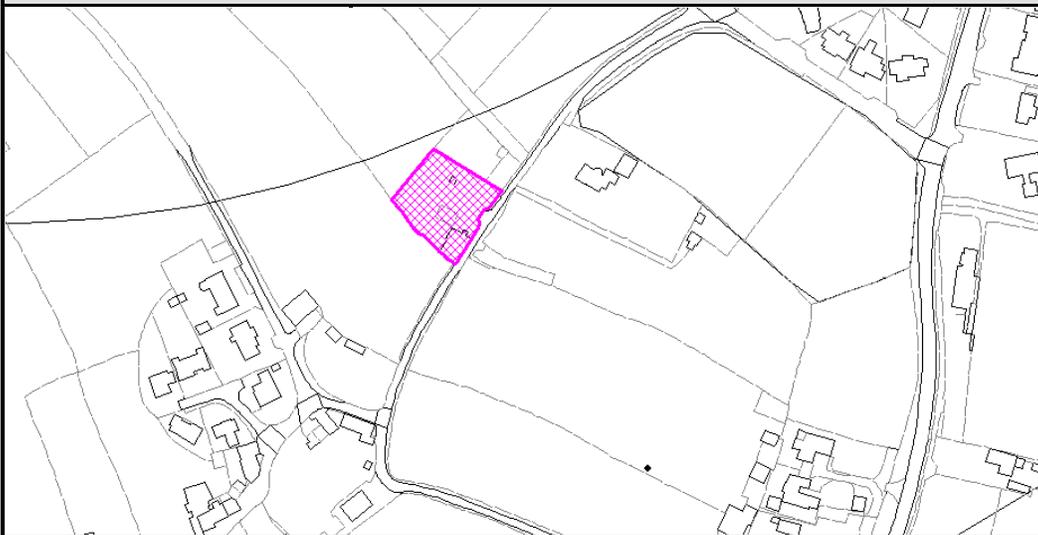


Committee Report – 12th May 2022

Application Number:	1/0271/2022/FUL
Registration date:	10 March 2022
Expiry date:	5 May 2022
Applicant:	Mrs Susan McEldon
Agent:	Shorne Tilbey Associates Ltd
Case Officer:	Sarah Boyle
Site Address:	Koversada, Diddywell Road, Appledore, Bideford, Devon, EX39 1NP
Proposal:	Erection of detached dwelling and detached garage (Resubmission of application 1/1093/2021/FUL)
Recommendation:	Refuse



Reason for referral:

The application has been called in by Councillor Hames if minded to approve and Councillor Ford if minded to refuse for the following reasons:

Councillor Hames

1. Impact on character, appearance and tranquillity of Undeveloped Coast
2. Site is outside Development Area
3. Contributing to coalescence between Appledore and Northam (ref LP Policy NOR Spatial Strategy)
4. Design of new dwelling incompatible with adjacent house and street scene.
5. Impact on amenity of Koversada
6. Highways implications of more traffic on narrow lane

Councillor Ford

I believe there is a balance to be struck reference social gain and to provide a family support network. Surely me/or the committee could impose conditions or ties (new house and existing must go together should future use or sale happen)

Relevant History:

Application No.	Description	Status	Closed
1/0114/1978	DWELLING, GARAGE AND OUTBUILDING TO FORM OUTDOOR PURSUITS CENTRE WITH DORMITORY BLOCK, WASHROOM AND CAR PORT AND ALTERATIONS TO ACCESS	PER	04.04.1978
1/1926/1980	ADDITIONAL ACCOMODATION FOR FAMILY USE, SKERN LODGE, DIDDYWELL, APPLIEDORE	WDN	29.04.1981
1/0359/1981	Construction of extension for additional accommodation for family use and laying of drain to public septic tank	PER	28.04.1981
1/1361/1982	CHANGE OF USE FROM EDUCATIONAL OUTDOOR ACTIVITY CENTRE TO PRIVATE DWELLING	PER	07.12.1982
1/1093/2021/FUL	Erection of detached dwelling and detached garage	WDN	26.01.2022

Site Description & Proposal

Site Description

The application site is located in the countryside outside the designated development boundary for Northam and Appledore as identified in the North Devon and Torridge Local Plan (NDTLP). Furthermore, the site lies within the designated 'Undeveloped Coast'. The site forms part of the garden of the dwelling known as 'Koversada' which is a two-storey detached residential property with

detached garage on Diddywell road, which is an unclassified highway. There is an existing access to the main house and hardstanding for parking and turning.

