

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



Tel : Bideford (01237) 428700

Date: 8 January 2025
Quorum: 6

MEETING OF PLANS COMMITTEE

Town Hall - Bridge Street, Bideford, EX39 2HS

Thursday 16 January 2025 at 9.30 am

NOTICE OF MEETING

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

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

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

AGENDA

1.	Apologies For Absence
	To receive apologies of absence from the meeting.
2.	Minutes (Pages 5 - 11)
	To receive the Minutes from the meeting held on 5.12.2024.
3.	Declaration of Interest

	<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.	Agreement of Agenda between Parts I and II
	That the Agenda as circulated be agreed.
5.	Urgent Matters
	Information to be brought forward with the permission of the Chair.
6.	Public Participation
	The Chair to advise the Committee of any prior requests to speak made by members of the public and to advise of the details of the Council's public participation scheme.
7.	Planning Applications
	The information, recommendations and advice contained in the reports are correct as at the date of preparation which is more than ten days in advance of the Committee meeting. Due to these time constraints any changes or necessary updates to the reports will be provided in writing or orally at the Committee meeting.
(a)	Application No. 1/0978/2024/FUL (Pages 12 - 21)
	Installation of two changing room facilities and re-location of existing shed - Bideford Victoria Park Bowling Club, Park Lane, Bideford, Devon, EX39 2QL.
(b)	Application No. 1/0976/2024/FUL (Pages 22 - 39)
	Retrospective creation of vehicular access, including installation of gates, wall, fence, and hedgebank; the partial removal of the unauthorised boundary wall and fencing; closing of the existing vehicular access; and associated works, including landscaping (Affecting a public right of way) - River View, Bidna Lane, Northam, Bideford, Devon, EX39 1NU.
(c)	Application No. 1/0917/2024/TDC (Pages 40 - 57)
	Application for approval of technical details for conversion of existing barn to 1no. dwelling and associated works following grant of permission in principle 1/0109/2022/PIP - Barns At Southcott, Frithelstock, Devon.
8.	Appeal Decisions Summary (Pages 58 - 75)

	<p>Appeal Decision Summary and Reports of Planning Inspectorate.</p> <p>Summary</p> <p>Appeal Decision - Application No.1/0729/2023/FULM. Appeal Decision - Application No.1/1272/2023/FUL. Appeal Decision - Legal Reference No. ENS/002/2024.</p>
9.	Costs on Appeals (Pages 76 - 78)
	There is 1 cost of appeal.
10.	Delegated Decisions - AGMB Applications (Pages 79 - 80)
	The Committee noted the Delegated Decisions for the period 22.11. 2024 – 08.01.2025.
11.	Planning Decisions (Pages 81 - 91)
	List of Delegated Planning Decisions, Consultee Abbreviations and Application Types enclosed 22.11.2024 to 08.01.2025.
12.	Exclusion of Public
	<p>The Chair to move:-</p> <p>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.</p>
13.	Part II - Closed Session
	There are no Part II items.
<p>The background papers are considered to comprise the following documents:</p> <ul style="list-style-type: none"> - 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. <p>All background papers referred to are available for examination during normal office hours.</p>	

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: Democratic Services

For those wishing to speak at Plans Committee please contact:

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

TORRIDGE DISTRICT COUNCIL

PLANS COMMITTEE MEETING

Town Hall - Bridge Street, Bideford, EX39 2HS

Thursday, 5 December 2024 - 9.30 am

- PRESENT**
- Councillor R Lock (Chair)
Councillor C Leather (Vice-Chair)
- Councillors P Hames, D Bushby, K Hepple, P Pennington,
D Smith, C Wheatley and J Whittaker
- ALSO PRESENT**
- | | |
|------------|---|
| S Dorey | - Head of Legal & Governance (Monitoring Officer) |
| H Smith | - Planning Manager |
| T Vanstone | - Senior Electoral & Democratic Services Officer |
| K Hewlett | - Electoral and Democratic Services Officer |
| L Glover | - Corporate Support Officer |
| A Massos | - Principal Planning Officer |
| S May | - Corporate Support Officer |
| P Stapley | - Principal Planning Officer |
| D Fuller | - Planning Officer |
| M Munro | - Planning Support Assistant |
| J Simpson | - Planning Support Assistant |

3 members of the public.

35. APOLOGIES FOR ABSENCE

No apologies for absence were received.

36. MINUTES

After a brief discussion it was proposed by Councillor Leather, seconded by Councillor Pennington and –

Resolved:

The Minutes of the meeting held on Thursday 3rd October were agreed and signed as a correct record.

Councillor	For	Against	Abstain
Cllr D Bushby	X		
Cllr K Hames			X

Cllr K Hepple	X		
Cllr C Leather	X		
Cllr R Lock	X		
Cllr D Smith	X		
Cllr P Pennington	X		
Cllr C Wheatley	X		
Cllr J Whittaker	X		

(Vote: For – 8, Against – 0, Abstentions - 1)

37. 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.

38. AGREEMENT OF AGENDA BETWEEN PARTS I AND II

That the Agenda as circulated be agreed.

39. URGENT MATTERS

There were no urgent matters.

40. PUBLIC PARTICIPATION

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

41. PLANNING APPLICATIONS

(a) Application No. 1/0774/2024/FUL

Proposed start hill hut - Bideford BMX Club, Bideford BMX Clubhouse, Avon Road.

Interests: None

Officer recommendation: Grant

Members advised that this application had been referred to Plans Committee as Torridge District Council own the land.

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

Councillor C Bushby moved the recommendation.

Councillor J Whittaker seconded the recommendation and congratulated Bideford BMX Club for overcoming the hurdles the club has faced.

In response to a query, the Principal Planning Officer noted that solar panelling is not a consideration for this type of build.

It was proposed by Councillor D Bushby, seconded by Councillor J Whittaker that the application be approved.

A recorded vote was taken.

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

(Vote: For – Unanimous)

RESOLVED:

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

(b) Application No.1/0972/2023/OUT

The following Councillors attended the virtual site visit:

Councillors: P Pennington, R Lock, D Bushby, D Smith, J Whittaker, P Hames, C Leather.

The recording was forwarded to Councillor K Hepple as they were unable to attend the virtual site visit.

Application No.1/0972/2023/OUT - Outline application for 1no. dwelling with all matters reserved (Affecting a Public Right of Way) - Land At Grid Reference 244709 127666, Raleigh Hill, Bideford.

Interests: Councillors P Hames and J Whittaker declared personal interests – dual hatted – Northam Town Council.

Officer recommendation: Refuse

The Planning Officer presented the report and informed members of the main planning considerations and the reasons for the recommendation of refusal.

This application was referred to Plans Committee by Councillor C Leather to consider all the issues and planning policies concerning this location.

Members detailed the below points –

- NOR09 Scheme
- Concerns over drainage and flooding
- Usage of the road and fast traffic
- Removal of trees
- Ecology report

A number of Members expressed dissatisfaction with the Devon County Council Highways Report. Specific mention was made regarding the perceived inaccuracy of the plot measured.

The following concerns were raised regarding highways and road suitability:

- Use as a diversion during main road closures.
- Location of traffic flow measurements.
- Cyclists and Pedestrians
- Road surface and drainage problems, heightened in poor weather conditions.

The Planning Manager advised that as the Committee had the ability to amend reasons for refusal, the Planning Officer agreed to create a draft which will be shared with the Chair and Vice-Chair for decision. Members asked for the blind corner, bend in the road, road surface, narrow lane, cyclists, and pedestrian usage to be detailed in the amendment.

It was proposed by Councillor C Leather, seconded by Councillor J Whittaker that the recommendation for refusal be granted with the amendment to the reasons for refusal.

A recorded vote was taken.

Councillor	For	Against	Abstain
Cllr D Bushby	X		

Cllr K Hames	X		
Cllr K Hepple	X		
Cllr C Leather	X		
Cllr R Lock	X		
Cllr P Pennington	X		
Cllr D Smith	X		
Cllr C Wheatley	X		
Cllr J Whittaker	X		

(Vote: For – Unanimous)

RESOLVED:

That the application be refused for the reasons stated in the report with the agreed additional reason for refusal – highways.

Darren Haime addressed the Committee in support of the application.

(c) Application No.1/0603/2024/FUL

The following Councillors has attended the virtual site visit:

Councillors: P Pennington, R Lock, D Bushby, D Smith, J Whittaker, P Hames, C Leather.

The recording was forwarded to Councillor K Hepple as they were unable to attend the virtual site visit.

Application No.1/0603/2024/FUL - Demolition of existing dwelling and erection of replacement dwelling, with associated engineering works - Croeso, 2 Green Lane, Appledore.

Interests: Councillor P Hames declared personal interest – dual hatted – Northam Town Council.

Officer recommendation: Grant

The application had been referred to Plans Committee by Councillor Hames for the following reason:

- For the Plans Committee to consider whether the proposed dwelling complies with the design policies e.g. DM04 and NPPF 130.

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

The Principal Planning Officer advised members on the following updates:

- The call in was in relation to the original scheme, which has since been amended. Councillor P Hames wished to withdraw this application as an item for consideration, however the agenda had been published.
- Since the publishing of the agenda, Northam Town Council had a re-consultation and their recommendation is to grant the application.

Rebecca Fearnley, member of the public did not comment stating that “the Officer report covers” the matters and she had nothing further to add.

A brief discussion took place which noted the below points:

- Clarification on prefabricated buildings
- Off-road parking
- Amended height of the building

Members stated that this application would enhance the street scene.

Members also noted the importance of taking Northam Town Councils recommendation into consideration.

It was proposed by Councillor D Bushby, seconded by Councillor K Hepple that the application be approved.

A recorded vote was taken.

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

(Vote: For – Unanimous)

RESOLVED:

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

Rebecca Fearnley, member of the public, registered to speak in support of the application however did not comment.

Councillor D Bushby left the meeting at 10:17am.

42. APPEAL DECISIONS SUMMARY

The Committee noted the Appeal Decisions.

43. COSTS ON APPEALS

There were no Costs on Appeal.

44. DELEGATED DECISIONS - AGMB APPLICATIONS

The Committee noted the Delegated Decisions.

Councillor P Pennington asked if there has been a rise in AGMB applications. The Planning Manager provided recent statistics, however noted that the statistics for AGMB applications can be reviewed with potential for it to return to Plans Committee in twelve months' time.

45. PLANNING DECISIONS

RESOLVED

That the Planning decisions for the period 25th September 2024 and 22nd November 2024 be noted.

46. PART II - CLOSED SESSION

There were no part II items.

The meeting commenced at 9.30 am and closed at 10.20 am

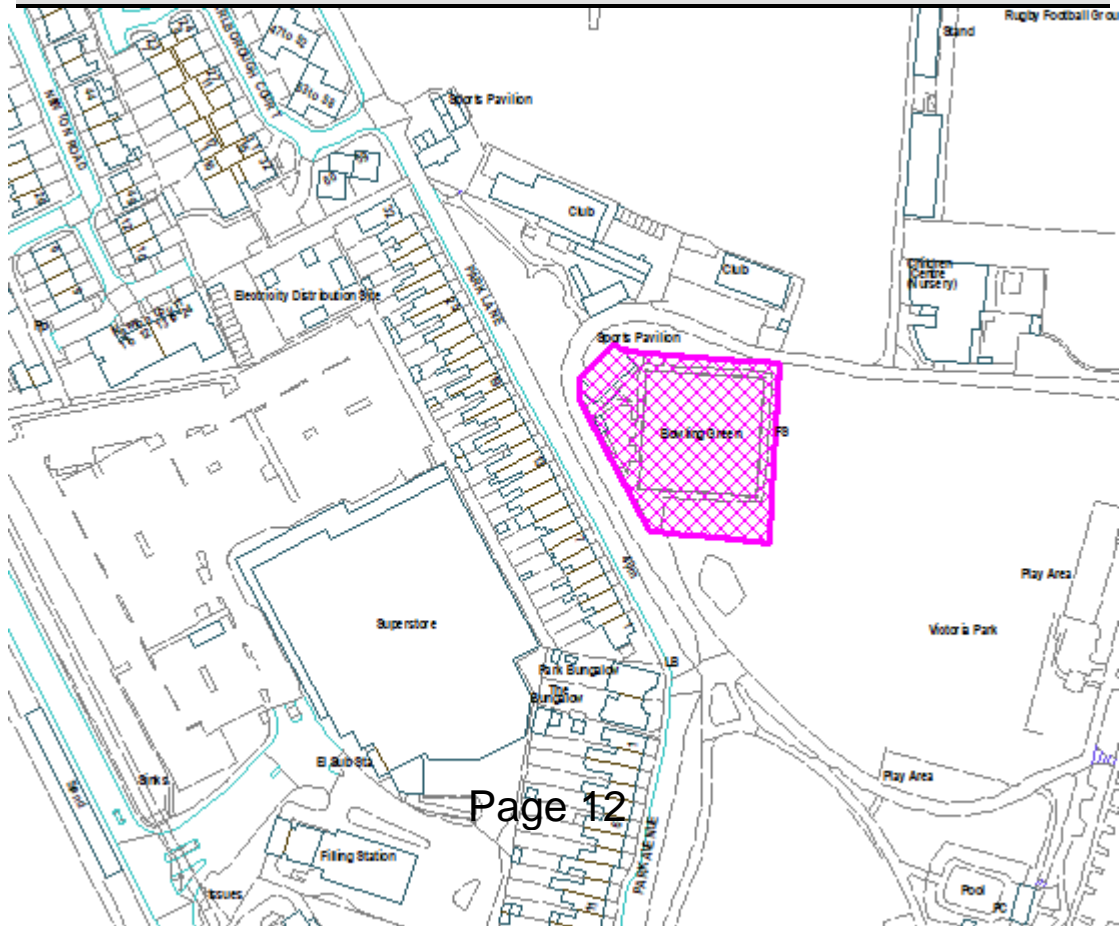
Chair:

Date:

Agenda Item 7a

Committee Report – 16.01.2025

Application Number:	1/0978/2024/FUL
Registration date:	27 November 2024
Expiry date:	22 January 2025
Applicant:	Bideford Victoria Park Bowling Club
Agent:	
Case Officer:	Mary-Ellen Whalley
Site Address:	Bideford Victoria Park Bowling Club, Park Lane, Bideford, Devon, EX39 2QL,
Proposal:	Installation of two changing room facilities and re-location of existing shed
Recommendation:	Grant



Reason for referral:

This application site is owned by Torridge District Council and therefore has to be determined by Planning Committee.

Relevant History:

Application No.	Description	Status	Closed
1/1112/1990	EXTENSION TO BOWLING CLUBHOUSE	PER	15.08.1990
1/1717/1992	ERECTION OF A NEW GREEN KEEPERS SHED/STORE AND FORMATION OF A PEDESTRIAN EXIT GATE WITHIN DOUBLE GATES INTO PARK LANE FROM VICTORIA PARK	PER	14.01.1993
1/0064/2008/LA	New single storey extension to club house to provide disabled facilities	PER	29.02.2008
1/0569/2024/FUL	Erection of changing cabins	INVAL	29.07.2024

Site Description & Proposal

Site Description

The site is known as the Bideford Bowls Club and is located to the western extent of Victoria Park. The site is situated on land owned by Torridge District Council and comprises a Bowls Club with a club house located to the north-west of the site. To the west of the site are residential dwellings along Park Lane which are approximately 20 metres from the site.

Proposed Development

The application seeks full planning permission for the erection of two changing cabins to the west of the bowling green and to the south of the existing club house each measuring 8.3m in length by 3.8m in width with an external covered seating area of approximately 1.2m in width to the east of the building. The buildings are to have a mono-pitched roof of maximum height 2.5m. The proposed materials are to be walls constructed of stained light brown timber walls, Black EPDM Rubber roof and white uPVC windows and doors. The existing wooden shed located to the south of the club house is to be re-located to the east of the club house. It measures 4.85m in length by 2.45m in width and is composed of stained timber with a black roof. There is to be a proposed soakaway in the vegetation to the east of the changing cabins.

Consultee representations:

Bideford Town Council:

RESOLVED: That the application is approved.

Environmental Protection Officer:

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

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 the following condition:

Construction works and site deliveries shall be carried out Monday to Friday 0700 to 1900 hours and Saturdays 0800 to 1300 hours only with no works permitted on Sundays and Bank Holidays
Reason: To protect neighbouring residential amenity

Property Services:

No response

South West Water:

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.

I trust this provides confirmation of our requirements, however should you have any questions or queries, please contact the Planning Team on 01392 442836 or via email: DeveloperServicesPlanning@southwestwater.co.uk.

Representations:

Number of neighbours consulted:	24	Number of letters of support:	0
Number of representations received:	0	Number of neutral representations:	0
Number of objection letters:	0		

No representations received.

Policy Context:

North Devon and Torridge Local Plan 2011-2031:

ST03 (Adapting to Climate Change and Strengthening Resilience); ST04 (Improving the Quality of Development); ST06 (Spatial Development Strategy for Northern Devon's Strategic and Main Centres); ST14 (Enhancing Environmental Assets); ST10 (Transport Strategy); ST22 (Community Services and Facilities); DM01 (Amenity Considerations); DM04 (Design Principles); DM05 (Highways); DM06 (Parking Provision); DM08A (Landscape and Seascape Character); DM08 (Biodiversity and Geodiversity);

Government Guidance:

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

Planning Considerations

The main planning considerations are as follows:

1. Principle of Development
2. Character and Appearance
3. Neighbouring Amenity
4. Highways and Parking
5. Ecology and BNG
6. Drainage and Flood Risk
7. Conclusion

1. Principle of Development

This application is located within the development boundary of Bideford, a Strategic Centre as identified within North Devon and Torridge Local Plan (NDTLP) Policy ST06 (Spatial Development Strategy for Northern Devon's Subregional, Strategic and Main Centres). The policy states that Bideford will seek to promote sustainable development opportunities to increase self-containment and achieve balanced development to enable the town to meet its own housing and economic needs and those of the surrounding area. This enquiry seeks the proposed erection of two changing rooms and the re-location of an existing shed on site to improve the existing facilities in operation at the Bideford Victoria Park Bowling Club. Given the Bowls club use already exists and is well established, and that the site is within the development boundary of Bideford, the principle of development is considered acceptable.

NDTLP Policy ST22 (1) allows improvements to existing community facilities that meet the needs of local communities where (a) it does not harm the character of the area and the amenities of 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. Notwithstanding the user restrictions at the site; the facility can be described as a community facility for sport and recreation and therefore the proposed works are acceptable in principle. Matters (a), (b) and (c) of this policy are considered below.

The proposal would result in social benefits through the continued and enhanced provision of a recreational facility for use by the wider community. In terms of character and appearance, the scale of the proposal is considered to have limited harm to the wider and immediate landscape character as the site is read in context with the immediate built form of the existing Bowls Club building within Victoria Park. Thus, the proposal is likely to accord with part (a) of Policy ST22. The nature of the proposed development is considered ancillary to the existing operational use of the Bowling Green and thus is considered to have a negligible impact in terms of accessibility via sustainable modes of transport and highway safety (parts (b) and (c) of Policy ST22.)

2. Design and impact on Character

Policy ST04: Improving the Quality of Development, Policy DM04: Design Principles and Policy DM08A of the NDTLP require development to achieve high quality inclusive and sustainable design to support the creation of successful, vibrant places. Development must follow a clear process that responds to a site context. Development must be appropriate and sympathetic to its setting and relationship to buildings and landscape features in the locality and reinforce the key characteristics and special qualities of the area in which the development is proposed. It should contribute positively to local distinctiveness and sense of place and retain and integrate existing landscape features and biodiversity to enhance networks and promote diversity and distinctiveness of the surrounding area.

The scale of the proposal is considered to have limited harm to the wider and immediate landscape

character and is read within the setting of the surrounding built form of the Bowls Club building. The changing rooms are to be constructed of stained light brown timber walls, Black EPDM Rubber roof and white uPVC windows and doors. The shed is as existing it is just to be relocated to the north-east of the site. The proposed development's scale, design and external finishing materials to be used would be in keeping with the character, appearance and setting of the wider community facility and surrounding urban setting.

Therefore, the proposal is considered to accord with the above policies.

3. Residential Amenity

NDTLP Policy DM01 states that development will be supported where it would not significantly harm the amenities of any neighbouring occupiers or uses, and the intended occupants of the proposed development would not be harmed as a result of existing or allocated uses.

During the consultation, Bideford Town Council provided comments recommending approval of the application, additionally, no third party representations were received. The proposed scale and nature of the development is considered unlikely to result in any significant amenity harm to the neighbouring dwellings given the proposal will be of an ancillary nature to the existing Bowls Club. The nearest dwellings are to the west on Park Lane but due to the separation distance of over 20m across the highway with an intervening hedge, the maximum height of the building of less than 2.5m and that there are no windows to the western elevation it is considered acceptable.

In light of the above, the proposed scale and location of the development would not cause significant adverse impact on the amenities of occupiers of nearby dwellings in terms of overlooking, loss of privacy, dominance, overshadowing, loss of daylight or sunlight. Therefore, the proposal accords with Policy DM01.

4. Highways 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.

The Bowls Club is served by an existing access and although there are no parking facilities directly on site there are nearby car parks within Bideford. The proposed changing rooms are not expected to increase any pressure on these facilities but provided improved amenities, and as such the scheme is considered to accord with NDTLP Policies ST22 (1) (b and c), ST10, DM05 and DM06.

