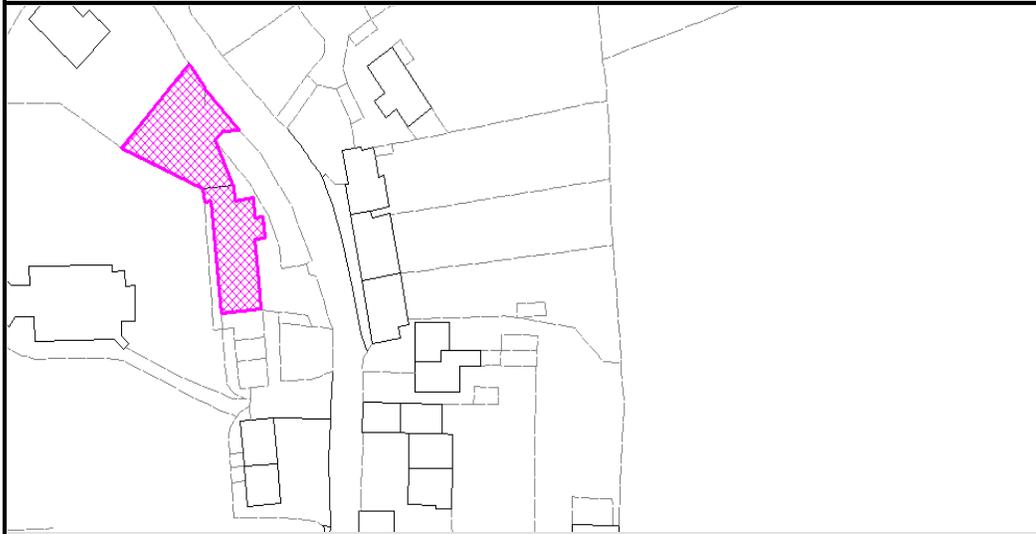


Committee Report – 9th June 2022

Application Number:	1/1118/2021/FUL
Registration date:	24 September 2021
Expiry date:	19 November 2021
Applicant:	Mr & Mrs Johnson
Agent:	Quiet Waters Consultancy
Case Officer:	Sarah Boyle
Site Address:	The Laurels Inn, Petrockstowe, Okehampton, Devon, EX20 3HJ,
Proposal:	Change of use from a mixed use of public house and private dwelling to solely a private dwelling
Recommendation:	Refuse



Reason for referral:

Councillor Wiseman called in the application as a Plans Committee Member for the following reasons:

'The development involves the loss of a community service as per ST22(3).'

Relevant History:

Application No.	Description	Status	Closed
1/1038/1977	CONVERSION OF SHOP INTO RESTAURANT, THE LAURELS INN PETROCKSTOWE	PER	03.10.1977
1/0065/1995	DEMOLITION OF OLD COACH HOUSE	PER	04.05.1995
1/1119/2021/OUT	Outline application with all matters reserved for the conversion of 2 no. former almshouses to 2 no. units of holiday accommodation	REF	10.03.2022

Site Description & Proposal

Site Description

The application site is located within the settlement of Petrockstowe, which is designated as a Rural Settlement within the adopted North Devon and Torridge Local Plan. The site does not fall within any other land designations and the property is not a designated heritage asset. However, there are a number of protected heritage assets within close proximity including:

- O Three, Grade II listed cottages adjacent to the application site to the east;
- O Petrockstowe War Memorial, which is a Grade II heritage asset and is located immediately to the south;
- O Properties 1 and 2 Church Gate, which are Grade II heritage assets and are located to the south; and
- O The Grade II*, Church of St Petrock, which is located immediately to the west of the application site.

The site is set back from the road and is seen as central to the settlement. The application site is a two-storey public house which has been used as such since approximately the 1970s. The ground floor accommodation comprises of the pub entrance hall with bar and lounge and a dining area. There is a kitchen to the rear (which is shared with the first floor accommodation) and a cellar and customer toilets also located to the rear. The first floor has 4/5 bedrooms, an office and a bathroom and a living room (5th bed). The main outside area for the public house is to the front of the property and there are two beer garden areas, attached to the south gable end are two single-storey outbuildings. There is vehicular parking for 10/12 cars and turning is to the north of the buildings, which is accessed from the public classified highway that runs along the eastern boundary.