The site adjoins a paddock to the northwest which is in the ownership of the applicant and to the north, east and south is open fields. The nearest residential property outside of the applicant's ownership is to the northeast known as 'Garth'.

Proposed Development

The application seeks full planning permission for a two-storey dwelling with a detached garage.

The dwelling will measure 10 metres by 8 metres with a ridge height of 8.3 metres and an eaves height of 5.0 metres. The garage will measure 6 metres by 6 metres with a ridge height of 4.9 metres and an eaves height of 2.3 metres.

The ground floor will comprise of a kitchen, dining room, lounge/family room, and w.c, the first floor will comprise of four bedrooms (1 with en-suite) and bathroom. The main amenity space will be to the northwest and there will be parking and turning to the south east. The garage will also be sited forward of the dwelling. The existing access will be shared between the two properties.

The materials to be used will be render for the elevations, concrete tiles for the roof, and upvc white for the windows and doors.

Consultee representations:

Northam Parish/Town Council:

1/0271/2022/FUL

It was resolved to recommend that this application be refused on the same grounds as previously recommended i.e.

It would have an adverse impact on the undeveloped coast.

It is outside the defined development boundary.

It would have an adverse impact on the local street scene and character.

It would have an adverse impact on the amenity value of the area.

Environmental Protection Officer:

In relation to the above application, the Environmental Protection Team has no objections in principle and reiterates the comments from the previous application (reference 1/1093/2021/FUL).

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

It is acknowledged that the application site is a domestic garden and appears to have no historic contaminative land use. However, measures should be in place if unexpected contamination issues arise during development. Should planning consent be granted, the Environmental Protection Team recommends the imposition of the following condition:

Should any contamination of soil or groundwater be discovered during development of the site, the Local Planning Authority should be contacted immediately. Site activities within that phase or subphase or part thereof, should be temporarily suspended until such time as a procedure for addressing such contamination, within that phase or sub-phase or part thereof, is agreed upon with the Local Planning Authority or other regulating bodies.

Devon County Council (Highways):

Standing Advice

Conservation Officer:

No comments received

Representations:

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

No representations have been received for the application

Policy Context:**North Devon and Torridge Local Plan 2011-2031:**

ST07 (Spatial Development Strategy for Northern Devon's Rural Area); ST09 (Coast and Estuary Strategy); ST04 (Improving the Quality of Development); DM04 (Design Principles); DM01 (Amenity Considerations); DM08A (Landscape and Seascape Character); DM08 (Biodiversity and Geodiversity); ST14 (Enhancing Environmental Assets); DM05 (Highways); DM06 (Parking Provision); ST03 (Adapting to Climate Change and Strengthening Resilience); DM02 (Environmental Protection);

Government Guidance:

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

Planning Considerations

The main planning considerations with this application are:

1. Principle of Development
2. Visual Impact and Landscape Character
3. Impact on Residential Amenities
4. Highways and Parking
5. Ecology
6. Other
7. Tilted Balance and Conclusion

1. Principle of Development

Paragraph 2 of the National Planning Policy Framework (NPPF) states that planning law (namely Section 38(6) of the Planning & Compulsory Purchase Act 2004 and Section 70(2) of the Town & Country Planning Act 1990) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions. For the purpose of the development plan the statutory development plan is comprised of the North Devon and Torridge Local Plan 2011-2031 (NDTLP).

The NDTLP guides development to the most sustainable location setting out the strategic for Spatial Strategy for new housing in Policy ST07 (Spatial Development Strategy for Northern Devon's Rural Area).

In planning terms, the site is outside of the designated development boundary for Northam and Appledore, and located in the open countryside. It should be noted that the site would not be considered as well related to the built form of either of these sustainable settlements either. The North Devon and Torridge Local Plan seeks to restrict development within the open countryside, (beyond

villages, local centres and rural settlements) to that which is enabled to meet local economic social needs as well as development, which is necessarily restricted to a countryside location as detailed within policy ST07.

Paragraph 80 of the NPPF promotes sustainable development in rural areas and steers housing to be located where it will demonstrably enhance or maintain the vitality of rural communities.

Paragraph 80 of the NPPF limits the development of isolated homes unless one or more of the following circumstances apply:

- a) There is an essential need for a rural worker, including those taking majority of control of a 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 in enabling development to secure the future of heritage assets;
- c) The development would re-use redundant or disused building and enhance its immediate setting;
- d) The development would involve the subdivision of an existing residential dwelling; or
- e) The design is of exceptional quality, in that it:
 - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
 - would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area'

None of the above special circumstances would apply to this development.