5. Ecology and BNG

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 confirmed that the site was greater than 0.1 hectares.

A Preliminary Ecological Appraisal conducted by Seasons Ecology was submitted on 14th November 2024 in support of the application. The considerations and recommendations of the report are as follows: *'The proposals will result in the loss of a small extent of modified grassland however this is unlikely to significantly impact on any protected or notable species. Care should be taken to protect adjacent habitats (hedgerows) during construction. A Biodiversity Net Gain Assessment will be required given the loss of habitat on site. The nest box installed on Building 3 should be relocated during the winter period (October to February) outside of the nesting bird season to avoid disturbance. Additional lighting should be avoided. If this is not possible then lighting should be kept to a minimum and incorporate a sensitive design. Care should be taken to*

keep retained and adjacent habitats (hedgerows) free from light spill to maximise benefit for nocturnal species. Recommendations for enhancement measures have also been provided including the provision of bird boxes'

A condition has been added to the permission that the recommendations outlined in section 6 of the report are followed. Therefore, the proposal accords with Policies ST14 and DM08.

BNG

As of the 02nd April 2024, it is mandatory under the Schedule 7a of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) that developments (unless exempt) must deliver a Biodiversity Net Gain of 10%.

A DEFRA Biodiversity Statutory Biodiversity Metric was carried out and submitted for consideration, received 27th November 2024. The Case Officer would concur with the finding of the baseline assessment, insofar as the existing site would likely have little ecological value as modified grassland, vegetated garden and sealed surface. The proposed Habitat Creation includes approximately 70m² of moderate grassland and the enhancement of 90m² of neutral grassland. There are no watercourses or hedgerows impacted by the proposed development.

The Trading Summaries of the proposed development demonstrates that the total net (%) change is as follows:

Habitat Units: 13.06%

Hedgerow Units: 0.00%

Watercourse Units: 0.00%

Taking account the above, the trading rules are satisfied, subject to detailed consideration at a later stage.

6. Drainage and Flood Risk

Policy ST03 requires that development should be designed to adopt effective water management whilst Policy DM04 establishes that water management must be addressed by development. Policy DM02 requires that development does not result in unacceptable impacts from contaminated land, pollution to water from surface or ground and the atmosphere.

South West Water were consulted and commented: *'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.'* It is therefore considered that the surface water soakaway to the east of the changing cabins is sufficient and that the proposal will not increase the surface runoff.

The site is within a Flood Zone 3 and a critical drainage area. AquaCell units have been designed to the east of the buildings to deal with the surface water. The surface water drainage proposal is detailed in the drawing 24008-100 submitted on 14th November 2024 which has calculated that a soakaway 3 metres in length by 2.4m in width and 0.8m deep is sufficient within the grassed area to the east of the changing cabins. The calculations were submitted in support of the application.

The National Planning Policy Framework (NPPF) sets strict tests to protect people and property from flooding.

Paragraph 170 of the NPPF advises that 'inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere'.

Paragraph 181 of the NPPF states 'When determining any planning application, Local Planning authorities should ensure that flood risk is not increase elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment it can be demonstrated that:

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- b) the development is appropriately flood resistant and resilient;
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- d) any residual risk can be safely managed; and
- e) safe access and egress routes are included where appropriate, as part of an agreed emergency plan.'

Policy ST03 of the NDTLP requires that 'development should be designed and constructed to take account of the impacts of climate change and minimise risk to and vulnerability of people, land, infrastructure and property by locating and designing development to minimise flood risk through avoiding development of land for vulnerable use which is or will be at risk from flooding'.

The site is within Flood Zone 3a having a 1 in 100 or greater annual probability of river flooding or a 1 in 200 or greater annual probability of sea flooding. The construction of the temporary changing facilities is not considered to increase the flood risk to users of the facilities in this location.

The proposed cabins will not be habitable and only be used for members of the Bideford Victoria Park Bowling club (and their opponents) to change into appropriate clothing before and after matches as well as for storage of individual members bowls, bowling attire and equipment. The vulnerable lighting and power electrical circuits and outlets will all be a minimum of 1200mm above finished floor level. This has been conditioned as part of the permission.

The proposal is considered to provide an appropriate and proportionate provision for the management of surface water and will not increase the flood risk. In this instance and as such the proposal accords with Policies ST03, DM02 and DM04 and the NPF.

7. Conclusion

In conclusion, the proposed development would not cause significant harm to the character and appearance of the existing site or wider landscape; amenity; highways; surface water flooding; and ecology. Therefore, the proposal would be in accordance with the NDTLP Policies ST03, ST04, ST06, ST14, ST22, DM01, DM04, DM05, DM06, DM08 and DM08A.

Human rights

Consideration has been given to the Human Rights Act 1998.

Conclusion

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

Recommendation

GRANT subject to the following conditions

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

Reason: The time limit condition is imposed in order to comply with the time requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out in accordance with the approved plans listed in the Plans Schedule.

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

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

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

- 4 The development should proceed in accordance with the Recommendations outlined in Section 6 of the Preliminary Ecological Appraisal by Seasons Ecology submitted on 14th November 2024 in support of the application.

Reason: In the interests of preventing harm to protected species.

- 5 Prior to the buildings approved coming into use at least one bird box should be installed on each of the changing room buildings and the bird box on the existing shed should be reinstated on the shed in its new location. All bird boxes shall be retained and maintained in perpetuity.

Reason: To enhance biodiversity.

- 6 The vulnerable lighting and power electrical circuits and outlets will all be a minimum of 1200mm above finished floor level.

Reason: To ensure the future flood resilience of the buildings are maintained.

- 7 The development shall not commence until a 30 year Habitat Monitoring and Management Plan (HMMP), prepared in accordance with an approved Biodiversity Gain Plan, has been submitted to and approved in writing by the local planning authority. The approved HMMP shall be strictly adhered to and implemented in full for its duration and shall contain the following:
- a) Description and evaluation of the features to be managed;
 - b) Ecological trends and constraints on site that may influence management;
 - c) Aims, objectives and targets for management - links with local and national species and habitat action plans;
 - d) Description of the management operations necessary to achieving aims and objectives;
 - e) Prescriptions for management actions;
 - f) Preparation of a works schedule, including annual works schedule;
 - g) Details of the monitoring needed to measure the effectiveness of management;
 - h) Details of the timetable for each element of the monitoring programme;
 - i) Details of the persons responsible for the implementation and monitoring;
 - j) mechanisms of adaptive management to account for necessary changes in work schedule to achieve the required targets; and
 - k) Reporting on year 1, 2, 5, 10, 20 and 30, with biodiversity reconciliation calculations at each stage.

Reason: To enhance biodiversity.

Plans Schedule

Reference	Received
RET-23/2/1 A	21.11.2024
RET-23/2/3	21.11.2024
RET-23/2/5	21.11.2024
RET-23/2/6 A	21.11.2024

RET-23/2/11	27.11.2024
RST_SD_SE_005	14.11.2024
24008-100	14.11.2024
Proposed Habitats	14.11.2024

Informatives

01. Biodiversity Net Gain Condition

Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 states that planning permission is deemed to have been granted subject to the "biodiversity gain condition" which means development granted by this notice must not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

This permission will require the submission and approval of a Biodiversity Gain Plan before development is begun.

For guidance on the contents of the Biodiversity Gain Plan that must be submitted and agreed by the Council prior to the commencement of the consented development please see the link: Submit a biodiversity gain plan - GOV.UK (www.gov.uk)

Statutory exemptions and transitional arrangements

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These can be found at Paragraph: 003 Reference ID: 74-003-20240214 of the Planning Practice Guidance, which can be found at <https://www.gov.uk/guidance/biodiversity-net-gain>.

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.

Effect of Section 73(2D) of the 1990 Act

Under Section 73(2D) of the Town and Country Planning Act 1990 (as amended) where -

- (a) a biodiversity gain plan was approved in relation to the previous planning permission ("the earlier biodiversity gain plan"), and
- (b) the conditions subject to which the planning 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 within the meaning of regulations made under paragraph 18 of Schedule 7A, 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.

- the earlier biodiversity gain plan is regarded as approved for the purposes of paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) in relation to the planning permission.

Statement of Engagement

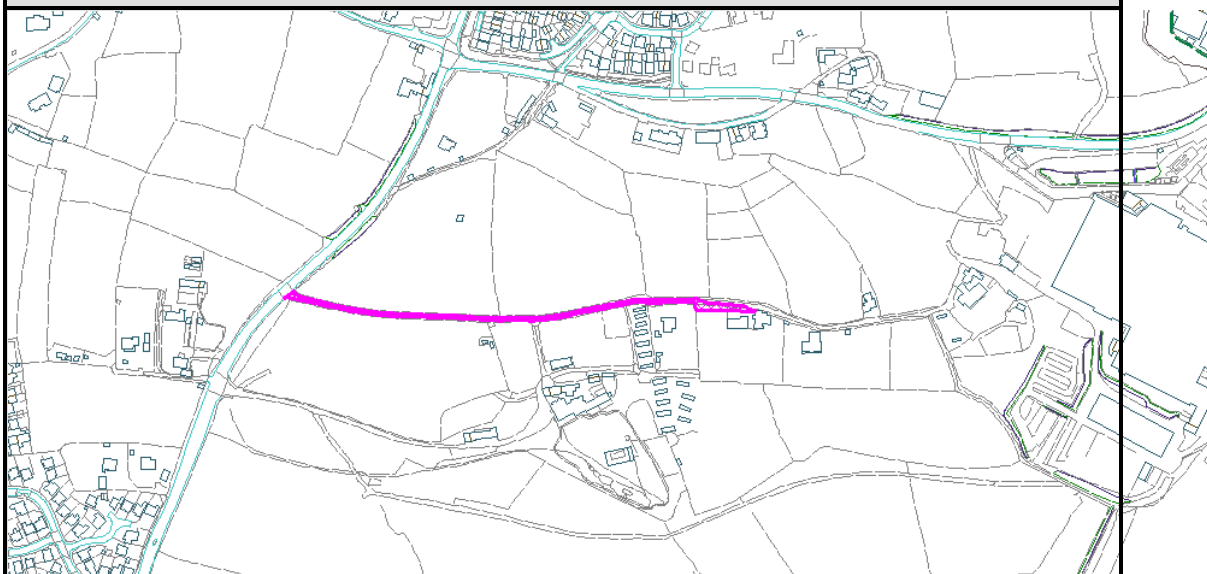
In accordance with paragraphs 39 of the National Planning Policy Framework (NPPF) in dealing with this application, the Council has worked with the applicant in the following positive and proactive manner. In this instance there was no need for further engagement as the development as submitted is considered to accord with the development plan. In such ways the Council has demonstrated a

positive and proactive manner in seeking solutions to problems arising in relation to the planning application.

Agenda Item 7b

Committee Report – 16.01.2025

Application Number:	1/0976/2024/FUL
Registration date:	25 November 2024
Expiry date:	20 January 2025
Applicant:	Mr Ashley Clements
Agent:	NPAS Devon Limited
Case Officer:	Mr Peter Stapley
Site Address:	River View, Bidna Lane, Northam, Bideford, Devon, EX39 1NU
Proposal:	Retrospective creation of vehicular access, including installation of gates, wall, fence, and hedgebank; the partial removal of the unauthorised boundary wall and fencing; closing of the existing vehicular access; and associated works, including landscaping (Affecting a public right of way)
Recommendation:	Grant



Reason for referral:

The application was called-in by Councillor Hames, if minded to approve, for the following reason:

- 'To enable members of the Plans Committee to consider planning issues relating to the application.'

Relevant History:

Application No.	Description	Status	Closed
1/1249/1988	CONVERSION OF BARN TO ONE DWELLINGHOUSE	PER	22.09.1988
1/1333/1993	RENEWAL OF CONSENT FOR CONVERSION OF BARN TO DWELLING	PER	07.01.1994
1/1836/1998	CONVERSION OF BARN TO DWELLING (MODIFIED SCHEME)	PER	04.02.1999
1/1331/2003/FUL	Porch	PER	03.09.2003
1/1729/2003/FUL	Conservatory	PER	24.10.2003
1/0363/2012/FUL	Proposed extensions and alterations to provide additional living accommodation, bedrooms and study	PER	17.07.2012
1/0860/2022/OUT	Outline application for demolition of existing outbuilding and erection of 1 no. live work dwelling with all matters reserved	REF	01.11.2022
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.	REF	07.06.2024

Site Description & Proposal

Site Description

The application site is located in the countryside, approximately 210 metres to the south of the development boundary of Northam (including Appledore and Westward Ho!), which is designated as a Main centre in the adopted North Devon and Torridge Local Plan (NDTLP). The wider site measures 0.49 hectares and comprises of a residential dwelling, known as River View; an agricultural building; an area of hardstanding; and a small parcel of greenfield land, which would appear to be used as residential amenity space.

The site falls within the designated Coast and Estuary Zone, however there are no designated heritage assets within close proximity. The Landscape Character Type for the application site is 5B (Coastal Undulating Farmland) and falls within a Zone 1 Flood Risk and therefore it has less than 1 in 1,000 annual probability of river flooding and is consider a low probability of flooding.

The site is neighboured by residential properties to the east and west; the private access lane to the north; with agricultural fields to the south. The site is accessed via a private lane from the public highway located approximately 365 metres to the west of the site.

Relevant Planning History

Planning Permission (1/0940/2023/FUL) was recently refused at Plan Committee, decision issued 07th June 2024, which sought *'Retrospective application for widening of driveway access, removal of hedge scrub to replace with a garden wall and creation of passing area.'*

The proposed development of the previous application consisted of a vehicle access measuring approximately 8 metres in length, with a further 12 metres of low boundary wall and fencing. The access gates and garden wall were to be set back from the private lane by approximately 2 metres. The proposed fencing measured approximately 1.8 metres in height and were to be constructed with dark grey render and natural timber boarding. The proposed gate consisted of solid grey cladding to a maximum height of 1.6 metres.

The proposal also included the provision of a replacement hedgebank to the north of the proposed boundary wall, with a hedgebank to a height of 0.6 metres with planting to a height of 1.9 metres. The existing northern vehicular access to the east of the proposed access is to be blocked with a further 7 metres of boundary hedge and the closing of the access to the southwest of the site, with an additional 10 metres of hedgebank. The proposal included a scattering of new native trees along the west and southern boundary of the site.

The application was refused for the following reason:

'In the opinion of the Local Planning Authority, the proposal would cause unjustified harm to the character and appearance of Bidna Lane and the wider area, including the sensitive and tranquil landscape setting in which the site is situated and the Undeveloped Coast (based upon the associated landscape character types). The proposed mitigation is insufficient in reducing the harm to the character of the area and the proposal is therefore contrary to Policies ST04 (Improving the Quality of Development), ST09 (Coast and Estuary Strategy); ST14 (Enhancing Environmental Assets); DM04 (Design Principles) and DM08A (Landscape and Seascape Character) of the North Devon and Torridge Local Plan and Paragraph 135 (b), (c) and 180 (a)-(c) of the National Planning Policy Framework.'

Proposed Development

The application seeks retrospective planning permission for the removal of approximately 45 metres of boundary hedge; the creation of a vehicle access with a garden wall; the partial demolition of the unauthorised boundary wall; a replacement hedge boundary; the closing of the existing vehicular access and associated works, including landscaping.

The proposed vehicle access will measure approximately 8 metres in length, with a further 12 metres of low boundary walling, including one panel of timber fencing. The access gates and garden wall are set back from the private lane by approximately 2 metres.

The proposed low boundary wall will measure approximately 0.6 metres in height; the two boundary pillars will measure approximately 1.68 metres in height; the three boundary pillars will measure approximately 2.08 metres in height; the proposed fencing panel will measure approximately 1.65 metres in height; and the proposed gate will measure approximately 1.5 metres in height.

The low boundary wall and pillars will be constructed with dark grey render and the fencing panel and gate will consist of natural timber boarding.

The proposal includes the provision of a replacement hedgebank to the north of the proposed boundary wall, with a hedgebank to a height of 1.2 metres, with planting above. The existing northern vehicular access to the east of the proposed access is to be blocked with a further 7 metres of boundary hedge and the closing of the access to the southwest of the site, with an additional 10 metres of hedgebank. The proposal includes a scattering of new native trees along the west and southern boundary of the site.

The application form confirms that works were completed on the 01st March 2023.

Consultee representations:

Northam Town Council:

It was resolved to recommend the proposal be refused permission on the grounds that it was contrary to Local Plan policies ST04, DM04, ST09 and DM08A, and NPPF paragraphs 135(b)&(c) and 180 (a) to (c). The proposed mitigation is not sufficient to offset the detrimental visual and environmental impacts on Bidna Lane, a country lane. The Council considers that the wall should be removed and replaced by a traditional Devon Hedgebank, and the gate replaced with a more sympathetically-designed one in wood, such as a traditional field gate.

Devon County Council (Highways):

Standing advice.

South West Water:

Thank you for this consultation. As this application concerns revisions to an access only and does not impact on our infrastructure, SWW have no observations.

Representations:

Number of neighbours consulted:	15	Number of letters of support:	0
Number of representations received:	2	Number of neutral representations:	0
Number of objection letters:	2		

The public representations received are summarised below:

Objection Comment

- Accuracy of hedgebank details – width
- Retention of large section of wall
- Lack of removal to enable hedgebank
- Design and impact on character and appearance

Policy Context:

North Devon and Torridge Local Plan 2011-2031:

ST01 (Principles of Sustainable Development); ST03 (Adapting to Climate Change and Strengthening Resilience); ST04 (Improving the Quality of Development); ST07 (Spatial Development Strategy for Northern Devon's Rural Area); ST09 (Coast and Estuary Strategy); 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); DM25 (Residential Extensions and Ancillary Development).

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 material planning consideration, which are relevant, in the determination of this planning application are:

1. Principle of Development;
2. Impact on Character and Appearance;
3. Impact on Amenity;
4. Access, Parking and Highways;

5. Impact on Wildlife and Ecology;
 - a. Ecological Impact;
 - b. Biodiversity Net Gain; and
6. Planning Balance and 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 NPPF sets out national policy in relation to ‘Sustainable Development’ and notes, at paragraph 12, that *“the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.”*

Policy ST01 of the North Devon and Torridge Local Plan (NDTLP) emphasises that development proposals will be considered with a presumption in favour of sustainable development, as contained in the NPPF.

In accordance with the definition provided in the Glossary to the NDTLP, the site subject to the application is considered to hold a Countryside location, with Part (4) of Policy ST07: Spatial Development Strategy for Northern Devon’s Rural Area providing the starting point for considering development proposals in such locations.

Policy ST07(4) sets out 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. In doing so, the NDTLP seeks to control dispersed development in the Countryside, guarding against development in unsustainable locations and requiring the character of the countryside to be conserved and enhanced. In this instance, the relevant consideration is whether the development is enabled to meet local economic and social needs. In doing so, the application of Policy ST07(4) requires consideration of what is enabled by the wider policies of the NDTLP which are applicable to the development proposal in question.

In addition to being located within the countryside, the application site falls within the Coastal Estuarine Zone; Policy ST09: Coast and Estuary Strategy of the NDTLP is therefore relevant. Policy ST09 seeks to guide development towards appropriate locations within the coast and estuary areas of northern Devon whilst at the same time ensuring their positive characteristics and features are suitably protected.

Policy ST09 (7) of the NDTLP states that 'Development within the Undeveloped Coast and estuary 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 Coast, and it is required, because it cannot be reasonably be located outside the Undeveloped Coast and estuary.

Policy DM25 offers broad planning policy support for ancillary residential developments, beyond which are enabled through permitted development, as long as it meets three tests:

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

The proposed development includes the removal of the existing boundary hedge and the relocation of the existing access, consisting of the provision of a vehicular access and garden wall. The proposed access is located to approximately 21 metres to the west of the existing access, which had previously served the residential use of the site and the existing agricultural building.

Northam Town Council were consulted on the proposed development and recommended the application be refused permission on the grounds that it was contrary to Local Plan policies ST04, DM04, ST09 and DM08A, and NPPF (2023) paragraphs 135(b)&(c) and 180 (a) to (c) (paragraph 187 (a) and (c) 2024 NPPF) and the proposed mitigation is not sufficient to offset the detrimental visual and environmental impacts on Bidna Lane, a country lane. The Town Council considers that the wall should be removed and replaced by a traditional Devon Hedgebank, and the gate replaced with a more sympathetically-designed one in wood, such as a traditional field gate.

It is noted that the proposed access is located outside of the residential curtilage of the dwellinghouse, known as River View. Additionally, the existing agricultural building is currently used for the storage of a Rigid Inflatable Boat (RIB), trailer, 4 x 4 truck all used in association with the business operated by the applicant. The area of hardstanding to the south of the proposed access has been created for the customer parking in relation to the previously mentioned business use of the site.

For the avoidance of doubt, the site does not benefit from planning permission for either the use of the whole site as residential curtilage or the use of the agricultural building and hardstanding for business purposes. Furthermore, a Certificate of Lawfulness has not been granted on the site to regularise such use.

The site has previously been served by an access from the north and the southwest of the site, via Knapp House. The access to the southwest is now no longer viable for the applicant and the existing access which serves the residential use of the site measures approximately 8 metres in width and has no visibility splay to the east. Whilst, the existing northern access may be appropriate for the volume of traffic relating to the residential property, the applicant states it is not appropriate for the business use, which requires the transportation of the RIB to the nearby slipway at Appledore.