Application (1/1119/2021/OUT) for the adjoining Almshouses to be converted to holiday accommodation, was refused by Plans Committee and is now going through the Appeals process.

Proposed Development

The application seeks permission for the change of use from a mixed use of public house and private dwelling to solely a private dwelling.

The supporting information details that there are no proposed external changes and if there are any changes internally in the future that these do not meet the definition of development and would therefore not require planning permission.

Consultee representations:

Petrockstowe Parish Council:

We note the application to obtain planning consent for change of use from Public House to residential for The Laurels pub in the village.

This matter was discussed at the parish council meeting on 16/11/2021 which was attended by more parishioners than any other meeting in recent times. There have been a very high number of objection comments posted on the TDC planning portal and the parishioners had selected one person to express those views at the meeting. Nobody in the meeting was in favour of the proposal.

As a result of views expressed at this meeting and of other research undertaken by the parish council, we wish to express our objection to this application on a number of grounds set out below, of which further details are provided later in this response.

1. The pub represents a vital social and community asset within the village and its loss would be a severe loss to the village. Many village activities were centred around the pub and these are currently lost to the village.

2. It is our view that the pub has not been run optimally for some time, notwithstanding the inevitable impact of the Covid 19 pandemic. There remains great potential for improved performance with the right approach by a licensee as was the case with earlier licensees. No attempt has been made to bring in additional local services which would help to boost income and no discussions have been held with stake holders in the village as to how the pub could generate additional income.

3. The level of trade has undoubtedly fallen over the past 2 years, but the licensee has been a significant contributor to this. His attitude has been aggressive to a number of parishioners to the extent of causing great upset and an unwillingness of a number of regular customers to continue to support the pub because of this attitude. In addition, a number of customers have been barred from the pub for what to many appear to be spurious reasons.

4. The pub has been marketed for sale for some time, initially by a specialist commercial agent, but latterly by a residential housing agent. All of this time it has been advertised at a price considerably above the going rate for pubs in this area. We are aware of at least one offer that was made for the pub at a price consistent with other recent pub sales, but this was rejected by the licensee. We therefore believe that the licensee is actively blocking the sale of the pub to others at the correct commercial price and we hope that the TDC Valuation Officer will be brought in to take a close look at price placed on the pub when offered for sale.

5. The document supporting the application has a number of factual inaccuracies which need to be corrected and these are noted below.

6. We have added, as an appendix, a completed CAMRA Public House Viability Assessment. This document is recognised as a valid way to assess the commercial prospects of a public house in any given environment and can be used to assist planners in making decisions on applications where non viability has been raised as an issue by applicants seeking to close pubs.

1. Vital Social and Community Asset

Petrockstowe is a close knit community with some of the best integration between long standing

residents and newer arrivals of any village in the area. Much of this has been fostered through activities centred in the pub such as 2 skittles team (play at the village hall, but socialise at the pub), 2 darts teams based at the pub, 2 pool teams based at the pub. In addition, there was a very popular monthly quiz night where the pub was usually full and a regular group of Wednesday and Friday night drinkers, all of these being spread across locals of differing residency periods. Even when events were held at the village hall, people would meet in the pub for a drink beforehand and go back there after the event, leading to higher takings for previous licensees than on a non village hall event evening. All of this has now been lost to the village. Much has been made during the Covid pandemic of the effect on the mental well being of people resulting from the lack of social mixing and this is only being exacerbated now the pub has closed and will be ramped up again if it cannot be reopened. Those villagers who do still want to visit a pub have to drive 2 to 3 miles to one on the next villages, but there are many (generally older) villagers who do not want to drive to a pub and who no longer have the vital social meeting forum available to them.

There are also a number of self catering holiday accommodation units in the village for whom the loss of the local village pub is important as it means that guests have to drive to get to a pub as opposed to being able to walk.

To support all of this, the **Parish Council submitted an application to have The Laurels registered as an Asset of Community Value as soon as the closure was announced.** This application is currently being processed by Torridge District Council.