The proposed open market residential dwelling would not satisfy any of the criteria set out in Policy ST07(4) and Paragraph 80 of the NPPF, with the result that the principle of development is considered to be unacceptable in this location.

In addition to being in a countryside location, 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.

The application is for a two storey dwelling with detached garage in the garden of 'Koversada' for a family member. The application has not provided justification or evidence to materially demonstrate that this is the only location for the housing and that it cannot be reasonably located outside the undeveloped coast and estuary. The addition of a dwelling in this location would increase the residential presence in the landscape and would create an additional built form which would reduce the separation of residential dwellings in this area and therefore create a cumulative impact on the landscape. It is noted that there are nearby opportunities for housing to be provided within sustainable settlements where growth is enabled and planned for through Policy ST06; Spatial Development Strategy for Northern Devon's Sub -regional, Strategic and Main Centres of the NDTLP.

Taking the above into account the proposal is in conflict with policy ST09 of the NDTLP.

5 Year Housing Land Supply (5YHLS)

Notwithstanding, as a result of the Burwood Appeal (APP/W1145/W/19/3238460), the Council accepts that it cannot currently demonstrate a five year supply of deliverable housing sites (5YHLS); with the appeal concluding that there is a supply of 4.23 years across Northern Devon. By virtue of not being able to demonstrate a five year supply of deliverable housing sites (footnote 7, NPPF), there is a need to apply the presumption in favour of sustainable development (the 'Presumption') (paragraph 11(d), NPPF) as a material consideration in determining planning applications for housing.

Paragraph 11 (d) notes:

Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, Local Planning Authorities should grant planning permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance (National Parks, AONB, SSSI, Heritage Assets, Habitat Sites) provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

For the purposes of the Presumption, policies of the development plan are not considered to be automatically out-of-date by virtue of not being able to demonstrate a 5YHLS. Whether a policy of the development plan is out-of-date is a matter for the decision taker, in light of their substance and considering their conformity with the NPPF. As the NDTLP was adopted relatively recently, none of the policies are generally considered to be out-of-date for the application of the Presumption.

The Presumption is set out in two parts by Paragraph 11 (d) of the NPPF, however, as this proposal does not harm a 'protected area', the decision taker in this case needs to consider the NPPF's requirement to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits; the so-called tilted balance (Paragraph 11(d)(i), NPPF).

In addition to the 'tilted balance', some weight can be given to policy ST21 of the NDTLP which relates to managing the delivery of housing. In particular, ST21 (2) is relevant, which supports development outside the settlement limits (where completions are below 90% of the annual requirement). The Burwood Appeal Decision determined that ST21 (2) is currently engaged, which requires any proposal to be in a location, of a scale, and nature commensurate with the deficit in required housing (a), demonstrate the ability to contribute in a timely manner to addressing the deficit in housing supply (b), be broadly consistent with the plans spatial strategy/vision along with the relevant settlement vision and development strategy (c), and be compliant with the remaining plan where relevant (d). Dealing with each of these points in turn:

(a) The deficit of housing within Northern Devon is clearly substantial as a 5YHLS supply cannot be proven. This proposal is for 1 dwelling so although it is minor in scale, combined with other development, it could assist in the contribution towards the 5YHLS.

The proposal is considered to accord with (a).

(b) Any future application would need to demonstrate how the development would be achieved in a timely manner. For example, a full application can be implemented sooner than an outline and where possible the need for pre-commencement condition should be avoided. Where the Council supports any such proposal it is common that a shorter time condition is utilised for any permission, which may incentivise the landowner to develop the site in a timelier manner at the risk of the application lapsing.

The application is made in full. The proposal is considered to accord with (b).

(c) As discussed earlier, the site is located within the countryside. The provision of open market residential development in this location would be contrary to the aims of the NDTLP's spatial development strategy for northern Devon's rural area, which seeks to guide such development towards established settlements with development boundaries that can offer some or all of the services and facilities required to support a residential use. This principle is established by Policy ST07 which adopts a hierarchical approach in recognition of the scale of each settlement and the availability of the facilities and services that are available therein, noting that Local Centres will be the primary focus for development within the rural area, with villages also identified to accommodate more modest levels of open market residential development in accordance with local spatial strategies.

In addition to being a countryside location, the application site also falls within the Coastal and 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.'

