<b>PER</b> 19.06.2024
1/0387/2024/ FUL	Mr Peter Stapley	Erection of extension and alterations to create first floor and detached garage (Variation of condition 2 of planning approval 1/0012/2023/FUL) - 5 Fairway, Appledore, Bideford.	Mr Heard & Ms Hallett	<b>PER</b> 17.06.2024
1/0389/2024/ AGMB	Mary- Ellen Whalley	Prior notification for the change of use of agricultural building to 1no. dwellinghouse and associated building operations under Class Q - Building At Grid Reference 242414 098712, Halwill, Devon.	Ms H Chapman	<b>PER</b> 12.06.2024
1/0390/2024/ FUL	Mrs Nicola McGill	Roof over existing yard - Trentworthy Farm, Bradworthy, Holsworthy.	Mr A Melville	<b>PER</b> 24.06.2024
1/0392/2024/ FUL	Mary- Ellen Whalley	Proposed extensions to dwelling - 6 St Andrews Close, Yarnscombe, Barnstaple.	Miss Roach	<b>PER</b> 12.06.2024
1/0396/2024/ FUL	Mrs Nicola McGill	Retrospective erection of three antenna masts and wooden equipment shed on agricultural land for purposes of amateur radio - Land At Northwood, Marhamchurch, Bude.	Mr Duncan Fisken	<b>PER</b> 28.06.2024
1/0022/2024/ NMAT	Kristian Evely	Non-material amendment to planning approval 1/0004/2021/REMM (Finish floor Levels ) - Land At Grid Reference 244140 128473, Northam, Devon.		<b>PER</b> 24.06.2024

1/0401/2024/ FUL	Miss Beth Hobbs	Extensions and Alterations to existing dwelling - Sunnyside, Halwill Junction, Beaworthy.	Mr and Mrs Prickett Treacy	<b>PER</b> 19.06.2024
1/0402/2024/ FUL	James Clements	Demolition of agricultural building and erection of 1 dwellinghouse with associated works in lieu of Class Q permission (1/1160/2023/AGMB) pursuant to application 1/0732/2023/FUL - Agricultural Building At Grid Reference 240381 112278, Newton St Petrock, Devon.	Mr & Mrs Neyton	<b>PER</b> 27.06.2024
1/0406/2024/ FUL	Kristian Evely	External and internal works to existing buildings (known as Beech and Chestnut) to refurbish 3no. assisted accommodation flats and staff areas, including alterations to fenestration. - National Autistic Society, Chestnut, Kingsley House.	Ms Laura Holt	<b>PER</b> 25.06.2024
1/0409/2024/ FUL	Mary- Ellen Whalley	Renovation of existing building including change of use of first and second floor areas into 3 residential flats with ancillary storage on part of ground floor (Variation of Condition 2 of planning permission 1/0990/2020/FUL) (Plans Schedule) - 5 Grenville Street, Bideford, Devon.	Mr Philip Milton	<b>PER</b> 01.07.2024
1/0410/2024/ FUL	Miss Jess Wellington	Replacement conservatory & porch with single storey extensions, internal refurbishment works & associated external/landscaping works - Springfield, Welcombe, Bideford.	Mr & Mrs Chris Hogg	<b>PER</b> 19.06.2024
1/0412/2024/ FUL	Mr Peter Stapley	Proposed replacement dwelling following permission 1/0431/2021/FUL (Variation of conditions 2 & 7 of planning approval 1/0148/2022/FUL) - Middle Gribble Cottage, Little Torrington, Torrington.	Mr Belgrave	<b>PER</b> 24.06.2024
1/0413/2024/ TCA	Miss Beth Hobbs	Works to trees within a Conservation Area - Crown reduction of 6m to 1no. ash tree - Church Lane House , Church Walk, Torrington.	Mrs C Simmons	<b>PER</b> 06.06.2024
1/0420/2024/ FUL	Mr Peter Stapley	Demolition of existing garage, erection of two new garages, a driveway and external cladding - Graffiti Print Ltd, The Old Reservoir, Buckland Road.	Mr Simon Deighton	<b>PER</b> 28.06.2024