2. The pub has been poorly run for some time, contributing greatly to the losses reported by the applicant

For the 6 years from 2009 to 2014 the pub averaged an annual turnover (net of VAT) of £170k and an annual net profit of £46k. We believe the turnover had dropped a little by the time that the applicant bought the pub in 2017, although it was also operating bed and breakfast at the time which would have helped profitability. We have not had sight of the accounts during the current ownership, but the sale particulars show turnover of between £157k and £135k, some of which may have been affected by the Covid pandemic. As is stated, the majority of the turnover in recent years (up to 90% by admission of the applicant) has been wet trade, whereas in the period from 2009 to 2014 there was a split of around 65% wet to 35% dry. This immediately shows that the applicant has not prepared an appealing food offer to customers.

Initial efforts by the applicant indicated he wanted to offer what the villagers wanted (wine tasting to determine which wines to stock was a good example of this) and the level of business increased compared with under the previous licensees. Since then, there appears to have been a steady loss of passion for running the pub by the applicant. This is evidenced by a reduced choice of beers, by the self inflicted damage of purchasing barrels that are too large for the turnover, unlike other local pubs which purchase smaller barrels and offer a wider choice of beers as a result. This has led to wastage of beer, as well as beer in poor condition.

To go along with this the restaurant is an uninviting place as it is currently set up, with bright fluorescent lighting, and there is simply no cosy feel to it. It is unfortunate for the applicant but a major reason for the reduced levels of turnover is that he is just not very good at offering what customers want. This has been a major factor in declining business levels, but it is not a reason for delicensing, merely a reason for selling at a realistic price (see later) and moving to another occupation.

There has been no consistent effort to improve the food offer, despite one local commercial caterer offering to cook for the pub in order to bring in a better food offer, but that was turned down by the applicant. No other initiatives have been made, such as morning coffee for which we believe there is a ready market in this kind of village, no attempt to add other business lines such as a local shop and finally of course, because of the additional family living in the pub, there has been no bed and breakfast offered, unlike the previous licensees.

3. Aggressive attitude

We accept that relationships between people are the result of the actions of both sides, but there has been a trend over the past 3 years of an increasingly aggressive attitude from the licensee with a number of villagers of all ages (including some in their 70s and 80s), leading to significant upset and a desire not to use the pub anymore. In one example the applicant mimicked a speech defect of a villager (in front of him) for some time, leading to a number of villagers refusing to come back again as a result of the behaviour. In turn this has led to friends of those affected also not wishing to patronise the pub. In addition to this several locals have been banned from the pub for a variety of reasons, some of which everyone would consider reasonable (behavioural), while many, such as asking for an additional plate for a takeaway, seem extremely petty.

It is the right of anyone to run a business as they want to. However, when that results in a loss of custom and perhaps to financial losses, that cannot be a reason to seek to change the use from a pub to a house, the result should be accepting that others would do a better job and selling at a commercially acceptable price in the market.

4. Inappropriate price and poor marketing

The applicant claims to have tried to sell the Laurels over a 2 year period, but our view is that there has been no serious attempt because the asking price has always been unrealistically high. In 2015 the villagers were preparing to purchase the pub to be run as a community pub and were well down the road to success when an alternative purchaser came in and completed on the deal at a marginally higher price and in a shorter timescale which suited the vendor selling the pub. Several locals have said that it is highly likely that the villagers would be interested in reviving the community purchase route if the pub were being marketed at a realistic price now.

The Laurels was bought by the applicant in 2017 for £269,000. It had been valued for the community purchase 2 years earlier at £275,000 when the financial results were better than those on which the applicant purchased it. The average turnover in the 6 years leading to the 2015 valuation of £275,000 was just under £170,000 and the average profit over that period was just under £46,000 (after staff wages, but before drawings).

Set against these figures the Laurels has been marketed (apparently over a 2 year period) at prices varying from £395,000 increasing to the current £450,000 based on declared trading turnover of between £135,000 and £157,000 and apparently a loss more recently (we have not been privy to the figures which have apparently been provided to TDC under a confidentiality proviso). We do not know if these figures include Covid Business Support Grants which the licensee has received over the last 18 months.