Notwithstanding the above, the existing residential access is to be closed with the proposed access providing vehicular access to the residential property and the business use of the site. It is acknowledged that there currently is no lawful use of the site as business storage, it would therefore be reasonable to expect that should the original use (agricultural) of the building be reinstated, it would require a suitable vehicular access beyond that already existing.

Taking account the above, the proposed vehicular access is necessarily restricted to its countryside location, given its relation to the existing uses of the site. Consequently, the principle of an access is acceptable in accordance with Policies ST01, ST07 and ST09 of the North Devon and Torridge Local Plan and the National Planning Policies Framework, subject to the remaining planning considerations.

2. Impact on Character and Appearance

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

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.

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.

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

The Landscape Character Type for this area, as defined in the 2011 Joint Landscape Character Assessment for North Devon and Torridge, is 'Farmed Lowland Moorland & Culm Grassland' (5B) and Devon Character Area, 'Bideford Bay Coast' (3). The summary of special qualities includes:

- Strongly rolling landscape with prominent ridges and hilltops, influenced by the close proximity of the sea.
- Pervading maritime influence with long coastal views, including to development at coastal settlements and to the north-west peninsula of the North Devon coastline
- Nature conservation interest provided by the area's network of woodlands and hedges, with isolated sites of Culm grassland, unimproved species-rich grassland and scrub interspersed within the farmland. Coastal locations include patches of maritime grassland, wet flushes and bracken scrub.
- Settlement and farms linked by a network of rural roads enclosed by high hedgebanks. The main A39 cuts through the area.
- Away from settlements, high levels of tranquillity are experienced with dark night skies.
- Traditional built vernacular of whitewashed and cream cob/render cottages, with some buildings of exposed local stone with red brick detailing. Recently built housing, including cream/white bungalows, is a feature of some villages
- Special Area of Conservation extend into the coastal landscape. A number of County Wildlife Sites also highlight important areas of nature conservation interest.

Policy ST09 (7) states that development within the Undeveloped Coast and Estuary 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 Coast, **and** it is required because it cannot reasonably be located outside the Undeveloped Coast and Estuary.

Policy ST14 of the Local Plan seeks to enhance the District's environmental assets, noting within section (g), the need to protect and enhance the local landscape character, taking into account the key characteristics, historical dimensions of the landscape and their sensitivity to change.

The National Planning Policy Framework (NPPF), and in particular Part 12: Achieving well-designed places, attaches great importance to the design of the built environment. Paragraph 135 of the NPPF states that development should in terms of design:

- (a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- (b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- (c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- (d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- (e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- (f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder,

and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Paragraph 139 of the NPPF states that permission should be refused for the development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Paragraph 187 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by:

- (a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- (b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- (c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
- (d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- (e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
- (f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Northam Town Council were consulted on the proposed development and recommended the proposal be refused permission on the grounds that it was contrary to Local Plan policies ST04, DM04, ST09 and DM08A, and NPPF paragraphs 135(b)&(c) and 180 (a) to (c) and that the proposed mitigation is not sufficient to offset the detrimental visual and environmental impacts on Bidna Lane, a country lane. The Town Council considers that the wall should be removed and replaced by a traditional Devon Hedgebank, and the gate replaced with a more sympathetically-designed one in wood, such as a traditional field gate. It is noted that the NPPF was updated on the 13th December and Paragraph 180 as set out in the Town Councils representation, now forms Paragraph 187 of the NPPF.

A number of objections were received during the public consultation which raised concern on the design of the gate and wall; and its impact on the character and appearance of the area.

The application seeks retrospective planning permission for the removal of approximately 45 metres of boundary hedge; the creation of a vehicle access with a garden wall; the partial demolition of the unauthorised boundary wall; a replacement hedge boundary; the closing of the existing vehicular access and associated works, including landscaping.

The proposed vehicle access will measure approximately 8 metres in length, with a further 12 metres of low boundary walling, including one panel of timber fencing. The access gates and garden wall are set back from the private lane by approximately 2 metres.

The proposed low boundary wall will measure approximately 0.6 metres in height; the two boundary pillars will measure approximately 1.68 metres in height; the three boundary pillars will measure approximately 2.08 metres in height; the proposed fencing panel will measure approximately 1.65 metres in height; and the proposed gate will measure approximately 1.5 metres in height.

The low boundary wall and pillars will be constructed with dark grey render and the fencing panel and gate will consist of natural timber boarding.

The proposal includes the provision of a replacement hedgebank to the north of the proposed boundary wall, with a hedgebank to a height of 1.2 metres, with planting above. The existing northern vehicular access to the east of the proposed access is to be blocked with a further 7 metres of boundary hedge and the closing of the access to the southwest of the site, with an additional 10 metres of hedgebank. The proposal includes a scattering of new native trees along the west and southern boundary of the site.

It is acknowledged that a similar application was refused by Plans Committee, decided on 07th June 2024, for the following reason:

'In the opinion of the Local Planning Authority, the proposal would cause unjustified harm to the character and appearance of Bidna Lane and the wider area, including the sensitive and tranquil landscape setting in which the site is situated and the Undeveloped Coast (based upon the associated landscape character types). The proposed mitigation is insufficient in reducing the harm to the character of the area and the proposal is therefore contrary to Policies ST04 (Improving the Quality of Development), ST09 (Coast and Estuary Strategy); ST14 (Enhancing Environmental Assets); DM04 (Design Principles) and DM08A (Landscape and Seascape Character) of the North Devon and Torridge Local Plan and Paragraph 135 (b), (c) and 180 (a)-(c) of the National Planning Policy Framework.'

The differences between the previously refused application and the proposed development, which is the subject of this application are as follows:

1. Removal of two (2) pillars on the boundary wall.
2. Removal of four (4) timber panel sections.
3. Alterations to the proposed gate material from grey composite cladding to natural timber cladding.
4. Provision of a BT10 Devon Hedgebank, measuring 1.85 metres in width by 1.2 metres in height, rather than the previously proposed 'Small Hedgebank', measuring 0.8 in width by 0.6 metres in height.

Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 2015, as amended (hereafter referred to as the GPDO) allows for *the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure*. However, development is not permitted by Class A if:

- (a) *The height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of the development, exceed—*
 - (i) *For a school, 2 metres above ground level, provided that any part of the gate, fence, wall or means of enclosure which is more than 1 metre above ground level does not create an obstruction to the view of persons using the highway as to be likely to cause danger to such persons;*
 - (ii) *In any other case, 1 metre above ground level;*
- (b) *The height of any other gate, fence, wall or means of enclosure erected or constructed would exceed 2 metres above ground level;*
- (c) *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 or the height referred to in paragraph (a) or (b) as the height appropriate to it if erected or constructed, whichever is the greater; or*
- (d) *It would involve development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding, a listed building.*

The fence and wall, which is above 1 metre in height, is set behind the proposed Devon Hedgebank which directly adjoins the public highway, being a defined route over which the public can pass. When considering the possibility of a fall-back position, the question, revolves around whether or not the wall and fence is considered to be 'adjacent', or not, to the highway. The word 'adjacent' is not defined in the Planning Act and it has been held that legislators were not likely to have intended 'a one size fits all approach'. The common dictionary definition of 'adjacent' is 'lying near' or 'contiguous', although Case Law shows that 'adjacency' does not equate to 'contiguous' or 'abutting'.

Thus, the position established by the courts is that the word 'adjacent' does not necessarily mean that the fence has to be abutting or touching the highway. A wall or fence can be set back from a highway, but still be 'adjacent' to it, as a matter of fact and degree, provided that the enclosure is clearly to define the boundary of the property concerned from the highway and is perceived to do so.

In this case, the low boundary wall measures 0.6 metres and therefore is considered to fall under permitted development. The two pillars which measure approximately 1.68 metres in height and the timber panel which measures approximately 1.65 metres in height, are located approximately 2.3 metres from the public, highway, and are behind the proposed hedgebank. The hedgebank is considered to define the boundary of the property and therefore the two pillars could be considered to fall under permitted development.

The three pillars which measure approximately 2.08 metres in height, located approximately 2.3 metres from the public, highway; however, they exceed the 2 metres threshold in any case and therefore would not fall under permitted development. Nonetheless, the fall-back position could be considered should the pillars be reduced by 0.08 metres, and therefore the level of harm from the additional height is considered minor.

The proposed gate which measures approximately 1.5 metres in height, would form the defined boundary of the site and therefore is considered to be adjacent to the highway despite it being located approximately 2.4 metres from the highway. Consequently, the gate exceeds that allowed under Part 2, Class A of the GPDO by 0.5 metres. The resulting harm arising from the additional 0.5 metres is considered to be minor.

The proposed hedgebank which measures approximately 1.2 metres in height, would form the defined boundary of the site and therefore is considered to be adjacent to the highway. Consequently, the hedgebank exceeds that allowed under Part 2, Class A of the GPDO by 0.2 metres. The planting within the hedgebank is not considered to be development and therefore is not included in the assessment.

The application is retrospective and therefore a true sense of character is difficult to assess given the works have already been carried out. Photo 6 of the submitted ecology report is the only surviving evidence of the former boundary hedge and clearly demonstrates that the hedge was well-established and would've contributed significantly to the immediate context and character of being a quiet country lane, typical of country lanes within the *Farmed Lowland Moorland & Culm Grassland* landscape character.

Overall, whilst there are existing residential dwellings in the immediate area, including the host dwelling, the sense of place and character is described as being particularly spacious, tranquil and peaceful.

Turning to the scale and design of the proposed access. The proposal includes the blocking of the existing access, which measures 7 metres in width and consists of a five-bar agricultural gate. The proposed development consists of solid timber clad gate and would therefore be of a more domestic appearance. The proposal also includes the provision of a low garden wall measuring 12 metres in length, with one timber fencing panel, set behind the boundary Devon Hedgebank to a height of 1.2 metres with vegetation above.

It is noted that the rural lane to the east of the proposed access does consist of a solid timber fence measuring approximately 12 metres in width, with a further domestic access measuring 10 metres in width which consists of rendered pillars to a height of approximately 2 metres, black metal barred gate and a solid timber fence. Given the context of the domestic entrances and features within the immediate vicinity and the level of development which could be achieved under permitted development, it is the opinion of your Officer that the proposed development incorporating the Boundary Devon Hedge providing sufficient screening would not significantly impact the overall character of this private access lane.

Taking account of the above, the proposed development, subject to appropriate conditions, is considered to be in accordance with Policies ST04, ST09, ST14, DM04 and DM08A of the North Devon and Torridge Local Plan and the National Planning Policies Framework.

3. Impact on Amenity

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

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

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

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

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

The application site is neighboured by residential dwellings to the west, with the host dwelling located immediately to the east and a further neighbouring residential dwelling to the east of the wider site.

The proposed access is to serve the existing uses of the site, in which there is no evidence of any harm arising to the amenities of the neighbouring dwellings. The proposed development would not significantly increase the scale of operations or alter the nature of existing business use.

Taking account of the above, given the scale and nature of the existing operations of the site and the proposed development, the proposed development is considered to not result in any significant harm to the environment in terms of air quality nor in terms of harm to neighbouring dwellings amenity.

Taking account of the above, it is considered that the proposal is in accordance with Policies DM01, DM02, and DM04 of the NDTLP

4. Access, Parking and Highways

Paragraph 116 of the NPPF advises that development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highways safety, or the residual cumulative impacts on the road network would be severe. In addition, Paragraph 117 notes that development should minimise the scope for conflict between pedestrians, cyclists and vehicles, respond to local character and design standards, allow for the efficient delivery of goods, and access by service and emergency vehicles.

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

Policy DM05 of the NDTLP relates to highways and states:

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

The proposal is for the removal of the existing hedgerow and the relocation of the existing access with a garden wall. The site is accessed via a private lane from the public highway located approximately 365 metres to the west of the site.

The existing private lane is a typical single country lane with no lighting or footways, and limited passing opportunities. Whilst not being suitable for carrying large volumes of traffic, it does, nevertheless serve the existing residential use. There is no through traffic for vehicles, however there are Public Rights of Way located to the east and west of the site. There is no evidence that the current level of use results in an unacceptable impact on highway safety.

On the evidence before me, the proposed development would not result in a significant increase in traffic movement to the site and the visibility splays are considered acceptable. Nonetheless, the business use of the site is not included within the consideration of this application, given it would appear that there is no lawful use of the site for business purposes.

It is acknowledged that the proposed development would provide the benefit of an additional vehicle passing bay, albeit over private land. The Council recommends a suitably worded condition restricting the placement of any bollards. Furthermore, the proposed access does improve the visibility splays for the wider site, which are currently limited on the existing access.

In light of the above, the proposal would not result in an unacceptable impact on highway safety or a severe residual cumulative impact on the road network and therefore is considered to be in accordance with policies ST10, DM05 and DM06 of the NDTLP and the NPPF.

5. Impact on Wildlife and Ecology

a. Ecological Impact

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

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

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

A number of public representations were received during the application process, which raised concerns in relation to the detailing of the hedgebank and whether the hedgebank has sufficient space to establish.

A Wildlife Trigger List was submitted as part of the application which indicated a further ecological impact assessment was required, given the proposal included the removal of a hedge. A 'Preliminary Ecological Appraisal Report' (reference: 2365/OC) was carried out by Orbis Ecology, in May 2022 and submitted to the Council for consideration, received 13th November 2024.

In addition to the above, an Ecological Impact Assessment (reference: 24-785-EclA-RT) was prepared by Lakeway Ecological Consultancy, in September 2024 and submitted to the Council for consideration, received 13th November 2024.

The proposed development, subject to this application, includes the removal of approximately 25 metres of hedgerow, with a further 20 metres of hedgerow being cleared. It is noted that the cleared hedgerow has re-established since its initial clearing and the updated Ecological Impact Assessment has assessed the re-established hedge. The exact date of the hedge removal is unknown, the application form states the works were completed on the 1st of March 2023.

The report concluded the following for each protected species and habitats:

Habitats and Flora

As the proposals involve the reinstatement of part of the hedgerow, and its extension to the east, with a new access formed in the centre of the hedge, no specific mitigation is required. However, the retained section of hedgebank will be enhanced to improve the species diversity, planting recommendations are provided in Appendix 3 of the report.

Bats

The Site presented negligible potential for roosting bats and so no adverse effects are predicted.

It is probable that local bat populations forage and commute along the site boundaries from time to time and although the Site boundaries are not considered to be a particularly important feature in the landscape, inappropriate lighting risks causing a barrier to foraging bats. Therefore, exterior lighting must be carefully placed to avoid illuminating boundary vegetation. Best practice guidance detailed in Guidance Note 08/23 - Bats and Artificial Lighting at Night (BCT, ILP, 2023) should be followed when siting lights both on and within buildings. Furthermore, security lighting will point downwards and be set on motion sensor with short duration (30s or less). This will ensure that no light barriers are introduced to foraging and commuting bats.

Breeding Birds

The current hedgerow contains little woody vegetation and is unlikely to provide good nesting habitat, however the previous hedgerow would have been suitable for a variety of nesting birds. The re-creation and extension of the hedgerow will enhance the Site for nesting birds such that residual effects will be positive.

Other Protected/Notable Species

The reinstatement of the hedgerow will be positive for other species. However, wildlife including hedgehogs and badgers may cross the Site. Therefore, best practice measures must be employed to avoid harm to wildlife during enabling/ construction and any pipe work should be capped overnight and any pits/ trenches covered or a means of escape provided. The layout provides continuity around the Site such that wildlife will be able to traverse the Site during operation and the habitat management recommendations and additional planting will benefit wildlife such that residual effects will be positive.

Enhancements

The compensation described above aims to ensure no net-loss in biodiversity caused by development. In addition, the following features will be installed, to provide a net-gain in biodiversity (see Lakeway 2024a and 20204b), in line with Local and National policy: enhancement of the existing hedgerow (c.21m).

In addition to the above, the proposed development includes landscaping within the wider site and is included within a Landscaping Condition.

Conclusion

Taking account of the above, subject to the proposed development being carried out in accordance with the relevant condition, it is the opinion of the Local Planning Authority that the proposal fulfils the

above statutory duties and the provision of Policies DM08 and ST14 of the NDTLP and the requirements of the NPPF.

The hedgebank has been specified by a suitably qualified ecologist and therefore the LPA are reasonably satisfied that the detailing is accurate and the hedge will be able to be established. In any case, the hedgebank will be managed and maintained in accordance with the BNG details as set out below and as part of the pre-commencement condition.

b. Biodiversity Net Gain

As of the 02nd April 2024, it is mandatory under the Schedule 7a of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) that developments (unless exempt) must deliver a Biodiversity Net Gain of 10%.

A DEFRA Biodiversity Statutory Metric was prepared by Lakeway Ecologists and submitted for consideration, received 13th November 2024. The Case Officer would concur with the finding of the baseline assessment, insofar the Baseline of the hedge has been assumed as 'good' given that site clearance occurred prior to the submission of the application.

The habitat retention, enhancement and creation, is in accordance with the BNG Hierarchy, with the enhancement of the remaining hedge (20 metres), and the creation of hedgerow along the northern boundary (24 metres).

It is acknowledged that only the north hedgebank is included within the BNG calculations, given they fall within the application site. Additional landscaping is proposed within the wider site and this is controlled via planning condition but does not form part of the BNG Plan.

There are no habitats or watercourses impacted by the proposed development.

The Trading Summaries of the proposed development demonstrates that the total net (%) change is as follows:

- Habitat Units: N/A (0.00%)
- Hedgerow Units: 0.05 (10.12%)
- Watercourse Units: N/A (0.00%)

Taking account of the above, the trading rules are satisfied, subject to detailed consideration at a later stage.

7. Planning Balance and Conclusion.

For the avoidance of doubt, it is concluded that the proposed vehicular access is necessarily restricted to its countryside location, given it is to serve the existing residential dwellinghouse and any agricultural use of the site.

It is acknowledged there will be some degree of harm within the immediate setting in the short term, whilst the proposed hedgebank is to be established. However, once fully established the harm to the immediate setting will be greatly reduced and would be no more harmful than the existing character of the neighbouring site. The impact on distance landscape views would be negligible given the screening from the existing agricultural building and proposed planting; the topography of the land; and in any case the development would be seen in the context of the existing built form. The impact on the character and appearance of the undeveloped coast is given neutral weight.

The proposed development would result in an overall 22% increase in hedgerow across the site and subject to careful management would provide an improved habitat and ecological value, when assessed against the ecological baseline of the submitted ecology report. However, without an appropriate assessment of the existing hedge, this matter cannot be appropriately assessed. The impact on wildlife and ecology is considered neutral.

Weighing up the benefits of the proposal, the proposal would provide an informal passing bay for vehicles on the country lane. However, there is no through traffic and the lane serves only three residential properties and therefore the benefit would be minor.

Additionally, there would be a minor improvement to the highway impact and pedestrian safety, arising from the significant improvement to the visibility splays for the existing uses. Albeit, as previously stated there is no through traffic and the lane serves only three residential properties and therefore the benefit would be minor.

Taking account of the above, your Officer considers that the identified benefits of the proposal outweigh any long-term harm and a recommendation of approval is made, subject to the inclusion of necessary conditions.

Human rights

Consideration has been given to the Human Rights Act 1998.

Conclusion

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

Recommendation

GRANT, subject to the following conditions:

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

Reason: The time limit condition is imposed in order to comply with the time requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out in accordance with the approved plans listed in the Plans Schedule.

Reason: To ensure the development is carried out in accordance with the approved plans.
- 3 Unless otherwise agreed in writing with the Local Planning Authority, within six months of the date of the Decision Notice, the element of the existing wall and panelling as detailed on the proposed access site plan (reference: 1 400 01 I, received: 20th November 2024) shall be permanently removed from the site.

Reason: In the interest of Character and Appearance of the Undeveloped Coast and to allow the provision of the required hedgebank, in accordance with Policies ST04, ST14, ST09, DM04, DM08, and DM08A of the NDTLP.
- 4 Unless otherwise agreed in writing with the Local Planning Authority, within six months of the date of the Decision Notice, the proposed hedgebank and planting along the North, South and West boundary, as shown on the proposed access site plan (reference: 1 400 01 I, received: 20th November 2024) shall be provided and maintained to a minimum height of 1.9 metres; and shall be retained in perpetuity.

Reason: In the interest of Character and Appearance of the Undeveloped Coast in accordance with Policies ST04, ST14, ST09, DM04, DM08, and DM08A of the NDTLP.

- 5 Unless otherwise agreed in writing with the Local Planning Authority, within six months of the date of the Decision Notice, the proposed timber boarding as shown on the proposed access elevation (reference: 1 400 02 E, received: 13th December 2024) shall be provided; and shall be retained in perpetuity.

Reason: In the interest of Character and Appearance of the Undeveloped Coast in accordance with Policies ST04, ST14, ST09, DM04, DM08, and DM08A of the NDTLP.

- 6 The proposed vehicle passing bay as detailed on the proposed access site plan (reference: 1 400 01 I, received: 20th November 2024), shall remain unobstructed in perpetuity.

Reason: In the interest of vehicular and pedestrian safety, in accordance with Policies ST10, DM05 of the NDTLP.