The applicant wishes to erect a dwelling on this site for one of their family members. However, this does not amount to the need for development within the Undeveloped Coast and estuary. It is noted there are nearby opportunities for housing to be provided within sustainable settlements where growth is enabled and planned for.

Taking account of the above, it is considered that the proposal is contrary to criterion (c).

(d) The remaining planning considerations will be discussed in the next section of the response.

2. Visual Impact and Landscape Character

The NDTLP encourages good design, which is reflected within national policy. Policy ST04 notes:

"Development will achieve high quality inclusive and sustainable design to support the creation of successful, vibrant places. Designs will be based on a clear process that analyses and responds to the characteristics of the site, its wider context and the surrounding area taking full account of the principles of design found in policy DM04."

Policy DM04 then proceeds to detail 14 design principles which should be taken into consideration within any new development. The crux of DM04 requires new developments to be of high quality design, including being well related to their surroundings, be of an appropriate scale, include quality materials, and to be sympathetic to the character and appearance of the local area.

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

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.'

The application seeks full planning permission for a two-storey dwelling with a detached garage.

The dwelling will measure 10 metres by 8 metres with a ridge height of 8.3 metres and an eaves height of 5.0 metres. The garage will measure 6 metres by 6 metres with a ridge height of 4.9 metres and an eaves height of 2.3 metres.

The ground floor will comprise of a kitchen, dining room, lounge/family room, and w.c, the first floor will comprise of four bedrooms (1 with en-suite) and bathroom. The main amenity space will be to the northwest and there will be parking and turning to the south east. The garage will also be sited forward of the dwelling. The existing access will be shared between the two properties.

The materials to be used will be render for the elevations, concrete tiles for the roof, and upvc white for the windows and doors.

The principle of a new dwelling with associated parking, and other aspects which come with a new dwelling would create a domestication of the land and have a detrimental impact on the character and

appearance of the site. The addition of a dwelling in this location would increase the residential presence in the landscape and would create an additional built form which would reduce the separation distance between residential dwellings in this area and therefore create a cumulative impact on the landscape. The addition of a new dwelling which is positioned behind the existing dwelling on site and therefore does not follow the grain of the area would also have a significant impact on the landscape from different view points.

This area does have a tranquil feel as apart from the residential properties that are already existing there is mainly natural features and activities which are free from man-made disturbance. The site is surrounded by paddocks and open fields with a limitation on built form.

It is clear after visiting the site that the residential development of this site would change the character of the site to a significant degree. The house has no special circumstances as detailed in paragraph 80 of the NPPF to demonstrate that a dwelling in this location could be acceptable. Taking the above into account, it is considered that the proposal would introduce a new dwelling in this location, which would be contrary to the existing built form and in the absence of a justifiable functional requirement that the dwelling cannot be reasonably located outside of the coast and estuary zone, it would detract from the unspoilt character, appearance and tranquillity of the area. The proposal would therefore conflict with policies ST04, DM04 and ST09 (7).

3. Impact on Residential Amenity

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

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

One of the core principles of the NPPF is to secure high-quality design and a good standard of amenity for all existing and future occupants of land and buildings.

The dwelling is proposed to be located in the garden of 'Koversada' which is within the applicant's ownership. The nearest residential property is to the northeast of the site known as 'Garth'. After visiting the site and assessing the proposed plans it is considered that there will be sufficient distance between the proposed property and the existing properties in the area and will therefore not affect the privacy and amenity of any neighbouring occupiers or uses. Although the property is located in the garden of 'Koversada' it is considered that the reduction in amenity of 'Koversada' would not have a significant impact on the occupiers. The amenity of the intended occupants of the proposed development would also not be harmed as a result of existing or allocated uses. The proposal would therefore accord with policy DM01 of the NDTLP.

4. Highways and Parking

Paragraph 110 of the National Planning Policy Framework indicates that access should be safe and suitable for all users. Paragraph 111 proceeds to advise that development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highways safety, or the residual cumulative impacts on the road network would be severe. In addition, Paragraph 112 notes that development should minimise the scope for conflict between pedestrians, cyclists and vehicles, respond to local character and design standards, allow for the efficient delivery of goods, and access by service and emergency vehicles.

Policy DM05 of the NDTLP relates to highways, and notes:

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

In addition, policy DM06 of the NDTLP relates to parking provision, and notes that developments will be expected to provide adequate parking depending on the needs of the scheme.