The text from the listings of the various estate agent which have marketed the pub is shown below.

Webbers Commercial – advertised as a pub/ restaurant at £395,000, (but withdrawn late 2020) –

THE BUSINESS

The business is now available for genuine reasons and is open throughout the year, 7 days a week as a popular village free house. The pub is run by a husband and wife team and one full time as well as two part time staff if required. The revenue is determined from the 90% wet sales and approximately 10% food sales, plus has the potential for an income from the letting of 2 first floor guest bedrooms at a tariff of £80 for the double room per night and £40 for the single room. Turnover is in the region of £157,840 per annum. The pub is well supported by the locals with 2 skittles teams, a Wednesday darts team, 2 pool teams on a Thursday, a Friday Darts team. In addition on the first Tuesday of each month is a quiz night, the third Tuesday a bingo night, as well as the fourth Tuesday a themed food night. A local football team and a cricket team also frequent the pub after matches. Opening hours vary depending on the day and season.

James Doble Commercial- advertised as a pub at £399,950 (but subsequently withdrawn) –

THE BUSINESS

Having been operated by our clients since 2017 the business is run as a family concern by a husband and wife team with 2 daughters, one of which operates the kitchen. Average turnover for 2018 and 2019 yearends show approximately £135,000 with current operating hours being closed Monday and Tuesday evenings in the winter, Wednesday and Thursday open am and pm, Friday - Sunday open all day. Given its proximity to the Tarka Trail the business attracts many walkers and cyclists as well as additional trade derived from team events and an increasing take-away trade.

More recently the Laurels has been marketed by **Bond Oxborough Phillips** in the private house section (it is shown in the houses section of Rightmove too), although mention is made of the fact it has been a public house and restaurant. It has been taken off the trade listings and a Google search for pubs for sale in Devon does not bring it up at all. It was advertised as a house (subject to planning permission) from January 2021 to 15th October 2021 at a price of £400,000 and then on 21st October, despite no sale having been agreed, the price was increased to £450,000 with the business details shown here.

THE BUSINESS:

Understandably the business has been affected due to multiple lockdowns throughout 2020 and beginning of 2021. However, since 2017, the business has been run as a family concern by a husband and wife team with their two daughters previously providing further assistance in different roles.

Previously the average turnover for 2018 and 2019 year ends show approximately £135,000 with current operating hours being closed Monday and Tuesday evenings in the winter, Wednesday and Thursday open am and pm, Friday - Sunday open all day. Given its proximity to the Tarka Trail the business attracts many walkers and cyclists as well as additional trade derived from team events and an increasing take-away trade.

Comparison pubs for sale

There are several pubs in the North Devon area currently for sale currently and below are 3 currently listed showing price, turnover and profit as well as number of available covers.

James Doble Commercial is advertising the **Buckland Brewer pub** at £325,000 with the following details –

THE BUSINESS

Having been within the same family ownership for the past 32 years, the business is owner operated by a husband and wife partnership, with one of the partnership front of house and the other operating the kitchen. In addition there is a pool of approximately 10 members of staff, dependent on the time of year. Operating hours are 5.30pm till close 7 days per week, with lunchtime opening Wednesday - Saturday noon - 3pm, Sunday noon - 4.00pm. Net turnover for the past three years has been in excess of £300,000 with 2019 yearend turnover being £315,000 with an estimated net profit of £75,000 / £80,000. It is estimated the wet dry split is approximately 55 : 45. The premises is host to a number of teams, 6 winter skittles teams, 1 x summer skittles team, 1 x darts team.

James Doble Commercial is advertising the **Blacksmiths in Bideford** is advertised at £375,000 – it is currently closed, but has a 90 seat bar and restaurant plus a 90 seat beer garden.

THE BUSINESS

Having been operated as a mainly wet led public house for many years the business is no longer trading as the owner has decided to concentrate on his other business ventures in Westward Ho! Net turnovers of between £266,000 - £281,000 have been achieved in recent years, having been run under staffing. It is thought there is considerable potential to develop all aspects of the

business, particularly a food operator who wishes to take advantage the location adjoining the Tarka Trail which has approaching one million users per year.