- 7 The landscaping hereby approved shall be implemented in accordance with the agreed details as shown on the Proposed Site and Location Plan (reference: reference: 1 400 01 I, received: 20th November 2024). The planting shall be completed within the first appropriate planting season following the development being brought into use. If within a period of five years from the date of the planting of any tree or shrub, that tree/shrub, or any tree/shrub planted in replacement for it, is removed, uprooted, destroyed, dies or becomes seriously damaged or defective another tree/shrub of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

Reason: To ensure that the development assimilates into the surrounding area, in accordance with Policies ST04, ST14, ST09, DM04, DM08, and DM08A of the NDTLP.

- 8 The development hereby approved shall be carried out in accordance with the recommendations set out at Section 6 (Impact Assessment and Mitigation) and Section 7 (Enhancements) of the Ecological Impact Assessment Report (reference: 24-785-EcIA-RT), prepared by Lakeway Ecological Consultancy Ltd, received 13th November 2024. The approved details shall be implemented prior to occupation and retained thereafter as such.

Reason: In the interests of ecology and biodiversity at the site.

- 9 Any external lighting on the application site, shall be in accordance with the recommendations put forward by the Institute of Lighting Professionals and the Bat Conservation Trust. For the avoidance of doubt these include:

- All luminaires should lack UV elements when manufactured. Metal halide, fluorescent sources should not be used.
- LED luminaires should be used where possible due to their sharp cut-off, lower intensity, good colour rendition and dimming capability.
- A warm white spectrum (ideally <2700 Kelvin) should be adopted to reduce blue light component.
- Luminaires should feature peak wavelengths higher than 550nm to avoid the component of light most disturbing to bats.
- Only luminaires with an upward light ratio of 0% and with good optical control should be used - See ILP Guidance for the Reduction of Obtrusive light.
- Luminaires should always be mounted on the horizontal, i.e. no upward tilt.
- Any external security lighting should be set on motion-sensors and short (1min) timers.
- As a last resort, accessories such as baffles, hoods or louvres should be used to reduce light spill and direct it only to where it is needed.

Reason: In the interests of protecting the protecting species present and 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.

- 10 The development shall not commence until a 30 year Habitat Monitoring and Management Plan (HMMP), prepared in accordance with an approved Biodiversity Gain Plan, has been submitted to and approved in writing by the local planning authority. The approved HMMP shall be strictly adhered to and implemented in full for its duration and shall contain the following:
- a) Description and evaluation of the features to be managed;
 - b) Ecological trends and constraints on site that may influence management;
 - c) Aims, objectives and targets for management - links with local and national species and habitat action plans;
 - d) Description of the management operations necessary to achieving aims and objectives;
 - e) Prescriptions for management actions;
 - f) Preparation of a works schedule, including annual works schedule;
 - g) Details of the monitoring needed to measure the effectiveness of management;
 - h) Details of the timetable for each element of the monitoring programme;
 - i) Details of the persons responsible for the implementation and monitoring;
 - j) mechanisms of adaptive management to account for necessary changes in work schedule to achieve the required targets; and
 - k) Reporting on year 1, 2, 5, 10, 20 and 30, with biodiversity reconciliation calculations at each stage.

Reason: To enhance biodiversity.

Plans Schedule

<u>Reference</u>	<u>Received</u>
1400 01 I	20.11.2024
24-785-P1	13.11.2024
24-785-P2	13.11.2024
1400 02 B	13.12.2024

Informatives

01. Biodiversity Net Gain Condition

Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 states that planning permission is deemed to have been granted subject to the "biodiversity gain condition" which means development granted by this notice must not begin unless:

- a. a Biodiversity Gain Plan has been submitted to the planning authority, and
- b. the planning authority has approved the plan.

This permission will require the submission and approval of a Biodiversity Gain Plan before development is begun.

For guidance on the contents of the Biodiversity Gain Plan that must be submitted and agreed by the Council prior to the commencement of the consented development please see the link: Submit a biodiversity gain plan - GOV.UK (www.gov.uk)

Statutory exemptions and transitional arrangements

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These can be found at Paragraph: 003 Reference ID: 74-003-20240214 of the Planning Practice Guidance, which can be found at <https://www.gov.uk/guidance/biodiversity-net-gain>.

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.

Effect of Section 73(2D) of the 1990 Act

Under Section 73(2D) of the Town and Country Planning Act 1990 (as amended) where -

- a. a biodiversity gain plan was approved in relation to the previous planning permission ("the earlier biodiversity gain plan"), and
- b. the conditions subject to which the planning 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 within the meaning of regulations made under paragraph 18 of Schedule 7A, 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.

the earlier biodiversity gain plan is regarded as approved for the purposes of paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) in relation to the planning permission.

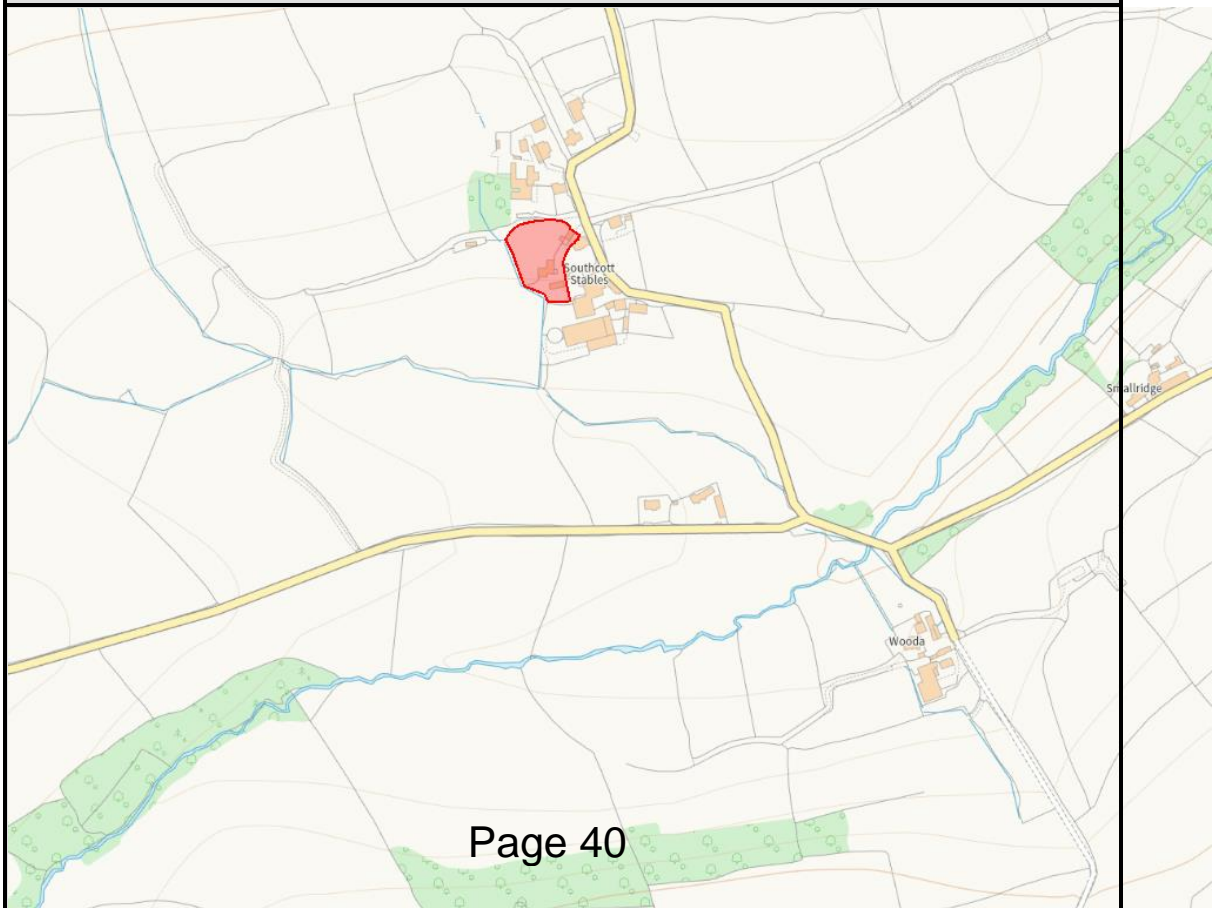
Statement of Engagement

In accordance with paragraphs 39 of the National Planning Policy Framework (NPPF) in dealing with this application, the Council has worked with the applicant in the following and positive and proactive manner. We have made available detailed advice in the form of our statutory policies in the Development Plan, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice service, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably. In such ways the Council has demonstrated a positive and proactive manner in seeking solution to problems arising in relation to the planning application.

Agenda Item 7c

Committee Report – 16.01.2025

Application Number:	1/0917/2024/TDC
Registration date:	23 October 2024
Expiry date:	28 November 2024
Applicant:	Mr Austin Connor
Agent:	Mr Oliver Mathers
Case Officer:	Mr Peter Stapley
Site Address:	Barns At Southcott, Frithelstock, Devon,
Proposal:	Application for approval of technical details for conversion of existing barn to 1no. dwelling and associated works following grant of permission in principle 1/0109/2022/PIP
Recommendation:	Refuse



Reason for referral:

The application was called-in to be heard at Plans Committee by Councillor Pennington, if the application is to be refused, for the following reasons:

- *'Amongst other consideration DM27 stands out as good use of a redundant rural building.'*

Relevant History:

Application No.	Description	Status	Closed
1/1024/2019/AGMB	Prior notification for the change of use of agricultural building to 1no. dwelling under Class Q and associated operational development	PER	20.12.2019
1/0024/2022/OUT	Outline application for the conversion of two redundant rural buildings to create two separate dwellings with all matters reserved.	NPW	18.01.2022
1/0109/2022/PIP	Conversion of existing barns to No.2 dwellings and associated works	PER	09.03.2022
1/0381/2024/TDC	Application for approval of technical details for conversion of existing barns to 2no. dwellings and associated works following grant of permission in principle 1/0109/2022/PIP	INVAL	24.05.2024
1/0580/2024/TDC	Application for approval of technical details for conversion of existing barns to 2no. dwellings and associated works following grant of permission in principle 1/0109/2022/PIP	REF	22.08.2024
1/0024/2022/OUT	Outline application for the conversion of two redundant rural buildings to create two separate dwellings with all matters reserved.	NPW	18.01.2022
1/0109/2022/PIP	Conversion of existing barns to No.2 dwellings and associated works	PER	09.03.2022
1/0381/2024/TDC	Application for approval of technical details for conversion of existing barns to 2no. dwellings and associated works following	INVAL	24.05.2024

1/0580/2024/TDC	grant of permission in principle 1/0109/2022/PIP Application for approval of technical details for conversion of existing barns to 2no. dwellings and associated works following grant of permission in principle 1/0109/2022/PIP	REF	22.08.2024
-----------------	--	-----	------------

Site Description & Proposal

Site Description

The application site measures approximately 0.35 hectares and is located within the open countryside and is approximately 930 metres to the north of Langtree, which is designated as a 'Village' within the adopted North Devon and Torridge Local Plan (NDTLP).

The application site does not fall within any allocated land designation and the Landscape Character Type for the application site is 3A (Upper Farmed and Wooded Valley Slopes) and Devon Character Area 65 (West Torridge Upland Farmland). There are no designated heritage assets or scheduled monuments within close proximity; the site is not located within a SSSI; and the site falls within a Zone 1 Flood Risk and therefore it has less than 1 in 1,000 annual probability of river flooding and is considered a low probability of flooding.

The application site is neighboured by a private track to the north; residential properties to the east; agricultural land/buildings to the south; and agricultural fields to the west. The site is accessed from the public, unclassified (Class R), highway located to the northeast of the site.

The site currently consists of two rural buildings used in association with the neighbouring residential dwellinghouse. Barn A is located to the south of the site, and is single-storey, measuring approximately 13 metres in length by 5 metres in depth, with an eaves height of 2.7 metres and ridge height of 4.25 metres. The building is constructed from traditional local stone and cob detailing, however, there is evidence of block work repairs throughout the building. The roof is constructed with timber trusses with a corrugated metal sheet covering. The barn is currently used for storage.

Barn B is located to the north of the site, and is single-storey measuring approximately 16.3 metres in length by 14.1 metres in depth, with an eaves height of 4.1 metres and ridge height of 7.1 metres. The building is constructed from traditional local stone, however, there is evidence of block work repairs throughout the building. The roof is constructed with timber trusses with a corrugated metal sheet covering. The barn is currently used for storage and as a gym/games room.

The site benefits from Permission In Principle (reference: 1/0109/2022/PIP) for the '*Conversion of existing barns to No.2 dwellings and associated works.*' The proposal involved the conversion of the existing redundant barns to two, independent, residential dwellings. The permission in principle application considered the location, use and amount, with all remaining matters reserved for technical consent stage.

Permission in Principle was granted on the 09th March 2022. The default duration for such permissions are 3 years, and therefore work must commence prior to 09th March 2025. The permission is, therefore, considered to be extant.

Proposed Development

The application seeks Technical Consent for the conversion of Barn B to a single residential dwelling (Use Class C3), with associated works.

Barn B is located within the centre of the site, and will consist of a two-storey, three-bedroom, dwellinghouse measuring approximately 16.3 metres in length by 14.1 metres in depth, with an eaves height of 4.1 metres and ridge height of 7.1 metres. The dwelling will have a gross internal floor area measuring approximately 163 square metres.

Barn B will be constructed with the following materials: natural stone elevations; natural slate roof tiles; and timber windows and doors.

The proposed development includes the creation of a new access drive and parking; landscaping and biodiversity enhancements; and Surface Water Soakaways.

Consultee representations:

Frithelstock Parish Council:

No representation received.

South West Water:

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.

I trust this provides confirmation of our requirements, however should you have any questions or queries, please contact the Planning Team on 01392 442836 or via email: DeveloperServicesPlanning@southwestwater.co.uk.

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 close proximity of the farmstead to the south of the application site, the Environmental Protection Team has concerns with regards the potential amenity impact. The neighbouring farmstead appears to consist of agricultural livestock buildings which have the potential to adversely impact residential amenity from the associated noise, odour and fly nuisance. Subsequently, the Environmental Protection Team considers the proposed development to be contrary to Policy DM01.

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 development is to be served by an existing septic tank discharging to a drainage field. No information has been provided to indicate that the existing foul drainage provision has sufficient capacity to accommodate the additional loading arising from the proposed development. The applicant should provide additional information that satisfies the Authority that a suitable and sufficient foul drainage provision will serve the proposed development.

Representations:

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

No public representations received.

Policy Context:

North Devon and Torridge Local Plan 2011-2031:

ST01 (Principles of Sustainable Development); ST02 (Mitigating Climate Change); ST03 (Adapting to Climate Change and Strengthening Resilience); ST04 (Improving the Quality of Development); ST06 (Spatial Development Strategy for Northern Devon's Strategic and Main Centres); 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); DM27 (Re-use of Rural Buildings).

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 material planning considerations which are relevant in the determination of this application are:

1. Principle of Development;
2. Impact on Character and Appearance;
3. Impact on Amenity;
4. Access, Parking and Highways;
5. Foul and Surface Water Drainage;
6. Impact on Wildlife and Ecology;
 - a. Ecological Impact;
 - b. Biodiversity Net Gain; and
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).

Paragraph 84 of the National Planning Policy Framework (NPPF) states that "*planning decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:*

- (a) *There is an essential need for a rural worker, including those taking majority control of farm business, to live permanently at or near their place of work in the countryside;*
- (b) *The development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
- (c) *The development would re-use redundant or disused buildings and enhance its immediate setting;*
- (d) *The development would involve the subdivision of an existing residential building; or*
- (e) *The design is of exceptional quality, in that it:*
 - *Is truly outstanding, reflecting the highest standards in architecture, and would help raise standards of design more generally in rural areas; and*
 - *Would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.”*

Policy ST01 of the North Devon and Torridge Local Plan (NDTLP) emphasises that development proposals will be considered with a presumption in favour of sustainable development, as contained in the NPPF.

As a result of the application site being located in the open countryside, the provisions of section (4) of Policy ST07 of the Local Plan are relevant which states 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 accompanying text to Policy ST07, in relation to section (4) notes that in the countryside, the Local Plan seeks to control dispersed development, guarding against development in unsustainable locations.

Notwithstanding the above, the site benefits from an extant Permission in Principle application (reference: 1/0109/2022/PIP) for the ‘*Conversion of existing barns to No.2 dwellings and associated works.*’ and thus the principle of the conversion of the barns to two dwellings has been established on the application site. Permission in principle considerations are restricted to location, land use and amount of development, consequently, the principle of development for one residential dwelling is not for consideration within this Technical Consent (Stage 2) application as this was established at the previous stage.

2. Impact on Character and Appearance

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

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 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.

Policy DM08A states development should be of an appropriate scale, mass and design that recognises and respects landscape character of both designated and undesignated landscapes and seascapes; it should avoid adverse landscape and seascape impacts and seek to enhance the landscape and seascape assets where possible.

Policy DM27 offers broad planning policy support for the conversion of redundant and disused rural buildings as long as it meets the following criteria:

- (a) *Such a 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*

The Councils 'Frequently Ask Questions' documents, gives guidance on the interpretation of the policies within the Local Plan. With respect to whether the building is 'disused or redundant' the FAQ statement states "*the terms disused and redundant are not defined within the local plan nor in planning legislation, national planning policy or guidance. As such, ordinary dictionary definitions will be utilised as the starting point:*

Disused - "*the condition of not being used (any longer)*"

Redundant – "*unnecessary because it is more than is needed*"

Consideration of whether the building is disused or redundant is a matter for the decision-taker. Applicants should however provide sufficient information as part of the application to enable the decision-taker to establish whether the building can be reasonably considered to be disused or redundant. This information should clearly explain the circumstances as to why the building is no longer required for the intended purpose.

Where the building is, or was formally, in a use that is subject to specific protections or restrictions to changes to alternative uses through the provisions of other development plan policies, the relevant provisions of those policies will be applicable in determining an application. For example Policy DM13: Safeguarding Employment Land may require that, for a building that has been in any form of employment use, it can be demonstrated through appropriate marketing that the site no longer provides a realistic prospect for employment uses and that a sequential test is applied to ensure an employment first approach to redevelopment."

The Councils 'Frequently Ask Questions' documents, gives guidance on the interpretation of the policies within the Local Plan. With respect to what constitutes 'significant external alteration' or 'substantive rebuilding' the FAQ statement states "*The local plan does not define the terms significant external alteration or substantive rebuilding, nor are they defined in national planning policy or relevant legislation. In lieu of a planning definition, ordinary dictionary definitions of significant and substantive can provide a useful the starting point for the application of the policy provisions:*

Significant – "*important, notable, or momentous*"

Substantive – "*of considerable amount or quantity; substantial*"

The application of the policy provisions will require judgement and pragmatic application by the decision taker.

As a yardstick, the replacement of a large part of an external wall, the replacement of the majority or entirety of the roof structure and/ or covering, would normally be taken by the local planning authority as constituting substantive rebuilding. Equally, the replacement of more modest elements, in combination, could also collectively be determined to be substantive.

Similarly, the filling in an otherwise open elevation, changes to the external facing materials across one or more elevations or the creation of a substantial number of new openings, could all be construed individually as being significant external alterations. More modest alterations, in combination and read together, could also collectively be taken to be significant."

Policy ST14 of the Local Plan seeks to enhance the District's environmental assets, noting at section (g) the need to protect and enhance the local landscape character, taking into account the key characteristics, historical dimensions of the landscape and their sensitivity to change.

The NPPF also strongly emphasises the need for well-designed places, in which Part 12 of the Framework is solely dedicated to the achieving well-design places. Paragraph 131 of the NPPF notes

'the creation of high-quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process 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.

Paragraph 139 of the NPPF states that permission should be refused for the development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

As a starting point, the Design and Access Statement states that both barns are currently used for purposes incidental to the enjoyment of the dwellinghouse, despite both being considered outside of any identified residential curtilage. The DAS sets out that Barn B is currently used partially for storage and a personal gym/games room. The Case Officer confirmed during their site visit that the barn is largely redundant, albeit part of the barn has been converted to form a gym/games rooms. Nonetheless, it is accepted that the barn is primarily redundant and would benefit from the provisions of Policy DM27.

A Structural Inspection Report was carried out by Gilham Consulting Ltd and submitted for consideration, received 26th June 2024. The Structural Report relates to both barns and concludes that the barns *"demonstrate adequate overall stability"* and that *"The work proposed does not seek to extend the existing buildings. Nor does it involve significant external alteration or rebuilding."*

It is noted, that Barn A is to be retained as existing and does not form part of this application. The detailed consideration relating to individual Barn B is set out below:

Barn B

Walls:

Whilst the load upon the existing walls will be increased due to the new roof and floor the increase has been estimated to be no more than 16% with a resultant unfactored bearing pressure of 95 kN/m². This is believed to be within the capacity of the natural ground underlying the site.

Floor:

In the same way as discussed with Barn A above, the ground is capable of re-use supporting a new ground floor slab incorporating insulation. Where insulation is required to the existing walls it may be contained in timber studs built against them supported on the ground floor slab. The studs may also be used to support the floor joists.

Roof:

The roof proposed is slated and incorporates dormers on the front pitch. It appears that the dormers occupy that same plan position as the trusses. The trusses will need to be removed. The new roof structure can be formed as a structural ridge, spanning between gables, with intermediate support offered by the internal first floor partitions. New rafters and the dormers can span between the flank walls and ridge.