1/0025/2024/ NMAT	Miss Beth Hobbs	Non-material amendment to planning approval 1/0682/2023/FUL- Cladding and fenestration - 10 Ridgeway Court, Westward Ho!, Bideford.	Mr Stephen Mcilveen	<b>PER</b> 03.06.2024
1/0440/2024/ CPE	James Clements	Certificate of existing lawful development to confirm commencement of Planning Approval 1/0728/2021/FUL - Barn At Grid Reference 240692 106075, Cookbury, Devon.	Mr Martin King	<b>PER</b> 14.06.2024
1/0442/2024/ FUL	Kristian Evely	External and internal works to existing buildings (known as Orchard House) to refurbish 4no. assisted accommodation flats and staff areas, including alterations to fenestration. - Orchard House, Alverdiscott Road, East The Water.	Ms Laura Holt	<b>PER</b> 01.07.2024
1/0470/2024/ AGR	Kristian Evely	A steel framed farm building for purposes of storing farm machinery, equipment, and fodder for an existing and expanding livestock enterprise. - Land At Grid Reference 241917 097033, Halwill, Devon.	Mr Jack Simpson	<b>PER</b> 29.05.2024
1/0026/2024/ NMAT	Miss Beth Hobbs	Non-material amendment to planning approval 1/0880/2022/REMM - Amendments to Arlington house types - Land At Grid Reference 244502 100146, Halwill Junction, Devon.	Jozie Bannister	<b>PER</b> 19.06.2024
1/0027/2024/ NMAT	Mary- Ellen Whalley	Non-material amendment to planning approval 1/0056/2023/FUL - (Cladding removed) - Building At Grid Reference 258210 115450, Roborough, Devon.	Mr Michael Underhill	<b>PER</b> 03.06.2024
1/0028/2024/ NMAT	Kristian Evely	Non-material amendment to planning approval 1/1246/2022/FUL (Amendment to site plan) - Land At Grid Reference 242605 128099, Westward Ho!, Devon.	Simon Lacey	<b>PER</b> 24.06.2024
1/0029/2024/ NMAT	Laura Davies	Non-material amendment to planning approval 1/0807/2022/REMM (Enclosure details, planting details and elevational details) - Land At Grid Reference 234599 104589, Holsworthy, Devon.	Paul BrittLovell Partnership	<b>PER</b> 28.06.2024

1/0509/2024/ TRE	Mary- Ellen Whalley	Crown reduction and lift to 1no. Beech tree and 2no. Oak trees covered by TPO/0065/2015 - 47 Lenwood Country Club, Lenwood Road, Northam.	Mr Keith Lewes	<b>PER</b> 24.06.2024
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1/0535/2024/ AGR	Miss Jess Wellington	Creation of hardcore track - Renson Farm, Ashwater, Beaworthy.	Mr Stephen Furse	<b>PER</b> 28.06.2024
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**Refused**

1/0125/2015/ OUTM	Laura Davies	Outline application with all matters reserved for 33 dwelling with associated landscaping and play space - West Country Concrete Products, Endford Works, Shebbear.	Mr K Rumsam & Mrs F.L.M Rumsam	<b>REF</b> 14.06.2024
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1/0894/2023/ FUL	James Clements	Retrospective application for the siting of two mobile homes as 1no. temporary agricultural workers' dwelling with decking. Installation of 3no. storage containers, roof mounted solar panels, ground mounted solar array and associated works - Moor View Farm, Rydon Lane, Holsworthy.	Mrs L Martin	<b>REF</b> 10.06.2024
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1/0940/2023/ FUL	Mr Peter Stapley	Retrospective application for widening of driveway access, removal of hedge scrub to replace with a garden wall and creation of passing area. - River View, Bidna Lane, Northam.	Mr Ashley Clements	<b>REF</b> 07.06.2024
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1/1138/2023/ FUL	Mrs Nicola McGill	Demolition of existing farmhouse and proposed replacement dwelling - Land At West Yeomadon Farm, Pyworthy, Holsworthy.	Mr & Mrs Parsons	<b>REF</b> 31.05.2024
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1/0188/2024/ FUL	Mrs Nicola McGill	Retrospective application for the change of use of land from agriculture to equine, new access, horse shelter, caravan used as hay store, caravan used for daytime resting, water treatment plant, fencing, landscaping, sheds and solar panels - Land At Grid Reference 238843 108142, Woodacott Cross, Devon.	Tracy Thompson	<b>REF</b> 29.05.2024
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1/0256/2024/ FUL	Mr Peter Stapley	Siting of a temporary supervisory mobile home - Fishing Ponds At Grid Reference 245539 100725, Halwill Junction, Devon.	Mr Joe Drury	<b>REF</b> 13.06.2024
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1/0261/2024/  
FUL

Ryan  
Steppel

Erection of 1no. dwelling - 7  
Glebelands, Holsworthy, Devon.

Mr Trenouth &  
Mrs Hopgood

**REF**  
14.06.2024