James Doble Commercial is advertising **The Hart in Hartland** including 120 covers inside and 90 covers outside advertised at £385,000.

THE BUSINESS

The business is owned by a family who have other business commitments and have therefore employed more staff than a typical owner occupier. Yearend turnover in 2019 was £213,000 (10 months trading) which increased in 2020 to £291,000, which was prior to the opening of the larger kitchen and the restaurant / function extension, allowing 50+ more covers. The business is currently operated as both a wet and dry venue, with a chef currently employed, and it is thought this could be further expanded by owner occupiers or a manager without external business commitments. Further accountancy information available upon request.

The Bull and Dragon pub in Meeth was sold in February 2020 for £270,000 based on a combined wet and dry trade of around £185,000. This is a similar sized pub to the Laurels and is around 3 miles away.

Paragraph 8.10 of the NDTLP states 'Commercially operated facilities must further demonstrate a comprehensive sustained marketing campaign (to be agreed in advance by the Council), has been undertaken for its existing use, offering the facility for sale using an agreed realistic valuation of the premises for a period of at least 12 months before an application is submitted.' We do not believe that anything that the applicant has done satisfies these criteria.

In view of all of the above it is our strong contention that the business has not been seriously marketed for sale at the right price, nor, more recently, in the right channels. We have heard from people ready to make a serious offer at around or just below the £300,000 level, but nowhere near what is being asked for it.

5. Inaccuracies in the Support paper included with the application.

The support paper filed with the application makes reference to the application for change of use meeting the criteria of Part 3 of Policy ST22: 'Community Services and Facilities' of the NDTLP. In particular the tests here are that

- (3) Development that involves the loss of community services and facilities will not be supported unless there is compelling evidence to demonstrate:
- (a) the existing use is no longer commercially viable or could not be made commercially viable; or
 - (b) there is alternative local provision that is accessible to the local community by walking or cycling; and in either case
 - (c) the premises are no longer required to meet the needs of the local community.

The answers given in the supporting paper to each item of the above are wrong as set out below

1) "The accounts provided in the confidential appendix to this application show a sustained decline in revenue to the point that the pub has had to close, as it cannot afford to continue as a viable enterprise. The pub had to limit its opening hours and has now, as of the 17th September, had to close its doors, as the revenue is simply not sufficient to keep the business running." – **Parish Council response - the pub may well have seen a decline in revenue over the last 2 years. This has been down to the Covid pandemic, the poor food offering, the reduced opening hours and the attitude of the licensee. The inability of the licensee to run a successful public house does not in any way mean that the pub cannot be run successfully by others as it has been in the past.**

2) "As the relevant appendix also shows, evidence that the applicants have gone to great lengths to try to ensure the viability of the business by offering themed food nights,

entertainments and sports, none of this has led to any sustained support from the local customer base and has left the business unable to operate, as a viable concern.” – **Parish Council response – planners will note the dates of some of the supporting event “adverts” fall within the period of lockdowns under the Covid pandemic. They may refer to takeaway offers, but certainly not to any themed evenings available for locals to attend. The post from Facebook on 7th August is purporting to show that 9 people went to this event. In fact it was cancelled by the pub on 9th August (as per their Facebook page) because of Covid self isolation requirements, so it is extremely misleading to suggest that this event went ahead and was poorly attended. We suspect other events such as bingo or karaoke nights are simply not what is wanted by the community. On the other hand the pub used to be full to watch rugby matches (either Exeter Chiefs or internationals), but the licensee stopped hosting those and so that revenue disappeared.**

3) “The appendix evidence also shows that the property has been marketed as a public house for over two years by a number of commercial estate agents, in order to seek to find anybody else who would be willing to run the business and no offer or sale has been achieved, with the accounts clearly demonstrating that a public house in this location does not appear to be a viable option for any potential investor.” – **Parish Council response – as shown above the pub has at times been marketed by commercial agents and at times by residential agents. At no time has it been marketed at a realistic price vis a vis other pubs in the area and it has not shown up under any Google search for pubs for sale since the start of 2021.**