The proposal has detailed that it would utilise the existing access on site and provide additional parking for the proposed property. The existing access is onto an unclassified highway and appears to have sufficient visibility splays. It is considered that the site could achieve adequate space for parking and turning for all occupiers. Devon County Council Highways have been consulted and they have commented that the application should be dealt with under standing advice. Therefore, in terms of policies it is considered that the proposal will accord with policies DM05 and DM06 of the NDTLP.

5. Ecology

Local Planning Authorities have a statutory duty to ensure that the impact of development on wildlife is fully considered during the determination of a planning application under the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, the Conservation of Habitats and Species Regulations 2010 (Habitats Regulations 2010). This is further reinforced within the NDTLP through Policies DM08 and ST14 which state that development proposals should conserve and, where possible, enhance biodiversity interests.

A Wildlife Trigger List has been submitted with the application. After visiting the site and reviewing the documentation it is considered that the application is in accordance with policy DM08 and ST14 of the NDTLP.

6. Other

Environmental Protection were consulted on the application and commented the following:

'In relation to the above application, the Environmental Protection Team has no objections in principle and reiterates the comments from the previous application (reference 1/1093/2021/FUL).

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

It is acknowledged that the application site is a domestic garden and appears to have no historic contaminative land use. However, measures should be in place if unexpected contamination issues arise during development. Should planning consent be granted, the Environmental Protection Team recommends the imposition of the following condition:

Should any contamination of soil or groundwater be discovered during development of the site, the Local Planning Authority should be contacted immediately. Site activities within that phase or subphase or part thereof, should be temporarily suspended until such time as a procedure for addressing such contamination, within that phase or sub-phase or part thereof, is agreed upon with the Local Planning Authority or other regulating bodies.'

If the application is approved, then it is considered reasonable to add the conditions as detailed in the Environmental Protection response.

7. Tilted Balance and Conclusion

The site is located within the countryside, outside of any development boundary. The principle of residential development in this location would ordinarily be unacceptable in terms of policy. However, as discussed above the Local Planning Authority cannot currently demonstrate a five year supply of housing land to meet the identified need within the district. It would therefore be necessary to consider whether the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits (the tilted balance).

The development plan policies referred to above are in broad conformity with the NPPF and therefore are not considered to be out of date. In particular, the overarching policy direction of the NDTLP to guide open market residential development towards settlements that offer a broad range of the services and facilities required to support a residential use is also evident in the NPPF and is a key strand of environmental sustainability.

In this instance, it is deemed that the benefits from the proposal would be that any future proposal could contribute towards local housing supply and provide a benefit to the local economy in terms of construction and future spend in the area from any future occupants.

However, turning to the adverse impacts, in addition to the site being in a countryside location, the site is also located within the Coastal and Estuarine Zone, where no evidence has been presented as to why this development cannot reasonably be located outside the Undeveloped Coast and Estuary in line with Policy ST09 (7). The proposal is also contrary to the design policies of the NDTLP, with concerns raised with the design and location of the proposed dwelling within the setting and character of the surrounding landscape, and the changing nature of this tranquil area when introducing a residential form on the scale proposed.

On this basis in reference to paragraph 11(d) of the NPPF, it is considered that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. Therefore the application is recommended for refusal.

Human rights

Consideration has been given to the Human Rights Act 1998.

Recommendation

REFUSE for the following reasons:

- 1 Policy ST07 (4) of the North Devon & Torridge Local Plan does not support development proposals for open market housing in the open countryside, where the Local Planning Authority would only permit development which is necessary to meet local economic and social needs, rural building re-use and development which is necessarily restricted to a countryside location. No justification has been presented to prove a functional need for the dwelling in the countryside. The economic and social contribution of one single dwelling to the Councils 5 Year Housing Supply is not sufficient to outweigh the harm to the countryside and the Coastal and Estuarine Zone. In this circumstance the proposal is contrary to Policies ST07, ST09 and ST14 of the North Devon & Torridge Local Plan and Paragraph 80 of the National Planning Policy Framework.
- 2 The site lies within the designated Coast and Estuary Zone. In the absence of a justifiable functional requirement for the dwelling, the built form of a residential dwelling and associated domestic paraphernalia is considered to detract from the unspoilt character, appearance, and tranquillity of the area contrary to the provisions of Policy ST09 (7), ST04, DM04 and DM08A of the North Devon & Torridge Local Plan.

Plans Schedule

Reference	Received
5061/2/1	10.03.2022
5061/2/2	10.03.2022

Statement of Engagement

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

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