The structural survey is stated to be based on a visual inspection only, with no intrusive investigations undertaken. From the Case Officers observations, Barn B would appear to be structurally sound as detailed within the Structural Engineers Report, albeit it is evident that large parts of the barn original structure have more recently been rebuilt and would appear to have been increase in overall ridge height, with large areas of modern blockwork forming the elevations, new roof trusses, and new roofing.

Notwithstanding the above, the proposed development includes the conversion of the existing barn to form a single residential dwellinghouse. The proposed drawings demonstrate that the conversion includes a number of design alterations, including alterations to the roof materials; provision of a first-floor storey on Barn B with rooflights.

It is acknowledged that the FAQ state that, *the replacement of the majority or entirety of the roof structure and/ or covering, would normally be taken by the local planning authority as constituting substantive rebuilding*. Nonetheless, it is evident that the existing roof materials are relatively new and are in good condition, as confirmed by the Structural Survey, and therefore could be reused if necessary. The proposed replacement materials would offer a higher quality design finish and would improve the overall design, retaining the agricultural character of the building. On this basis, the proposed replacement materials are considered to be acceptable.

In addition to the above, the proposed development would largely retain the agricultural character of the building and the application site is largely screened from distant landscape views and the site would be seen in the existing context of the built form. Consequently, the proposed development would not harm the landscape character of the area and is in accordance with Policies ST04, ST14, DM04 and DM08A of the North Devon and Torridge Local Plan. Whilst there is a degree of conflict with Policy DM27 of the North Devon and Torridge Local Plan, overall, the level of alteration is a betterment in terms of design and is acceptable.

3. Impact on Amenity

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

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

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

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

Policy 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 of all existing and future occupants of land and buildings. In particular, Paragraph 135 (f) states that development should *“create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”*

Paragraph 198 of the NPPF, states that *“Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.”*

Paragraph 200 of the NPPF states that *“Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.”*

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

The Council Environmental Protection team were consulted during the application process and commented “Having regard for the close proximity of the farmstead to the south of the application site, the Environmental Protection Team has concerns with regards the potential amenity impact. The neighbouring farmstead appears to consist of agricultural livestock buildings which have the potential to adversely impact residential amenity from the associated noise, odour and fly nuisance. Subsequently, the Environmental Protection Team considers the proposed development to be contrary to Policy DM01.

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 closest third-party residential dwelling is located immediately to the east of the application site; however, the Council did not receive any public representations during public consultation. There is an existing high boundary wall along the eastern boundary, with vegetation above. This would provide adequate screening for the residential curtilage of the neighbouring property from Barn B. Consequently, the conversion of Barn B would not cause any significant loss of privacy to the neighbouring property, known as Southcott, from overlooking.

The extent of the curtilage for the dwelling is clearly defined on the site plan, reference: 002, with an area allocated to BNG to the south of the site. The curtilage would appear excessive in relation to the scale of the development; however, this has somewhat been accepted through the granting of the PIP.

The scale, design and nature of the proposed development are such that there would be no significant adverse impact on the amenities of occupiers of nearby dwellings or the intended occupants, in terms of overlooking; loss of privacy; dominance; overshadowing; and loss of daylight or sunlight.

Notwithstanding the above, the application site is located immediately to the north of an existing agricultural farmstead. The farmstead would appear to consist of agricultural buildings used for the accommodation of livestock; a slurry tank; and an agricultural yard. The larger agricultural building measures approximately 1,130 square metres and is located 18 metres from the boundary of site (curtilage) and 51 metres from Barn B. The smaller agricultural building measures approximately 280 square metres and is located 5 metres from the boundary of site (curtilage) and 33 metres from Barn B. The slurry tank is located approximately 20 metres from the boundary of the site and 48 metres from Barn B.

The agent, acting on behalf of the applicant, was made aware of the LPA's concerns regarding the impact on amenity and was invited to submit further information regarding the use of the agricultural buildings. One would have expected the applicant to provide technical evidence to address impacts relating to noise, odour, flies and lighting to demonstrate the effects of the adjoining agricultural use. Your Officer would have expected such evidence to be provided and for mitigation to be suggested to address any impacts there may be on living conditions. No further evidence has been provided for consideration and therefore your Officers cannot be certain that acceptable living conditions would be achieved at the application site.

Given the close proximity, and scale, of the third-party agricultural livestock buildings to the proposed dwelling, your Officer and the Environmental Protection Officer have significant concerns regarding potential impacts on the residential amenities of the intended occupants arising from odour, noise,

flies and lighting. No clear and robust evidence has been provided at this time, which would allay these concerns. Given the responsibilities of the Environmental Protection Team, from a statutory nuisance perspective, they are well-placed and experienced in the issues that arise from the proximity of such uses. The corollary of this is that were adverse effects to occur there could be unreasonable restrictions placed on the existing agricultural business in order to mitigate them. As indicated above, NPPF Paragraph 200 is clear that it is for the agent of change to ensure that suitable mitigation is in place before a development is completed. In the absence of any technical supporting information, the decision-taker cannot be certain that there would not be subsequent unreasonable restrictions placed on the agricultural unit. There is no requirement in the NPPF for it to be demonstrated that unreasonable restrictions would be placed on the existing agricultural business. The provision of mitigation falls within the remit of this technical details consent stage, and it is proportionate and rational to ensure that such mitigation would be effective against the potential harms.

What constitutes acceptable residential amenity and a significant adverse impact are matters of planning judgement and, in the absence of any technical evidence, it is considered that the proposed development has the potential to conflict with Policies DM01 and DM04 of the North Devon and Torridge Local Plan and the National Planning Policy Framework.

4. Access, Parking and Highways

Paragraph 116 of the NPPF advises that development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highways safety, or the residual cumulative impacts on the road network would be severe. In addition, Paragraph 117 notes that development should minimise the scope for conflict between pedestrians, cyclists and vehicles, respond to local character and design standards, allow for the efficient delivery of goods, and access by service and emergency vehicles.

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

Policy DM05 of the NDTLP relates to highways and states:

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

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

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

Policy DM27 only supports the reuse of disused and redundant rural building where there is suitable highway access and the surrounding highway network can support the proposed use.

Devon County Council Highway, as the Local Highways Authority, were consulted on the proposed development and had no objections, subject to the Councils standing advice being met. The proposed development includes utilising the existing access to the northwest of the site, which connects to the public highway via the existing driveway. The proposal includes the provision of two parking spaces per dwelling.

It is noted that the proposed access is located approximately 13 metres from the public highway and the intervening parcel of land, is not within the applicant's ownership; albeit, the applicants do have an existing right of access over this land.

The proposed development is considered to provide sufficient parking and turning space within the site, and utilising the existing access. The volume of traffic attracted to the site as a result of the development would not significantly impact on highway safety. Consequently, the proposed development is considered to be in accordance with Policies ST10, DM05 and DM27 of the North Devon and Torridge Local Plan and Paragraph 116 and 117 of the National Planning Policy Framework.

5. Foul and Surface Water Drainage

Policy ST03 of the NDTLP notes that development should 'adopt effective water management including Sustainable Drainage Systems, water quality improvements, water efficiency measures and the use of rainwater'. In addition, Policy DM04 notes development should provide effective water management including Sustainable Drainage Systems, water efficiency measures and the reuse of rainwater.

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

The NPPF and Planning Practice Guidance provide further advice on foul drainage, with a hierarchical approach being used. The Planning Practice Guidance notes that new development should aim to discharge foul water into the public sewer; however, if this not possible then a package treatment plant may be used. However, 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.

The proposed foul water is to be dealt with via an existing septic tank, located along the western boundary of the site. The surface water drainage is to be dealt with via a soakaway, given the rural local of the application site and the extent of the land ownership, your Officer is confident that the surface water can be dealt with appropriately within the site.

The Environmental Protection Officer was consulted on the proposed development and commented *"The proposed development is to be served by an existing septic tank discharging to a drainage field. No information has been provided to indicate that the existing foul drainage provision has sufficient capacity to accommodate the additional loading arising from the proposed development. The applicant should provide additional information that satisfies the Authority that a suitable and sufficient foul drainage provision will serve the proposed development."*

It is noted that on a previous similar scheme (1/0580/2024/TDC) the Environmental Protection Officer commented that *"the proposed development is to be served by an existing septic tank discharging to a drainage field. No information has been provided to assess whether the existing provision has sufficient capacity to accommodate the additional loading arising from the proposed development. It is the responsibility of the applicant to ensure a suitable and adequate foul drainage provision."*

It is unclear as to why the Environmental Protection Officer has changed their position when the application is only five months apart and the proposal before them is a reduction in residential units on the site. Nonetheless, whilst the applicant is encourage to demonstrate the exiting septic tank had sufficient provision to accommodate the additional load, this would ultimately be a matter for at Building Regulation stage. At this time, it is clear that the applicant has sufficient land within the application site, should the drainage field need to be extended. Alternatively, if at a later stage it is considered that further provision is required, the applicant would be required to submit a further planning application.

In light of the above, the proposed development is considered acceptable and is in accordance with policies ST03, DM02 and DM04 of the North Devon and Torridge Local Plan. Notwithstanding this,

an informative would be attached on any permission identifying that it is the responsibility of the applicant to ensure there is suitable and adequate foul drainage provision within the existing system. Should any additional provision be required, this would need further planning permission.

6. Impact on Wildlife and Ecology

a. Ecological Impact

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

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

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

A Wildlife Trigger List was submitted as part of the application which indicated a further ecological impact assessment was required. A 'Final Ecological Appraisal Report' (reference: ORB_3055_OC) was carried out by Orbis Ecology and submitted to the Council for consideration, received 22nd October 2024. It is noted that the Ecology Report was prepared for a previous scheme for the conversion of the Barns to two residential dwelling and therefore makes references to works to Barn A. The scheme which is the subject of this application, is for works solely to Barn B with Barn A use being retained. For completeness and to provide context of the protected species present, the full consideration as detailed within the report is set below.

The Report sets out that the Ecologist [Oliver Chope], carried out a site walkover and concluded that the site is unlikely to provide suitable habitat for the following protected and priority species: Dormice; Otters; Great Crested Newts; Cirl Buntings; Barn Owls; Other Schedule 1 birds; Breeding birds; Reptiles; Native crayfish; Water voles; Badgers; and other protected species.

Nonetheless, the report concluded the following assessments, mitigation and enhancement measures, in relation to the following protected species:

Bats

The survey indicated that Barn A supports a summer day roost for the Common Pipistrelle bat. The loss of a summer day roost for an individual common pipistrelle bat is a site-level impact, as it is unlikely to be the only day roost used; and disturbance to bat activity from increased light levels within the site will be a site level impact, as the barns are set within open countryside with ample opportunities for undisturbed foraging close by.

For the proposed conversion of Barn A to proceed the applicant will require a European Protected Species Licence (issued by Natural England). This is because the proposed works will cause an offence under the current legislation.

Measures to avoid killing or injuring bats are required at any time of year. For Barn A work to the roof will be carried out under ecological supervision and any bats found moved out of harms way to a pre-erected bat box on a nearby tree.

Mitigation for the loss of the roost will be provided in the form of an external crevice bat box on the east gable end of Barn A. The recommended model is the Beaumaris Woodstone bat box Maxi or similar approved. A further cavity bat box is recommended on the south elevation of Barn B. The recommended model is the Vivara Pro Causa wooden maternity box or similar approved. This box is

suitable for all the species recorded on site, and given the high levels of common and soprano pipistrelle activity recorded it may attract a maternity colony of one or other of these species.

In addition to the above, Lighting design will follow the recommendations of the Institute of Lighting Professionals and the Bat Conservation Trust:

- All luminaires should lack UV elements when manufactured. Metal halide, compact fluorescent sources should not be used.
- LED luminaires should be used where possible due to their sharp cut-off, lower intensity, good colour rendition and dimming capability.
- A warm white light source (2700 Kelvin or lower) should be adopted to reduce blue light component.
- Light sources should feature peak wavelengths higher than 550nm to avoid the component of light most disturbing to bats (Stone, 2012).
- Internal luminaires can be recessed where installed in proximity to windows to reduce glare and light spill.
- Waymarking inground markers (low output with cowls or similar to minimise upward light spill) to delineate path edges.
- Column heights should be carefully considered to minimise light spill and glare visibility. This should be balanced with the potential for increased numbers of columns and upward light reflectance as with bollards.
- Only luminaires with a negligible or zero Upward Light Ratio, and with good optical control, should be considered - See ILP GN01
- Luminaires should always be mounted horizontally, with no light output above 90° and/or no upward tilt.
- Where appropriate, external security lighting should be set on motion sensors and set to as short a possible a timer as the risk assessment will allow. For most general residential purposes, a 1 or 2 minute timer is likely to be appropriate.
- Use of a Central Management System (CMS) with additional web-enabled devices to light on demand.
- The use of bollard or low-level downward-directional luminaires is strongly discouraged. This is due to a considerable range of issues, such as unacceptable glare, poor illumination efficiency, unacceptable upward light output, increased upward light scatter from surfaces and poor facial recognition which makes them unsuitable for most sites. Therefore, they should only be considered in specific cases where the lighting professional and project manager are able to resolve these issues.
- Only if all other options have been explored, accessories such as baffles, hoods or louvres can be used to reduce light spill and direct it only to where it is needed. However, due to the lensing and fine cut-off control of the beam inherent in modern LED luminaires, the effect of cowls and baffles is often far less than anticipated and so should not be relied upon solely.

Nesting Birds

There was evidence of nesting birds (a wren) in a crevice in the stonework of Barn B. There are potential impacts to nesting birds if building work commences during the nesting season.

For the avoidance of impacts, works to Barn A should be programmed to commence outside of the bird nesting season 1st March to 31st August inclusive, or when the last young have fledged should that be later. No works should commence during the bird nesting season unless a competent ecologist has undertaken a careful, detailed check of the building for active birds' nests immediately before works commence and provided written confirmation that no birds will be harmed or that there are appropriate measures in place to protect nesting bird interest on site.

Replacement nesting opportunities are to be provided by locating nest boxes on the exterior of the barns including;

- 1 x Wren box on the north elevation of Barn A;
- 2 x sparrow terraces on the north elevation of Barn A; and
- 2 x sparrow terraces on the north elevation of Barn B.

For wrens a suitable box is the Vivara Pro Barcelona open nest and for sparrows the Vivara Pro Woodstone Sparrow Terrace.

European Protection Species Licence

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 requirements to have regard to protected species.

Case law has established that Local Planning Authorities must take into account the requirements, or 'three tests' for granting an EPSL, as required by the Habitat Regulations when determining a planning application which would otherwise result in an offence, in this case, the destruction of an identified individual common pipistrelle bat summer day roost.

The three tests are:

1. It is in:
 - a) the interests of public health and public safety,
 - b) or for other imperative reasons of overriding public interest, including those of a social or economic nature.
2. That there is no satisfactory alternative.
3. It will not be detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range.

It is noted that, the previous application was subject to the 'three tests'; however, given the proposed works are in relation to Barn B with Barn A being retained as existing, it is evident that the common Pipistrelle Bar summer day roost will be retained and an EPSL would not be required.

On this basis, the application for consideration is not required to be assessed against the three tests.

Conclusion

In light of the above, the proposed development, subject to the recommended planning conditions, would result in no significant adverse effect towards any protected habitats or species present. As such the proposed development is considered to be in accordance with policies ST14 and DM08 of the NDTLP.

b. Biodiversity Net Gain

As of the 02nd April 2024, it is mandatory under the Schedule 7a of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) that small-sites developments (unless exempt) must deliver a Biodiversity Net Gain of 10%.

A revised DEFRA Biodiversity Metric Calculator was carried out Orbis Ecology, received 23rd December 2024. The Case Officer would concur with the findings of the baseline assessment. The proposed Habitat Creation includes the provision of 11 rural trees and an additional 70 metres of species rich native hedgerow planting. There are no watercourses impacted by the proposed development.

It is noted that the proposed development is now in accordance with the BNG Hierarchy compared to that of the original scheme. The BNG Hierarchy is as follows:

1. Avoid Adverse Effects - The first priority is to minimise negative impacts on existing habitats within the development site. This is particularly important for areas with medium, high, or very high distinctiveness
2. Mitigate Unavoidable Effects - If adverse impacts cannot be entirely avoided, the next step involves minimising and mitigating these impacts as much as possible.
3. Enhance On-site Habitats - Once impacts have been minimised, the focus shifts to enhancing the quality of existing habitats within the development site.
4. Create New On-Site Habitats - If further improvements are needed to achieve the 10% net gain requirement, developers should explore creating new habitats within the development area.

5. Secure Off-Site Credits - If achieving the required net gain on-site proves insufficient, developers can secure off-site biodiversity units.
6. Purchase Biodiversity Credits - As a last resort, if all previous options have been exhausted, developers can purchase statutory biodiversity credits.

The Trading Summaries of the proposed development demonstrates that the total net (%) change is as follows:

- Habitat Units: +0.12 units (22.02%)
- Hedgerow Units: +0.80 (892.97%)
- Watercourse Units: N/A

The supporting Biodiversity Net Gain Assessment report (reference; ORB_SOUTHCOTT_OC received: 23.12.2024) states that *“An implementation plan such as a LEMP will be required to take the measures proposed through to a position to be deliverable on the ground. The plan will need to include detailed drawings (e.g. detailed landscape planting schedules), management proposals and a timetable for implementation. The plan will also need to specify those responsible for the various activities.”*

Taking account the above, the proposed development subject to a detailed LEMP condition, would meet the provisions of Schedule 7a of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021), in that a 10% net gain would be achieved for the development. Were consent to be granted, it would be necessary to include conditions to ensure mitigation measures are secured and that the biodiversity net gain is delivered and managed / monitored over the required timescale.

7. Conclusion

For the avoidance of doubt, your Officer concludes that the principle of the conversion of the redundant barn to a single residential dwelling is considered acceptable in accordance with the Permission in Principle application.

Nonetheless, in the opinion of your Officer in accordance with the representation received from the Environmental Protection Officer, by virtue of the proximity and scale of the existing agricultural livestock buildings to the south of the site, there is a significant concern regarding the impacts to the residential amenities of future occupiers arising from odour, noise, smell and flies associated with livestock. Consequently, the proposed development conflicts with Policies DM01 and DM04 of the North Devon and Torridge Local Plan and Paragraph 198 and 200 of the National Planning Policy Framework.

For the reasons set out above, the proposed conversion of existing barn to 1no. dwelling and associated works is considered to be contrary to Policies DM01 and DM04 of the North Devon and Torridge Local Plan and the National Planning Policy Framework. Consequently, your Officer recommends refusal of the application.

Human rights

Consideration has been given to the Human Rights Act 1998.

Recommendation

REFUSE, for the following reason(s):

- 1 In the absence of technical evidence to assess impacts arising from noise, odour, flies and lighting at the agricultural unit to the south of the application site, the Local Planning Authority cannot be certain that there would not be an unacceptable amenity impact upon future occupants of the proposed development, given the close proximity to, and the scale of, these existing third-party agricultural buildings. It is therefore not possible to confirm that the proposed development complies with Policies DM01 (Amenity Considerations) and DM04

Plans Schedule

<u>Reference</u>	<u>Received</u>
003_02	12.12.2024
001_02	12.12.2024
002	12.12.2024
007	12.12.2024
008	12.12.2024
001	22.10.2024

Informatives

01. Biodiversity Net Gain Condition

Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 states that planning permission is deemed to have been granted subject to the "biodiversity gain condition" which means development granted by this notice must not begin unless:

- a. a Biodiversity Gain Plan has been submitted to the planning authority, and
- b. the planning authority has approved the plan.

This permission will require the submission and approval of a Biodiversity Gain Plan before development is begun.

For guidance on the contents of the Biodiversity Gain Plan that must be submitted and agreed by the Council prior to the commencement of the consented development please see the link: Submit a biodiversity gain plan - GOV.UK (www.gov.uk)

Statutory exemptions and transitional arrangements

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These can be found at Paragraph: 003 Reference ID: 74-003-20240214 of the Planning Practice Guidance, which can be found at <https://www.gov.uk/guidance/biodiversity-net-gain>.

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.

Effect of Section 73(2D) of the 1990 Act

Under Section 73(2D) of the Town and Country Planning Act 1990 (as amended) where -

- a. a biodiversity gain plan was approved in relation to the previous planning permission ("the earlier biodiversity gain plan"), and
- b. the conditions subject to which the planning 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 within the meaning of regulations made under paragraph 18 of Schedule 7A, 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.

The earlier biodiversity gain plan is regarded as approved for the purposes of paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) in relation to the planning permission.

Statement of Engagement

In accordance with Paragraph 39 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.

APPEAL DECISIONS SUMMARY

Committee 16th January 2025

Appeal decisions for the period 22/11/2024-08/01/2025

Application No.	Address/Proposal	Appeal Decision	Officer Recommendation	Committee/ Delegated	Costs
1/1272/2023/FUL	Higher Millfield Mill Road Bradworthy Devon EX22 7RT	Dismissed	Refusal	Delegated	No
1/0729/2023/FULM	Roadford Lake Lodges Broadwoodwidge Lifton Devon PL16 0RL	Part Allowed Part Dismissed	Refusal	Delegated	No
E/22/0138/UMOB	Land At Grid Reference 244670 125921 Hamilton Close Bideford Devon	Dismissed	N/A	N/A	Yes



Appeal Decision

Site visit made on 5 December 2024

by Neil Pope BA (HONS) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 December 2024

Appeal Ref: APP/W1145/W/24/3343916

Roadford Lake Lodges, Broadwoodwider, Lifton, Devon, PL16 0RL.

- 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 Harvey of Lake Lodge Park Limited against the decision of Torridge District Council (the LPA).
 - The application reference is 1/0729/2023/FULM.
 - The development proposed is the use of land for the siting of an additional 11 holiday lodges (static caravans) and associated infrastructure, including parking and bases.
-

Decision

1. The appeal is allowed in part but is otherwise dismissed. Planning permission is granted for one holiday lodge (static caravan), namely that shown as plot/pitch no. 45 on plan reference P109, and its associated infrastructure, including parking and base at Roadford Lake Lodges, Broadwoodwider, Lifton, Devon, PL16 0RL. The permission is granted in accordance with the conditions set out within the attached Schedule

Preliminary Matter

2. The holiday lodge/caravan shown on the submitted plans for plot/pitch no. 45¹ is already stationed on the site. As I saw during my visit, this lodge/caravan is orientated slightly differently to that shown on the submitted plans². As it appears to be 'complete'/furnished, I cannot think that the appellant would want me to determine the appeal on the basis of the orientation shown on the submitted plans. I shall therefore determine the appeal on the basis of the current orientation of this particular holiday lodge/caravan³.

Main Issues

3. The two main issues are: firstly, the effect upon the character and appearance of the area and; secondly, the likely effect upon nature conservation interests, including whether the proposal should provide biodiversity net gain.

Reasons

Planning Policy

4. The development plan includes the North Devon and Torridge Local Plan 2011-2031 (LP). My attention has been drawn to numerous policies. The most important policies to the determination of this appeal are ST13 (Sustainable

¹ One of the eleven lodges that are the subject of this appeal.

² Some other lodges/caravans that are not the subject of this appeal namely, those on plots 2, 12, 13 and 14 also appeared to be orientated differently on their plots to that shown on the submitted plans.

³ Any discrepancies/differences with other existing lodges that are not the subject of this appeal would be a separate matter for the LPA and appellant.

Tourism), DM18.2 (Tourism Accommodation), DM04 (Design Principles), DM08A (Landscape Character), ST14 (Enhancing Environmental Assets) and DM08.1 (Biodiversity). I have also had regard to the provisions of The National Planning Policy Framework ('the Framework'), including the need to support a prosperous rural economy, achieving well-designed places and conserving and enhancing the natural environment.

5. Whilst not planning policy, my attention has also been drawn to the previous Government's 2021 Tourism Recovery Plan.

The First Main Issue

6. This 2.76 ha appeal site comprises a holiday park for 34 caravans⁴ at the southern end of Roadford Lake reservoir. The site slopes down from south to north, with fields to the south⁵ and woodland/tree planting to the north, east and west. Roadford Lake Activity Centre lies to the west.
7. The appeal site does not form part of a designated landscape. It lies within the landscape character type (LCT) 3H 'Secluded Valleys', as set out within the North Devon & Torridge Landscape Character Assessment 2023. The site also borders the 5A 'Inland Elevated Undulating Land' LCT.
8. The key characteristics of LCT 3H include lakes/reservoirs, mixture of field sizes and shapes, steep valley sides, dense tree cover cloaking valley sides and high levels of peace and tranquillity. The valued landscape attributes include unspoilt, secluded and secretive character providing a tranquil landscape, rich mosaic of water, meadows, grassland, hedges, small fields and woodland, all providing wildlife havens.
9. The key characteristics of LCT 5A include elevated land cut by a series of tributaries, medium scale regular fields, strong farmed character with pasture fields, strong rural character diluted by prominent pylon lines, industrial development and busy roads, overall high levels of tranquillity and dark night skies. The valued landscape attributes include long views from elevated ridgelines, patchwork of fields and hedges, traditional working agricultural landscape with a strong rural character, quiet, relaxed and tranquil.
10. As I noted during my visit, notwithstanding the neighbouring car park, café and renewable energy schemes, the appeal site sits within an attractive rural area. In distant and middle distant views, the woodland planting to the north and south west of the site screen the lodges/caravans⁶ from public view. I agree with the assessment within the appellant's Landscape and Visual Amenity Statement (LVAS) that overall, the appeal site and its immediate context could be considered to be of medium overall landscape value.
11. There are close filtered views of the holiday park from sections of the popular⁷ lakeside path to the north, as well from the woodland path which runs from the café/children's play area and very close to part of the northern boundary of the site. From these paths, the layout, generous spacing of many of the

⁴ Outline permission was granted for the construction of a holiday park comprising up to 34 caravans, reception building, car parking, landscaping and other associated infrastructure in 2018 (ref. 1/1260/2017/OUTM). Reserved matters were approved in June 2020 (ref. 1/0114/2020/REM).

⁵ There is a solar farm and wind turbine in some of these fields on the opposite side of the public road.

⁶ These are finished in dark/visually recessive coloured materials to limit their visual impact.

⁷ The path is well laid out and during my (winter) visit, I encountered a number of visitors, including some dog walkers, along the southern end of the lake/reservoir.

lodges/caravans and landscape planting ensures that the holiday park is not too conspicuous and does not intrude unduly into the pleasant and largely tranquil woodland/rural scene. Although a more open view of the site exists from the public road to the south, from here, the renewable energy schemes are more apparent, as well as the fast-moving traffic along the public road.

12. I note from the landscape and visual impact appraisal that undertaken in 2017 in support of the outline application, that the aim was to produce a layout that did not appear too regimented or densely populated. The area that accommodates the existing lodges on the slope at the northern end of the site was selected as it was deemed the least visually prominent part of the site. Mitigation, including tree planting of native species was proposed to provide additional screening and to break up the appearance of the lodges.
13. This was followed through in the subsequent reserved matters application where the proposed layout and landscaping (including planted bunds and wildflower areas) within the site were intended to ensure an appropriate setting for the development, including separation between the lodges/caravans and the retention of the majority of field hedgerows within the site. I consider that this has largely been achieved and also noted during my visit that the spacing of the lodges/caravans and landscape works provides a pleasant environment for those staying on the holiday park.
14. The proposed siting of 11 holiday lodges/caravans would be scattered across the appeal site. These new units would be a similar size and colour to the existing caravans and some new landscape planting would be undertaken. Outdoor lighting would be limited to fixtures that shield the light source so as to minimise glare, light trespass and prevent light pollution. I note the findings within the LVAS that the magnitude of development would be low and with a small number of localised receptor viewpoints and the proposal would present a slight increase in landscape and visual effects compared to the current situation. However, these effects would be adverse.
15. From the lakeside and woodland paths to the north of the site, the proposed increase in the number of lodges/caravans, especially the new units that would be located on the northern side of the internal spine road, would accentuate the landscape and visual impact of the holiday park. The increase in density within the site, reduction in open space (including the removal of some young trees and wildflower areas) and the increase in activity, would further erode the valued unspoilt, secluded, secretive and tranquil character of the local landscape. This would be likely to detract from visitor enjoyment of the area.
16. The appellant has informed me that the site licence would allow up to 60 caravans to be stationed on the site. Be that as it may, the approved site layout plan⁸ shows 34 holiday lodges/caravans. Moreover, for those staying in the existing holiday lodges/caravans, the reduction in open space within the holiday park and the proposed replacement planting would be a poor substitute for the existing carefully planned arrangements. The proposal would erode the pleasing/intended setting of the holiday park and detract from the quality of the layout/environment.

⁸ This is a condition of the approval. In approving the layout for 34 lodges/caravans, the LPA, no doubt, would have weighed the landscape and visual harm with the tourism/economic benefits and made a balanced decision.

17. Given my findings above, the proposal would conflict with the provisions of LP policies ST13, ST14(g), DM18.2(f), DM04.1(a),(b),(f) and DM08A.1. This weighs heavily against granting planning permission.
18. The holiday lodge/caravan that has already been stationed on plot no. 45 can be seen from the public realm. In particular, it is visible from the public road to the south of the appeal site⁹. However, from here, it is not perceived as 'bringing the holiday park closer' to any footpath or vantage point from where the public are likely to derive any meaningful enjoyment/amenity. Moreover, those using this highway are likely to be focused on the road itself and more aware of the immediately neighbouring renewable energy schemes. The landscape and visual impact of this particular unit (including the likely increase in activity within the site) does not erode the quality of the local environment.
19. I conclude on the first main issue that, with the exception of the holiday lodge/caravan that is stationed on plot no.45, the proposed development would detract from the character and appearance of the area.

The Second Main Issue

20. The LP is consistent with the provisions of the Environment Act 2021, in seeking to protect and enhance the quality of the natural environment of northern Devon. In this regard, LP policy ST14(a) requires development to contribute to providing a net gain in biodiversity where possible. LP policy DM08 also requires development to conserve, protect and, where possible, enhance biodiversity interests. In addition, the Natural Environment and Rural Communities Act 2006 (as amended) includes a duty for public bodies to have regard to the purpose of conserving biodiversity.
21. I note the LPA's argument that the proposal does not provide biodiversity net gain and may undermine existing areas of landscaping mitigation secured as part of the original planning permission for this holiday park. I find it odd that the appellant is now seeking to develop some parts of the holiday park which were only recently identified (and planted) for necessary landscaping and biodiversity purposes¹⁰. Whilst the LP only requires a net gain where possible, as acknowledged by the appellant, since February 2024, it is mandatory for development proposals to demonstrate a 10% Biodiversity Net Gain.
22. The appellant's ecological appraisal found, unsurprisingly, that some of the areas set aside for biodiversity interests had yet to establish and exhibit a diverse botanical community. This appraisal also found that the vast majority of habitats on the appeal site would be retained, with localised areas of wildflower and amenity grassland removed to facilitate the proposed development. The proposals include new wildflower grassland planting, native hedgerows and some scattered tree planting throughout the site. Bat roosting boxes and dormice nest boxes are also proposed. The appeal was accompanied by a biodiversity metric, which indicates that the proposals would result in a 10.49% net gain of habitats and a 13.11% gain in hedgerow units.
23. In the short term, the proposals would be likely to have a minor adverse effect upon biodiversity interests as some recently planted areas were removed to make way for the development. This would be unfortunate and new /

⁹ This plot is also located the furthest distance away from the lakeside and woodland paths to the north.

¹⁰ It is reasonable to assume that these areas were originally identified as being the most appropriate and suitable locations for landscape planting and in supporting biodiversity interests.

replacement wildflower grassland, new/translocated trees and new areas of hedgerow would take time to establish. Nevertheless, overall, the proposed development would, in time, be capable of delivering a biodiversity net gain.

24. I conclude on the second main issue that the proposal would be likely to result in a very modest enhancement to nature conservation interests and would accord with the provisions of LP policies ST14(a) and DM08.1

Other Matters

25. I note the appellant's argument that the proposed development would help boost tourism spend within the wider local economy and derives support from the 2021 Tourism Recovery Plan. I also note the assertion that four additional full-time equivalent jobs would be created both during the construction and operational phases of the development and existing jobs would be safeguarded. In addition, the appellant has informed me that the proposal would allow investment in other environmental upgrades and improvements within the wider site.
26. I do not doubt that the proposal would help to support the construction industry and there is likely to be some additional employment generated through sales/marketing and on-site maintenance. In my opinion, these economic benefits are likely to be very modest. An increase in the number of lodges/caravans also has the potential to increase tourism spend in the local economy. However, I note the counter arguments made by some interested parties that the proposed increase in density within the site could exacerbate underoccupancy within the existing holiday park. I attach limited weight to the claimed tourism/economic benefits of the proposal.

Conditions (Plot/Pitch No. 45)

27. For the avoidance of doubt, a planning condition requiring the submission of a plan for approval by the LPA and showing the correct orientation of the lodge/caravan on plot 45 would be necessary. A separate condition restricting the use of the lodge/caravan for holiday purposes only would be necessary given the location of the site within the countryside and away from main services and facilities upon which permanent residents would be reliant. A condition requiring a record of occupants to be kept and the duration of their stay would also be necessary to allow the LPA to effectively monitor the use of the holiday lodge/caravan.

Conclusion

28. My findings in respect of the second main issue and the other matters above do not overcome or outweigh the harm that I have identified to the character and appearance of the area, insofar as this relates to the proposed units Nos. 35-44. These elements of the appeal should not therefore succeed. Unit No.45 would not result in any planning harm. It is easily severable (both physically and functionally) from the remainder of the proposed development and an approval would not prejudice any party. This element of the appeal should therefore succeed. Overall, I conclude that a split decision should be issued.

Neil Pope
Inspector

SCHEDULE OF PLANNING CONDITIONS

1. Within one month of the date of this permission, a site plan shall be submitted to the Local Planning Authority for approval which shows the orientation of the holiday lodge (static caravan) on plot/pitch no. 45. This holiday lodge (static caravan) shall thereafter be retained in accordance with the approved plan.

2. The holiday lodge (static caravan) hereby approved shall only be used as holiday accommodation and for no other purpose, including any other purpose within Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to the Class in any statutory instrument revoking and re-enacting that Order with or without modification. For the purpose of this condition, holiday accommodation means accommodation which is not a main place of residence and shall be used by no one person for more than 90 days in total in any calendar year.

3. Upon occupation of the holiday lodge/caravan hereby approved, the owner/site operator shall keep a record of all persons who have occupied the unit for holiday purposes, including details of the duration of their stay. Such records shall be kept and made available for inspection by the Local Planning Authority upon prior written request.



Appeal Decision

Site visit made on 15 October 2024 by S Wilson LL.B. MSc MRTPI

Decision by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 28 November 2024

Appeal Ref: APP/W1145/W/24/3347555

Higher Millfield, Mill Road, Bradworthy, Holsworthy, EX22 7RT

- 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 & Mrs Whelan against the decision of Torridge District Council.
 - The application Ref is 1/1272/2023/FUL.
 - The development proposed is the erection of two self-contained holiday glamping pods.
-

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. Whether the appeal site would be in a suitable location for new tourist accommodation having regard to the relevant development plan policies.

Reasons for the Recommendation

4. The appeal site is part of an agricultural field located outside of, but adjacent to Bradworthy. The site comprises an access and a field behind the appellants' new build bungalow. Whilst the appeal site is outside the settlement, it is well related to it, with good access and egress to the road network, and the local services and amenities could be accessed by foot, such is the close proximity.
5. The North Devon and Torridge Local Plan 2011-2031 (adopted 2018) (the "LP") Policy DM18 supports new tourist accommodation outside of centres in certain circumstances. The proposed glamping pods would not be directly related to an existing tourism, visitor or leisure attraction and it would not involve the reuse or conversion of an existing building. Therefore, the proposal would not comply with the circumstances outlined at Policy DM18 (2)(a) or (2)(b).
6. The appellants contend that the proposal would comply with Policy DM18 (2)(c) as it would help to diversify the range of tourist accommodation within the wider surrounding area, specifically the provision of disabled accommodation. However, LP Policy DM18 (2)(c) makes clear that support for such proposals would only be given if it relates to existing tourism accommodation. Based on the submissions in this appeal, and the wording of the policy, the exception

provided by Policy DM18 (2)(c) applies only where it would relate to existing tourism accommodation at the site and does not relate to existing accommodation in the wider locality. In this instance and as above, the proposed glamping pods would not relate to existing tourism accommodation at the site.

7. Consequently, I find that the appeal site would not be in a suitable location for new tourist accommodation having regard to the relevant development plan policies. It would conflict with Policy DM18 of the LP insofar as it seeks to ensure that development in the countryside is strictly controlled to that which is essential or appropriate and support the development of new tourist accommodation as set out above.
8. Notwithstanding the above, the proposal would also provide benefits in terms of employment opportunities and through the future spend of visitors within local businesses, and could provide environmental benefits with regards to enhanced biodiversity. Furthermore, the evidence provided suggests that increased provision of accessible accommodation for the disabled in this location would potentially improve the range of the tourist accommodation in the area. However, despite the good intentions of the applicants, expressed in both the Design and Access Statement and the Appeal Statement, the provided submissions lack detail on how the provision would achieve appropriate accommodation for disabled users.
9. Additionally, I am mindful that whilst the proposed accommodation could be designed to meet disabled persons' needs, the occupancy of the proposed holiday pods would not be restricted, such that anyone of any physical capacity could stay. Nonetheless, it is acknowledged that the scheme could provide additional choice in respect of such forms of accessible accommodation. The increase in provision of such forms of accommodation would be materially positive, albeit the associated social benefits of the scheme would be moderate on account of the limited contribution that the scale of the proposal would provide.
10. Cumulatively, I attach moderate weight to the benefits of the proposal by reason of its scale. These benefits would not outweigh the identified conflict with the development plan to which I attach significant weight in the determination of this appeal.

Other Matters

11. The appellants state that the land upon which the appeal is situated is not big enough for any economic agricultural practice and that there are no agricultural buildings to support agricultural use. However, even if this was the case this would not overcome the identified conflict with the development plan.

Conclusion and Recommendation

12. For the reasons given above, the appeal scheme would conflict with the development plan and there are no material considerations worthy of sufficient weight which would indicate a decision other than in accordance therewith. I therefore recommend the appeal be dismissed.

S Wilson

APPEAL PLANNING OFFICER

Inspector's Decision

13. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed.

Mr A Spencer-Peet

INSPECTOR



Appeal Decision

Hearing held on 26 November 2024

Site visit made on 26 November 2024

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 December 2024

Appeal Ref: APP/W1145/C/24/3340351

**Land at Grid Ref 244670 125921, Hamilton Close, Bideford, Devon
EX39 3DS**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Ms Helen Sheard against an enforcement notice issued by Torrington District Council.
- The notice was issued on 6 February 2024.
- The breach of planning control as alleged in the notice is: Without planning permission:
 - (i) The change of use of the Land from agricultural to a mixed use of storage (B8) and agricultural shown in the attached plan (Appendix A¹).
- The requirements of the notice are to:
 - (i) Cease the use of the Land for the storage (B8), including the storage of any caravan, container, vehicle, garden waste, building waste, building materials and other items.
 - (ii) Remove all caravans, containers, vehicle, garden waste, building waste, building materials and other stored items. (Shown in Appendix B²)
 - (iii) Remove all resultant debris from the Land.
- The period for compliance with the requirements is: One month from the date the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(c) and (d) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with corrections.

Application for costs

1. An application for costs was made by Ms Helen Sheard against Torrington District Council. This application is the subject of a separate Decision.

Preliminary matter

2. The appellant's written submissions suggest that storage activities may have been occurring on the Land for many years. If so, it may be that it was too late for the Council to take enforcement action, which is relevant to an appeal on ground (d). In advance of the Hearing, I advised the parties that I would need to consider this, and a full discussion of the relevant issues took place. Accordingly, no injustice would arise if I were to also consider the appeal on ground (d).

¹ Reference to an attached plan and Appendix A here is reference to Appendix A to the enforcement notice.

² Reference to Appendix B here is reference to Appendix B to the enforcement notice.

The enforcement notice

3. An enforcement notice must inform the recipient with reasonable certainty what the breach of planning control is and what must be done to remedy it. If necessary, before determining the appeal, I have a duty to put the enforcement notice ("the Notice") in order. My powers under section 176(1)(a) of the Town and Country Planning Act 1990 as amended ("the 1990 Act") include to correct any defect, error or misdescription in the Notice or, under section 176(1)(b), to vary the terms of the Notice. In each case, the only test is whether the correction or variation would cause any injustice to the appellant or the local planning authority.
4. The alleged breach of planning control is a change of use. Only a material change of use constitutes development within the meaning of the 1990 Act and this word should be added for clarity. The allegation also includes the words 'shown in the attached plan (Appendix A)', but this appears to duplicate the definition and identification of the land subject to the Notice ("the Land"), which is set out in Section 2 of the Notice. It should be deleted for clarity. At the Hearing, the parties agreed that these minor corrections would not cause injustice.
5. The first requirement, set out at Section 6 of the Notice, is to cease the use of the Land for the storage (B8) of various listed items. The list of items adds nothing to the stated requirement to cease the use. The Council clarified at the Hearing that the purpose of the Notice was to remedy the breach of planning control, and the appellant did not dispute this. In that scenario, it is important that the requirements are consistent with the allegation. The requirement should, therefore, be to cease the use of the Land for the mixed use of storage (B8) and agriculture.
6. The appellant is concerned that this would prevent the lawful use of the Land for agricultural purposes. However, Section 57(4) of the 1990 Act provides that where an enforcement notice has been issued in respect of any development of land, planning permission is not required for its use for the purposes for which it could lawfully be used, if that development had not been carried out. Therefore, correcting the requirements to be consistent with the allegation will cause no injustice to the appellant because the Notice would not prevent any lawful use of the land. Notwithstanding comments that may have been made by the Council's officers at various times in the past, there is no dispute that the lawful use of the majority of the Land would be agricultural.
7. The second requirement of the Notice lists various items to be removed. It then says that these are shown in Appendix B to the Notice, which is a series of photographs. The inclusion of this reference could, inadvertently, limit the items targeted by the Notice to only those shown in the photographs and so it may not fully remedy the breach if other items were stored and not clearly shown.
8. While the list of items in this case, details certain things that must be removed, it is not clear what the 'other stored items' are. Furthermore, as will be seen, the main thrust of the appellant's case on the ground (c) appeal is that items are stored on the land in connection with its lawful use. Without prejudice to my consideration of that ground of appeal, if that is shown to be the case, but not to the extent that the Notice should be quashed, then further confusion could arise as to what needs to be removed.

9. It is sufficient for the Notice to simply require the unauthorised use to cease, and the items stored in connection with that use to be removed. If the appeal fails and the Notice is upheld, the Council could require the removal of all items connected with the unauthorised mixed use. The appellant could rely on the provisions of Section 57(4) to carry out any activities that can be proven to be genuinely incidental to the lawful use of the land. Therefore, no injustice would arise to either party if I were to correct the Notice in this way.
10. At the Hearing there was a discussion about whether land on the opposite side of a stream that crosses the appellants land should be included in the Notice. However, while it is a separate land parcel with an intervening physical feature, it appears to be a continuation of the agricultural land owned by the appellant and, before the alleged breach of planning control, was in the same use. Therefore, there appears to be no compelling reason to correct the plan attached to the Notice to exclude this land parcel and I shall not do so.

Ground (c)

11. Ground (c) is that the matters alleged in the Notice do not constitute a breach of planning control. The onus is on the appellant to prove their case to a standard of the balance of probabilities. The main issue is whether items are stored on the land in connection with its lawful use, either for agriculture, or in connection with a planning permission for residential development.
12. Planning permission was granted in 2007, ref 1/0339/2007/FUL ("the 2007 Permission") for the erection of 5 detached 2 storey dwellings and various associated works. The appellant purchased the land associated with Plot 1 ("the Building Plot") and adjoining agricultural land ("the Smallholding Land"). There is no dispute that the 2007 Permission was commenced, but none of the dwellings were built.
13. What has been built, following further planning permissions granted in 2013, 2014 and 2015, are 8 dwellings on some of the Land subject to the 2007 Permission that is not owned by the appellant. There is no express wording within the 2007 Permission to indicate that the individual plots are severable and, therefore, it is no longer possible to build any of the development in accordance with that permission. This approach has been clarified by *Hillside Parks Ltd v Snowdonia National Park Authority* [2022] UKSC 30.
14. As such, the appellant cannot rely on the 2007 Permission to construct Plot 1 or any other house on the Building Plot. The *Hillside* Judgement post-dates comments by the Council's previous enforcement officer that the 2007 Permission could be relied upon and, so, may explain a change in the Council's position in this regard.
15. However, prior to the appellant's purchase of the Land, a further planning permission, ref 1/0188/2011/FUL ("the 2011 Permission") was granted. It is described as a variation of conditions 6, 7 & 10 of the 2007 Permission. At the Hearing, the Council confirmed that an application form for the 2011 Permission indicated that it was intended to facilitate the independent construction of Plot 1.
16. While the 2011 Permission requires development to be carried out in accordance with a site layout plan showing 5 houses, it does not require the development to be completed, and the other conditions have clearly been

devised to facilitate the construction of Plot 1 separately to Plots 2-5. On this basis, I find that Plot 1 is severable from the remainder of the 2011 Permission and the development that has occurred since 2013 would not prevent the lawful construction of the house described therein on the Building Plot.

17. At the Hearing, the appellant explained that, following her purchase of the site, she brought a digger to the site in order to carry out site clearance and ground works in preparation for laying out the foundations the house. She did not go so far as to dig any foundations or even begin the extensive excavations that are required to achieve the proposed finished floor levels of the house. However, works to that extent would not have been possible until South West Water had re-aligned a surface water drain that crosses the site. I was told how their progress was thwarted by ecological constraints, amongst other things.
18. While the site works were limited, I am satisfied that they would have been required in order to mark out and progress the further excavation necessary to construct the house. There is no obvious other reason for them to have been done. While there is no documentary evidence to detail these works, the appellant spoke confidently at the Hearing about what she had done and why. There is no evidence to make her version of events less than probable. Therefore, in the particular circumstances of this case, I find that they were sufficient to be a material operation comprised in the commencement of Plot 1. Accordingly, on the evidence before me, it is more likely than not that the 2011 Permission remains extant.
19. Since the appellant's initial ground works in 2011, no further residential development or associated works have taken place on the Building Plot. Instead, there have been various acrimonious disputes about land ownership and the condition of the Land.
20. I have no remit to intervene or make any comment on those proceedings as part of this appeal against the Notice, except that it is useful to note that in 2018, the Council cleared the Land of all items that were on it and then, later the same day, the appellant parked a 'Mazda Bongo' vehicle where she believes her boundary to be. I understand that it remained in that position until shipping containers were brought to the Land in 2022.
21. Since then, it is apparent that the appellant has brought various other items to the Land. These currently include two shipping containers, one of which has no roof, two caravans, a 'Renault Megane' vehicle, some building blocks and sawn timber, various smaller pieces of timber, metal sheets, poles, water pipes and guttering, a water tank, high visibility barrier fencing, plant pots, compost bins, outdoor chairs, water butts, children's ride-on toys, gas canisters, wheelie bins and a tent. With the notable exception of the second caravan, the photographs appended to the Notice suggest that much of this appears to have been on the Land when the notice was served.
22. The appellant suggests that the items on the Land are associated with the agricultural use of the Land or the development of the Building Plot. I understand that it is not unusual for materials and equipment to be stored on building sites, including in shipping containers, and that potentially useful paraphernalia is often stored around farms.

23. While it may be possible to utilise some of the stored items in the construction of a house, or in the provision of fencing and animal care facilities, the somewhat haphazard manner in which it has been kept suggests that it is on the land on the off-chance that it may be required in the future rather than that it definitely will. The potential exceptions to this were some neatly stacked blocks and timber that I saw behind the shipping containers, and some drain pipe and guttering, although there is only a small amount of this material and it is not clear whether it can really be used in construction of the dwelling that has been permitted.
24. The appellant's stated desire to be kind to nature, educate and allow young people and others to be outdoors and mindful of their environment, and the use of salvaged products in connection with her future plans may be laudable. It might explain the presence of children's toys on the Land. I can also see that there may be a cost benefit in acquiring items when they are available or cheap.
25. However, a large number of items appear to be on the land without any clear purpose. For example, I was told that the metal sheeting was both to repair the roofless container and that it may be used for livestock fencing. There are numerous items, such as the gas canisters and chairs that have not been shown to have a purpose in connection with any lawful use of the land.
26. The containers might have a use for storing building materials during construction, and I understand that there are some, unspecified, tools and equipment within them now. However, the watertight one appears to be largely put to use for the storage of personal items, unconnected with any building work or agriculture. Whether or not it will be repaired, items currently in the open-roofed container include bikes, camping equipment, and rubbish awaiting transfer to a recycling centre.
27. Of the two vehicles, the appellant confirmed that the Mazda Bongo is being used for storage of personal items and has been on the land since 2018 for that purpose. The Renault Megane has been 'written off' and, although the appellant is waiting for the insurance company to collect it, it has been there for some time and can currently only reasonably be described as being stored until such time as it is removed. While in the same street, this is materially different to vehicles kept on private drives or elsewhere along Hamilton Close, that are used by residents for day-to-day activities, in connection with their occupation of residential dwellings.
28. The caravan that was present when the Notice was served is currently being used for poultry housing, but it has not been shown that this is a permanent arrangement, or was used that way when the Notice was served. While it may be possible to have a caravan sited without express planning permission, in connection with building operations on that land, none are currently ongoing. Similarly, in some scenarios, express planning permission might not be required for the provision on land of moveable structures, works, plant or machinery on land, but only for the duration of operations being carried out thereon.
29. While historic disputes and the actions of others may be the main cause of the pause in work, the appellant was unable to give any indication as to when she might be in a position to resume. Meanwhile, the caravans and other items appear to be, simply, stored and no specific provision allowing that to continue

for some indefinite time until works may resume, has been brought to my attention.

30. The absence of other suitable premises may explain the reason that the appellant wishes to keep various items on the Land, particularly those she sees as connected with her future enjoyment of it. However, with regard to the above, even though it may be possible to use a small number of items in connection with a lawful use, it seems more likely than not that most are unconnected and are just stored there. Most of the items are on the Building Plot, or close to it alongside the upper stretches of a track into the Smallholding Land. However, in the absence of any clearly definable boundary between the two, it appears that the use of all the Land is a mixed one, for storage and agriculture. This is materially different to the lawful use of the Land and it has not been shown that there is any planning permission for such a use on any part of it.
31. On the balance of probabilities, therefore, I find that the matters alleged in the Notice do constitute a breach of planning control. Accordingly, the appeal on ground (c) fails.

Ground (d)

32. Ground (d) is that, at the date when the Notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by the matters alleged.
33. Evidence from nearby residents indicates that, since at least the 1950s the Land has been used for agricultural purposes. During that time, it is said that a number of items were stored on the site, including machinery, vehicles and animal feed.
34. In the 1990s, the Land changed hands and horses and ponies were kept there. Again, I understand that feed, equipment and machinery was stored on the land, both in a barn which still remains in a somewhat dilapidated condition, and a former larger stable building. It has been said that the then landowners also kept a Land Rover, trailers and horse trailer on the Land. I understand that the Land Rover was used for moving feed and other items around the Land.
35. There is nothing to dispute this version of events or make it less than probable. However, given the described uses, it is likely that all of the stored items, including the Land Rover, were on site in connection with the agricultural or equestrian activities going on at that time. They have not been shown to be so significant, different to, or unconnected with those uses so as to have created a material change of use of the Land to one including storage as a component of a mixed use.
36. After the appellant first cleared the Land in 2011, I understand that she gradually accumulated items until they were removed by the Council in 2018. However, even if the storage of the Mazda Bongo, housing various other possessions since that date, meant that there was no break in storage activities, there is no substantive evidence before me as to when, or if a material change of use began in the first place.
37. As with the appeal on ground (c), the onus is on the appellant to prove their case and, for the above reasons, it has not been demonstrated that, on the

balance of probabilities, the Land was used for a mixed use for storage and agriculture for 10 years prior to the service of the Notice.

38. Therefore, the appeal on ground (d) must fail.

Formal Decision

39. It is directed that the enforcement notice is corrected by:

In Section 3 'The matters which appear to constitute the breach of planning control'

- The insertion of the word "material" before the words "change of use".
- The deletion of the words "shown in the attached plan (Appendix A)".

In Section 6 'What you are required to do'

- The deletion of paragraph (i) in its entirety and its substitution with the text "(i) Cease the use of the Land for the mixed use of storage (B8) and agricultural".
- The deletion of paragraph (ii) in its entirety and its substitution with the text "(ii) Remove all items stored in connection with the mixed use of the Land".

40. Subject to the corrections, the appeal is dismissed and the enforcement notice is upheld.

M Bale

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Helen Sheard

Hugh Parry

Sara Bazaubaa

David Birch

Connor Fellow

Rosemary Haworth-Booth

FOR THE LOCAL PLANNING AUTHORITY:

Kris Evely

Grant McGill

INTERESTED PARTIES:

Karen Ward

DOCUMENTS SUBMITTED AT THE HEARING

HD1 *R (Allsop) v Derbyshire Dales District Council* [2012] EWHC 3562 (Admin)

HD2 *Mansi v Elstree Rural District Council* [1964] 16 P.& C.R. 153

HD3 Undated advice to Ms Sheard in connection with *R (Allsop) v Derbyshire Dales District Council* [2012] EWHC 3562 (Admin)

Costs Decision

Hearing held on 26 November 2024

Site visit made on 26 November 2024

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 December 2024

Costs application in relation to Appeal Ref: APP/W1145/C/24/3340351 Land at Grid Ref 244670 125921, Hamilton Close, Bideford, Devon EX39 3DS

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Ms Helen Sheard for a full award of costs against Torridge District Council.
 - The appeal was against an enforcement notice alleging the change of use of the Land from agricultural to a mixed use of storage (B8) and agricultural.
-

Decision

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

The submissions for Helen Sheard

2. The costs application was made orally at the hearing. The main points are set out below.
3. The appellant is entitled to use the land for the matters alleged. This means that there has been no breach of planning control and, therefore, the bringing of enforcement action in the first place was unreasonable. All costs incurred during the appeal proceedings are wasted expense.
4. The basis of the Council's defence, that there is no extant planning permission on the Land, is contrary to the admission made by a previous enforcement officer who accepted during earlier legal proceedings that this is not the case. In considering whether to take enforcement action, the Council had no regard to this planning history despite it having been brought to enforcement officers' attention.
5. Furthermore, information about the planning history and previous discussions was not passed from one officer to another and this led to a misunderstanding of the facts. The officer's misunderstanding of the facts was then passed to neighbouring residents when they were notified of the appeal and this inflamed an already tense situation. Having properly considered the planning history, the principles established by *Mansi v Elstree Rural District Council* [1964] 16 P.& C.R. 153 would indicate that no action could be taken.
6. Council officers have provided no assistance. Instead, when one argument has been demonstrated to be incorrect, they have sought to pursue alternative reasons to take action. Instead of accepting the planning history, the Council appear to be constantly searching for new reasons to take action. Other

developers are treated more favourably, with no action being taken for more serious breaches of planning control.

7. The Council failed to communicate with the appellant using an address she had provided and now seek to use this as a reason for not understanding the site history and appellant's use of the Land. Instead, her property was damaged through the fixing of notices to it. The repeated actions of the Council, including the clearance from the site of personal possessions, has caused significant harm to the appellant's health and wellbeing.

The response by Torridge District Council

8. The response was made orally at the hearing. The main points are set out below.
9. The grounds on which costs can be awarded are clearly set out in the Planning Practice Guidance (PPG). Simply being wrong is not unreasonable behaviour. The Council took legal advice and, following the case of *Hillside Parks Ltd v Snowdonia National Park Authority* [2022] UKSC 30, determined that planning permission 1/0339/2007/FUL ("the 2007 Permission") could not be built out. Even if the Council are wrong on this point, they have provided a reasoned argument to support their judgement and, therefore, have not acted unreasonably. In any case, reliance on the principles set out in *Mansi* requires the items on site to be related to its development. They are not.
10. The Council has fully investigated the breach of planning control. They have gone through normal processes, including the service of Planning Contravention Notices seeking to establish facts, that were not returned. Correspondence was sent to the address recorded by the Land Registry and placed on the site. That is a fair and reasonable way of serving a notice.

Reasons

11. Parties in planning appeals normally meet their own expenses. However, the 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.
12. Much of the appellant's case rests on her claimed ability to construct a dwelling pursuant to the 2007 Permission. While Council officers may have accepted that permission as extant in the past, the case of *Hillside* is comparable and, as set out in the appeal decision, confirms that it is not longer possible to continue that development. Previous Council comments on the matter predate that Judgement, so a change in position is not unreasonable.
13. During the Hearing, it emerged that a dwelling could be constructed pursuant to a subsequent planning permission ref 1/0188/2011/FUL ("the 2011 Permission"). However, this appears to be the first time that there has been any suggestion made that it might be available to the appellant. While the Council should research the entire planning history, they have not acted unreasonably when the appellant has never before sought to rely upon that permission.
14. In any case, the Council's position at the Hearing was that the plots within the 2011 Permission are not severable. As such, even if they had previously considered that permission as extant, it is unlikely to have led to a decision not

- to serve the Notice. I also found that it was more likely than not that the majority of items were not on the Land in connection with the building of a house. No unreasonable behaviour has, therefore, arisen in respect of the Council's consideration of the planning history in connection with this case.
15. The appellant makes great criticism of the Council's general behaviour, external and internal communication, and failure to pass information from one officer to another. However, whether or not that is well founded, the Council has provided reasoned justification for taking enforcement action.
 16. Irrespective of the long history and poor relationship between the appellant and the Council's officers, I have, ultimately, found that there has been a breach of planning control. There is no reason to find that better communication with the appellant, for example, via the address she had provided to the Council, would have avoided the breach of planning control, resulted in an amicable resolution to the breach, or prevented the taking of enforcement action. Therefore, even if there has been unreasonable behaviour in respect of communication, it has not resulted in wasted expense in the appeal process.
 17. It is abundantly clear that the appellant has suffered distress related to the actions of the Council and others. However, that cannot be attributed to unreasonable behaviour in connection with these appeal proceedings. The Council's decisions to take, or not to take enforcement action in other cases or at other sites has little to do with the case before me, which must be determined on its own merits.
 18. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted. The application is refused.

M Bale

INSPECTOR

AGMB DECISIONS 22/11/2024 – 08/01/2025

Application Number	Proposal/ Address	Decision
1/0825/2024/AGMB	Prior notification for the change of use of agricultural building (Barn A) to 1 no. dwellinghouse and associated building operations under Class Q - West Barton Farm, Alverdiscott, Barnstaple.	Permitted
1/0826/2024/AGMB	Prior notification for the change of use of agricultural building (Barn B) to 1 no. dwellinghouse and associated building operations under Class Q - West Barton Farm, Alverdiscott, Barnstaple.	Permitted
1/0827/2024/AGMB	Prior notification for the change of use of agricultural building (Barn C) to 1 no. dwellinghouse and associated building operations under Class Q - Agricultural Building At Grid Reference 252004 12571, Alverdiscott, Devon.	Permitted
1/0894/2024/AGMB	Prior notification for the change of use of agricultural building to 1 no. dwellinghouse and associated building operations under Class Q - Barn At Grid Reference 237718	Permitted

	099359, Clawton, Devon.	
1/0927/2024/AGMB	Prior notification for the change of use of agricultural building to 2no. dwellings and associated building operations under Class Q – Land And Building At Grid Reference 246869 104731, Black Torrington, Devon.	Permitted
1/0955/2024/AGMB	Prior notification for the change of use of agricultural building to 2no. dwellings and associated building operations under Class Q (resubmission of 1/0688/2024/AGMB) – Agricultural Building At Grid Reference 236287 104231, Holsworthy, Devon.	Permitted

Torridge District Council

Planning Decisions

Between 22/11/2024 and 08/01/2025

List of Applications

Application No:	Officer	Proposal and Address	Applicant	Decision/Date
<u>PERMITTED</u>				
1/0636/2023/ FULM	James Clements	27 units of Close Care accommodation in association with existing care and nursing facility (Variation of condition 2 of planning approval 1/0634/2016/FULM) - Kenwith Castle, Abbotsham, Bideford.	Chichester Developments Ltd	PER 16.12.2024
1/1145/2023/ OUT	Mary- Ellen Whalley	Outline application for 1no. local needs dwelling with all matters reserved - Land At Grid Reference 242151 105665, Holemoor, Bradford.	Ms Oke	PER 06.01.2025
1/0074/2024/ SEC106	Kristian Evely	Deed of variation of S106 pursuant to planning permission 1/0555/2018/OUTM (Affordable housing) - Land At Grid Reference 234599 104589, Holsworthy, Devon.	Foot Anstey	PER 28.11.2024
1/0199/2024/ FUL	James Clements	Proposed rural workers dwelling (Amended location) - Land At Grid Reference 230979 105749, Holsworthy, Devon.	Mr & Mrs Jeremy & Tara Angell	PER 18.12.2024
1/0295/2024/ FULM	Helen Smith	Mixed use redevelopment providing residential units, commercial units (Class E) with public open space, car parking, and associated landscaping, removal of hardstanding, ground preparation and infrastructure works. - Land At And Adjacent To Brunswick Wharf, Barnstaple Street, East-the-Water.	Red Earth Bideford Ltd	PER 19.12.2024
1/0497/2024/ REMM	James Clements	Reserved matters pursuant to application 1/1015/2014/OUTM in relation to the link road between the A39 and Abbotsham Road, including details relating to landscape, drainage and ecology (Phase 2a) - Land At Abbotsham Road, Bideford, Devon.	Bloor Homes	PER 28.11.2024

1/0590/2024/ FUL	Mary- Ellen Whalley	Conversion of 2no. barns to 2no. dwellings. Aish Barton. - Barns At Grid Reference 251845 108236, Petrockstowe, Devon.	Mr T Reed	PER 06.12.2024
1/0603/2024/ FUL	Mr Peter Stapley	Demolition of existing dwelling and erection of replacement dwelling, with associated engineering works - Croeso, 2 Green Lane, Appledore.	S Morris	PER 05.12.2024
1/0615/2024/ FUL	Miss Jess Wellingt on	Retrospective application for installation of a sewage treatment plant and propped discharge to watercourse - Land To The Rear Of The Flower Pot, Woodsdown Cottage, Pancrasweek.	Mr Ian Cameron	PER 05.12.2024
1/0640/2024/ FUL	Debbie Fuller	Alterations to shop front, ground floor, and first floor (amended description) - 67 - 68 High Street, Bideford, Devon.	Mr Simon Haywood	PER 13.12.2024
1/0641/2024/ LBC	Debbie Fuller	Alterations to shop front, ground floor, and first floor (amended description) - 67 - 68 High Street, Bideford, Devon.	Mr Simon Haywood	PER 13.12.2024
1/0654/2024/ FUL	Angelo Massos	Conversion of stables to No.1 dwelling (Amended description and plans) - W Chapman & Sons, Highampton, Devon.	Mr Walter Chapman	PER 29.11.2024
1/0674/2024/ FULM	Laura Davies	Enclosed slurry tower - Land At Grid Reference 233538 112834, Sutcombe, Devon.	Mr And Mrs Furse	PER 26.11.2024
1/0703/2024/ FUH	Miss Jess Wellingt on	Demolition of existing single storey lean to and replace with new - Old Post Office, Brandis Corner, Holsworthy.	Mr & Mrs Boorman - Leech	PER 26.11.2024
1/0039/2024/ NMAT	Helen Smith	Non Material Amendment to planning permission 1/0658/2023/REMM - re wording of condition 5 (boundary treatment) and condition 10 (electric meters) - Land At Grid Reference 243539 126521, Abbotsham Road, Bideford.	Bloor Homes (Exeter)	PER 28.11.2024
1/0769/2024/ FUL	Sarah Boyle	Erection of a substation - Grasshopper Lane, Winkleigh, Devon.	Allison Homes	PER 19.12.2024
1/0774/2024/ FUL	Angelo Massos	Proposed start hill hut - Bideford BMX Club, Bideford BMX Clubhouse, Avon Road.	Mr Mark Ellis	PER 10.12.2024

1/0793/2024/ FUL	Miss Jess Wellington	Outdoor sand school and all weather canter surface (Removal of condition 3 of planning approval 1/0609/2016/FUL) - Little Acres Equestrian, Broadwoodwidge, Devon.	Mr Dean Summersby	PER 20.12.2024
1/0807/2024/ FUL	James Clements	Conversion of existing stables and linnhay into a bakery and teaching space and erection of wildlife tower on site of existing pole barn - Barn At Grid Reference 230081 108258, Pancrasweek, Devon.	Mr Adam Newey	PER 22.11.2024
1/0809/2024/ FUL	James Clements	Replacement dwelling and garage (Variation of condition 2 and confirmation of drainage details (Condition 4) of application 1/0049/2020/FUL) (Variation of condition 1 of planning approval 1/0361/2021/FUL) - Hillcrest, St Giles On The Heath, Launceston.	Mr & Mrs Kooner	PER 26.11.2024
1/0824/2024/ FULM	James Clements	Retrospective application for the erection of an agricultural building - Land At Grid Reference 239436 091891, Broadwoodwidge, Devon.	CT Banbury & Sons	PER 07.01.2025
1/0825/2024/ AGMB	Debbie Fuller	Prior notification for the change of use of agricultural building (Barn A) to 1 no. dwellinghouse and associated building operations under Class Q - West Barton Farm, Alverdiscott, Barnstaple.	Mr And Mr Ley	PER 28.11.2024
1/0826/2024/ AGMB	Debbie Fuller	Prior notification for the change of use of agricultural building (Barn B) to 1 no. dwellinghouse and associated building operations under Class Q - West Barton Farm, Alverdiscott, Barnstaple.	Mr And Mr Ley	PER 28.11.2024
1/0827/2024/ AGMB	Debbie Fuller	Prior notification for the change of use of agricultural building (Barn C) to 1 no. dwellinghouse and associated building operations under Class Q - Agricultural Building At Grid Reference 252004 12571, Alverdiscott, Devon.	Mr And Mr Ley	PER 28.11.2024
1/0831/2024/ FUL	Angelo Massos	Erection of general purpose agricultural building - Land At Grid Reference 264162 113181, Ashreigney, Devon.	Mr Ken Greenland	PER 18.12.2024

1/0833/2024/ FUL	Mary- Ellen Whalley	Proposed conversion of redundant barn to dwelling and erection of bat house (Self-build) - Waggadon Farm, Huntshaw, Torrington.	Dr Alastair Bremner	PER 06.01.2025
1/0836/2024/ FUL	Mrs Nicola McGill	Installation of PVCu conservatory to the front of the property - Knivers Meadow, Woolsery, Bideford.	Mrs G Mountjoy	PER 27.11.2024
1/0838/2024/ FUL	Laura Davies	Replacement storage facility for scouting equipment - Land At Roadford Watersports Centre, Lower Goodacre, Broadwoodwidge.	South West Lakes Trust	PER 27.11.2024
1/0840/2024/ CPL	Mrs Nicola McGill	Certificate of proposed lawful development for the siting of a caravan for residential purposes during construction works of planning approval 1/1381/2021/FUL - Barn At Hope Farm, Ashwater, Devon.	Mr Ray Wheadon	PER 02.12.2024
1/0844/2024/ FUL	Laura Davies	Retrospective change of use of summer house to holiday use (amended description) - Annexe, Higher Court, Welcombe.	Mr B Huxtable	PER 02.01.2025
1/0845/2024/ CPL	Mrs Nicola McGill	Certificate of proposed lawful development for the installation of Solar PV panels to a domestic property situated in a Conservation area - 1 Little Holsworthy , Belle Vue, Holsworthy.	Mr Daniel Wallis	PER 04.12.2024
1/0846/2024/ FUL	Mrs Nicola McGill	Erection of covered dung store - Land At Grid Reference 234940 088887, St Giles On The Heath, Devon.	Mr Mark Tucker	PER 18.12.2024
1/0848/2024/ FUL	Debbie Fuller	Erection of store - Land At Grid Reference 243116 098890, Halwill, Devon.	Mr & Mrs Wait	PER 02.12.2024
1/0851/2024/ FUL	Angelo Massos	Regularisation of replacement shed structure and stable door with overhead porch - Rice Cottage, Webbery, Bideford.	Nicola Stevens	PER 05.12.2024
1/0852/2024/ LBC	Angelo Massos	Regularisation of replacement shed structure and stable door with overhead porch - Rice Cottage, Webbery, Bideford.	Nicola Stevens	PER 05.12.2024

1/0853/2024/ FUL	James Clement s	Part retrospective application for the change of use of land to residential and erection of carport with storage - Broadleaf Farm House, Ashwater, Beaworthy.	Mr And Mrs Edworthy	PER 03.12.2024
1/0865/2024/ FUL	Mr Peter Stapley	Installation of solar panel arrays - Hatchmoor Nursing Home, Torrington, Devon.	Mr Singh	PER 28.11.2024
1/0866/2024/ FUL	Mrs Nicola McGill	Erection of agricultural machinery shed and store - Land At South Berridon Farm , Bradworthy, Devon.	Mr Jennings	PER 03.12.2024
1/0867/2024/ FUL	Angelo Massos	Proposed erection of dwelling (Variation of condition 2 of planning approval 1/0061/2023/FUL (Plans Schedule) - Garden Of Breckon, Parkham, Bideford.	Mr Boundy	PER 28.11.2024
1/0868/2024/ FUL	Miss Jess Wellingt on	Single storey rear extension - Westleigh Cedars, Clawton, Holsworthy.	Mr & Mrs Lake	PER 13.12.2024
1/0870/2024/ FUL	Miss Jess Wellingt on	Conversion of outbuilding to create additional living accommodation incidental to the main dwelling (Featherlands) - Featherlands, Holsworthy Beacon, Holsworthy.	Mr Alastair Coombs	PER 29.11.2024
1/0872/2024/ FUL	Miss Jess Wellingt on	Alterations to existing garage and creation of additional parking space - Lyndale, Odun Road, Appledore.	Mr Pyle	PER 29.11.2024
1/0873/2024/ FUL	Miss Beth Hobbs	Replacement of original decking - 10 Victory Way, Torrington, Devon.	Mr & Mrs R Allerton	PER 02.12.2024
1/0874/2024/ FUL	Miss Jess Wellingt on	Replacement of conservatory with single storey extension - Rose Cottage, Sutcombe, Holsworthy.	Mr & Mrs Newman	PER 03.12.2024
1/0875/2024/ FUL	Mr Peter Stapley	Conversion of redundant stables into 1no. dwelling (self-build) - Stables At Grid Reference 234593 099076, Clawton, Devon.	Mr Jeff Levy	PER 04.12.2024
1/0878/2024/ FUL	Mrs Nicola McGill	Demolition of existing dwelling, and erection of replacement dwelling with associated works (self-build) - Seckington Dairies, Higher Clovelly, Bideford.	Mr Simon Goaman	PER 11.12.2024

1/0879/2024/ FUL	Mrs Nicola McGill	Roof over livestock yards - The Barton, Tetcott, Holsworthy.	M J & S R Dart	PER 19.12.2024
1/0881/2024/ FUL	Angelo Massos	Replacement roof - Top Floor Flat, 24 Fore Street, Northam.	Mrs Sarah Bond	PER 05.12.2024
1/0885/2024/ FUL	Mr Peter Stapley	Conversion of Redundant Blacksmith's Two-storey Workshop to Two Dwellings (Variation of condition 2 of planning approval 1/0607/2024/FUL) (Plans Schedule) - Heath Cottage, Station Road, Halwill Junction.	Mr Bryan	PER 19.12.2024
1/0887/2024/ FUL	Mr Peter Stapley	Erection of ground floor extension to include extended living room, extra bedroom and garage - Honeysuckle Cottage, Yarnscombe, Barnstaple.	Mrs Deborah Harris	PER 09.12.2024
1/0899/2024/ TRE	Mr Peter Stapley	Crown reduction to 1no. oak tree (T1) covered by TPO/0044/2015 - 21 Rosemoor Road, Torrington, Devon.	Mrs Kathleen Wyke	PER 10.12.2024
1/0892/2024/ FUL	Mary- Ellen Whalley	Erection of a rural workers dwelling - Variation of condition 2 of planning permission 1/0244/2023/FUL (Plans) - The Cactus Shop , Caldicott, Winkleigh.	Mr Ralph Northcott	PER 16.12.2024
1/0894/2024/ AGMB	Miss Jess Wellingt on	Prior notification for the change of use of agricultural building to 1 no. dwellinghouse and associated building operations under Class Q - Barn At Grid Reference 237718 099359, Clawton, Devon.	Mr Luke Furse	PER 11.12.2024
1/0898/2024/ FUL	Mary- Ellen Whalley	Part retrospective works and extension to existing outbuilding - Sylvaner, Chircombe Lane, Northam.	Mr D Sparrey	PER 20.12.2024
1/0900/2024/ FUH	Mary- Ellen Whalley	Proposed garage conversion & single storey extension to kitchen - 6 Old Barn Close, Winkleigh, Devon.	Jennifer Welsh	PER 04.12.2024
1/0904/2024/ FUL	Mary- Ellen Whalley	Construction of steps and retaining wall to rear of dwelling and outbuilding. - 8 Bucks Mills, Bideford, Devon.	Mr Glenn Jones	PER 18.12.2024
1/0905/2024/ LBC	Mary- Ellen Whalley	Construction of steps and retaining wall to rear of dwelling and outbuilding. - 8 Bucks Mills, Bideford, Devon.	Mr Glenn Jones	PER 18.12.2024

1/0907/2024/ FUL	Angelo Massos	Alterations to existing shopfront - Units 41A & 42, Affinity Outlet Devon, Bideford.	SA Property Consultants Ltd	PER 13.12.2024
1/0908/2024/ CPL	Angelo Massos	Certificate of proposed lawful use of commercial units as a public gym (Use class E) - Units 41A & 42, Affinity Outlet Devon, Bideford.	SA Property Consultants L:td	PER 13.12.2024
1/0909/2024/ FUL	Kristian Evely	Change of use of agricultural barn to childcare accommodation (Class C2) - Agricultural Building At Grid Reference 242387 121366, Buckland Brewer, Devon.	Mr David Heywood	PER 04.12.2024
1/0910/2024/ FUL	Miss Jess Wellingt on	Conversion & extension of redundant barn to residential accommodation (Variation of condition 3 of planning approval 1/1277/1991) (Amended description) - Ashley Park, Holsworthy, Devon.	Mrs Anita Harris	PER 20.12.2024
1/0911/2024/ FUL	Mary- Ellen Whalley	Retrospective application for change of use of live/work accommodation to full residential - Rowden Chapel, Shebbear, Beaworthy.	Ms T Vandell	PER 20.12.2024
1/0914/2024/ TRE	Miss Beth Hobbs	Works to oak trees covered by TPO/0003/2008 - 81 Westcots Drive, Winkleigh, Devon.	Mr Isaac	PER 12.12.2024
1/0916/2024/ FUL	Laura Davies	Conversion of redundant rural building to 1no. dwelling - Agricultural Building At Grid Reference 237361 108298, Holsworthy Beacon, Devon.	Mr Nigel Sams	PER 11.12.2024
1/0918/2024/ FUL	James Clement s	Demolition of existing dwelling and erection of replacement dwelling (self build) - Cross Green, St Giles On The Heath, Launceston.	Mr J Reynolds	PER 18.12.2024
1/0920/2024/ FUL	Mr Peter Stapley	Conversion of ground floor store to apartment, internal alterations & associated work - Inclusis Limited, 21 High Street & 10 Grenville Street, Bideford.	Mr Craig Jones - Inclusis Ltd	PER 18.12.2024
1/0921/2024/ LBC	Mr Peter Stapley	Conversion of ground floor store to apartment, internal alterations & associated work - Inclusis Limited, 21 High Street & 10 Grenville Street, Bideford.	Mr Craig Jones - Inclusis Ltd	PER 18.12.2024

1/0927/2024/ AGMB	Debbie Fuller	Prior notification for the change of use of agricultural building to 2no. dwellings and associated building operations under Class Q - Land And Building At Grid Reference 246869 104731, Black Torrington, Devon.	Ms Faith Warner	PER 18.12.2024
1/0931/2024/ FUL	Mr Peter Stapley	Part retrospective application for the change of use of land and erection of stables, barn store, sand school and paddock - Land At Grid Reference 263100 108702, Winkleigh, Devon.	Mr Roger Hill	PER 23.12.2024
1/0934/2024/ FUL	Mary- Ellen Whalley	Erection of a garage - Adderley House, 135 Bay View Road, Northam.	Mr Anthony Higham	PER 23.12.2024
1/0939/2024/ AGR	Miss Jess Wellington	Steel portal frame and roof to cover existing silage store - Slade Farm, Pancrasweek, Holsworthy.	Mr Andrew Pocock	PER 28.11.2024
1/0944/2024/ FUL	Debbie Fuller	Erection of rear extension and internal alterations - Norlow , First Raleigh, Bideford.	Mr Chris Cook	PER 18.12.2024
1/0953/2024/ AGR	James Clements	Erection of agricultural store for machinery - Wolf Valley Business Park, Broadwoodwidge, Devon.	Mr J Worden	PER 03.12.2024
1/0955/2024/ AGMB	Mrs Nicola McGill	Prior notification for the change of use of agricultural building to 2no. dwellings and associated building operations under Class Q (resubmission of 1/0688/2024/AGMB) - Agricultural Building At Grid Reference 236287 104231, Holsworthy, Devon.	Mr Alock	PER 23.12.2024
1/0055/2024/ NMAT	Kristian Evely	Non-material amendment to planning approval 1/0407/2019/FULM (Re-wording of Condition 16 - Landscape Management Plan) - Land Adjacent To Marshalls Mead, Beaford, Devon.	Mr D Rogers	PER 04.12.2024
1/0957/2024/ FUL	Miss Beth Hobbs	Erection of an agricultural storage building - Land At Grid Reference 242609 099147, Halwill, Devon.	Mrs H Chapman	PER 20.12.2024
1/0959/2024/ FUH	Miss Jess Wellington	Proposed front porch extension with canopy roof and associated works - 12 Short Close, Bideford, Devon.	Miss Catherine Harrington	PER 18.12.2024

1/0056/2024/ NMAT	Angelo Massos	Non material amendment to planning permission (1/0459/2023/FUL) - amendment to proposal - Orchard Lakes, Winkleigh, Devon.	Mr D Squires	PER 02.12.2024
1/0961/2024/ FUL	Mary- Ellen Whalley	Demolition of domestic garage and construction of extensions to the side and rear of dwelling, plus internal refurbishment works and landscaping - 3 Swanswood Gardens, Westward Ho!, Bideford.	Mr & Mrs Rowe	PER 23.12.2024
1/0963/2024/ FUL	Angelo Massos	Demolition of an existing equestrian building and erection of replacement equestrian building - Stables At Grid Reference 245694 122417, Annery, Monkleigh.	Mrs Saskia White	PER 23.12.2024
1/0964/2024/ LBC	Mary- Ellen Whalley	Conversion of 2no. barns to 2no. dwellings - Barns At Grid Reference 251845 108236, Petrockstowe, Devon.	Mr T Reed	PER 23.12.2024
1/0967/2024/ TCA	Miss Jess Wellington	Works to trees within a Conservation Area - Felling of 1no. yew tree - Methodist Church, Bodmin Street, Holsworthy.	Rev Graham Slingo	PER 05.12.2024
1/0058/2024/ NMAT	Sarah Boyle	Non-material amendment to 1/0556/2022/FULM - Change in house type - Plot 79 - Land At Grid Reference 262886 107734, Townsend Hill, Winkleigh.	Allison Homes SW Ltd	PER 16.12.2024
1/1002/2024/ TCA	Mary- Ellen Whalley	Works to trees within a Conservation Area - Crown lifts to trees T1-T5, T7, T8, G1 - G5. - St Mary And St Benedicts Church, Buckland Brewer, Devon.	Walter	PER 11.12.2024
1/1006/2024/ TCA	Miss Beth Hobbs	Crown lift and reduction on 1no. beech tree and 1no. oak tree - Marchwood, Kingscott, Torrington.	Mrs Sandra Lavender	PER 18.12.2024
1/0059/2024/ NMAT	Miss Jess Wellington	Non-material amendment to planning approval 1/0609/2016/FUL - Little Acres Equestrian, Broadwoodwidge, Devon.	Dean Summersby	PER 11.12.2024
1/1035/2024/ AGR	Miss Beth Hobbs	Erection of general purpose agricultural building - Land At Grid Reference 255512 114434, Beaford, Devon.	Mr Ian Pearse	PER 18.12.2024

1/1051/2024/ TRE5	Debbie Fuller	Clearing of fallen trees (T3 and three pines under G2) covered by TPO/0051/2015 (amended description) - Land At Grid Reference 245309 128441, Durrant Lane, Northam.	Richard Thurlow	PER 10.12.2024
----------------------	------------------	--	--------------------	--------------------------

1/1055/2024/ TRE5	Miss Jess Wellingt on	Felling of 1no. ash tree and 4no. ash tree stems due to ash dieback covered by TPO/0002/2018 - Senwood, St Peters Well Lane, Bradworthy.	Devon Tree Services	PER 13.12.2024
----------------------	--------------------------------	--	------------------------	--------------------------

REFUSED

1/0972/2023/ OUT	Debbie Fuller	Outline application for 1no. dwelling with all matters reserved (Affecting a Public Right of Way) - Land At Grid Reference 244709 127666, Raleigh Hill, Bideford.	Mr Haime & Mrs Wilson	REF 10.12.2024
---------------------	------------------	---	--------------------------	--------------------------

1/0060/2024/ FUL	Mr Peter Stapley	Erection of 2no. detached dwellings - Land At Cleave Wood, Mines Road, East The Water.	Mr T Eaton	REF 29.11.2024
---------------------	---------------------	--	------------	--------------------------

1/0388/2024/ FUL	Mary- Ellen Whalley	Construction of slurry pit - Land At Balls Farm, Merton, Devon.	Mr Adam Wickett	REF 03.12.2024
---------------------	---------------------------	---	--------------------	--------------------------

1/0729/2024/ FUL	Mrs Nicola McGill	Proposed conversion of barn to holiday unit (Removal of condition 10 of planning approval 1/1994/2002) - Chasty House Barn, Chasty, Holsworthy.	Mr Baginski & Mrs Adams	REF 04.12.2024
---------------------	-------------------------	---	----------------------------	--------------------------

1/0760/2024/ FUL	Miss Beth Hobbs	Roof conversion and rear extension - 9 Highfield, Northam, Bideford.	Miss Sandra Cottrell	REF 19.12.2024
---------------------	-----------------------	--	-------------------------	--------------------------

1/0877/2024/ FUL	James Clement s	Demolition of existing barn and erection of 3.no dwellings and associated infrastructure in lieu of Class Q approval 1/1039/2022/AGMB - South Peeke, Tetcott, Devon.	Mr J Britton	REF 11.12.2024
---------------------	-----------------------	--	--------------	--------------------------

1/0915/2024/ FUL	Mary- Ellen Whalley	Change of use of ancillary domestic accommodation to 1no. open market dwelling - The Tree Tops Annexe, 43A Richmond Park, Northam.	Mr And Mrs Worthington	REF 07.01.2025
---------------------	---------------------------	--	---------------------------	--------------------------

1/0940/2024/ OUT	Kristian Evely	Outline application for 3 no. dwellings with all matters reserved (self build) - Land Adjacent Croft Gate, Halwill Junction, Devon.	Mr Todd	REF 09.12.2024
---------------------	-------------------	---	---------	--------------------------

1/0951/2024/ FUL	Debbie Fuller	Part-retrospective application for the change of use of land from agricultural/sui to Class E Commercial Use and erection of office building (amended description) - Land At Grid Reference 245181 125507, Upcott, Bideford.	Mr Robert Trevelyan	REF 18.12.2024
---------------------	------------------	--	------------------------	--------------------------

1/0057/2024/ NMAT	Mr Peter Stapley	Non material amendment to planning approval 1/0682/2021/FULM - Change of surfacing of play area - Land Off Cornborough Road, Cornborough Road, Westward Ho!.	Wain Homes (South West) LTD	REF 18.12.2024
----------------------	---------------------	--	-----------------------------------	-----------------------

NOT PERMITTED DEVELOPMENT

1/1054/2024/ AGR	Kristian Evely	Levelling of field for farming - Land At Grid Reference 262892 108410, Winkleigh, Devon.	Mr Nicholas Turner	NPD 06.01.2025
---------------------	-------------------	--	-----------------------	---------------------------------