4) “There is alternative local provision and in fact, the popularity of this local provision may well be one of the reasons the public house is no longer used or effectively needed by the local community. The local village hall and its grounds are a short distance across the road from the application site and due to the work of a committee that has been running events at the village hall, it now offers regular events with a licensed bar and many various food options, as well as social events with entertainment. This allows the village hall to function without the burden of the same overheads as the public house, is able to offer a vibrant and easy to change option in terms of food offering and has become a very popular venue for the local community to gather socially, as well as for food and drink. The popularity of it this venue and its provision of alternative drinking, eating and social offering, can be seen as one of the reasons why use of the public house has become significantly reduced and the applicants fully understand the attraction and flexibility of what this venue is able to offer.” – **Parish Council response – this is a complete misrepresentation of reality. Over the past years the village hall has held events as set out below:**

2017 – 7 events with bar takings of £1,259

2018 – 19 events with bar takings of £5,141

2019 – 19 events (including 4 private events) with bar takings of £6,579 including 2 Friday nights when the Laurels was closed)

2020 – 2 events with bar takings of £437.

As stated in an earlier section, previous licensees used to say that takings rose when there was a village hall event because people would go in before and after the event. Village hall events are generally for matters that could not be accommodated in the pub such as dance evenings, ferret racing, brass and silver bands. There is simply no competition between the 2 venues and the village hall does not offer a licensed food and drink option, other than for a limited number of specific events. The hall is used mostly during the day for village groups.

5) “A local sports club is also a short distance from the application site and it too offers a licensed bar and social facilities. This too offers a popular local alternative and may again explain why local use and interest in the public house has declined.” – **Parish Council response – the sports ground is actually right on the outskirts of the village and holds one or two events per annum (such as the annual fete), other than cricket matches during the season. There is absolutely no interplay between the sports club and the pub, except that**

the cricket team regards the pub as its home and keeps memorabilia in the pub in common with most other villages around the country (and as recognised in the sale particulars from one of the agents above). The “bar” itself is an open building with no solid floor and is only suitable for use in good weather on warm days.

6) “Policy ST22 does not require the existing or future viability of the facility to be demonstrated if there is alternative provision that is accessible to the local community by walking or cycling (criteria B). As we have set out above, there is alternative provision and thus this application can be seen in the context of Petrockstow itself not being left without alternative, and in fact very popular, local provision. As such, the alternative facilities are also able to sell alcohol in direct competition and at a discount to the existing public house, thus affecting revenue.” – **Parish Council response – as set out above, there is no competition between other village facilities and the pub; in fact they should be seen as complementary. The closure of the pub has meant that villagers have to drive between 2 and 3 miles to get to the next nearest pubs which are in Merton and Meeth. There is no alternative to the pub in the village.**

7) “Paragraph 8.10 of the NDTLP states 'Commercially operated facilities must further demonstrate a comprehensive sustained marketing campaign (to be agreed in advance by the Council), has been undertaken for its existing use, offering the facility for sale using an agreed realistic valuation of the premises for a period of at least 12 months before an application is submitted.' This premises has been offered for sale for over 2 years with a range of local commercial estate agents at their advised price, with no offer having been forthcoming.” – **Parish Council response – we do not know if the marketing campaign was agreed in advance with the Council, but we do know and have demonstrated above that the pub has never been marketed at a realistic price in comparison to its previous sale and purchase prices, or in comparison to other similar pubs on the market (and sold) in the area. Similarly for the last 10 months it has not been marketed as a commercial premises and has not shown up in searches for pubs for sale in Devon. It has been marketed as a house with only the description showing it to be a pub.**

In conclusion we believe that the applicant has failed to demonstrate any grounds on which The Laurels should be delicensed and converted to a private house. On the contrary we remain convinced that the only obstacle to the pub being successful has been the actions of the applicant and that the correct course of action is to recognise the appropriate price for the pub in the current market and to accept an offer at that price and move elsewhere.

Appendix - CAMRA Public House Viability Test (Viewable Online)

Conservation Officer:

The building is not listed but stands close to and within an area of the settlement that has high visual value. The original building is of some age but has been altered to its current use such that it was not deemed to be listable.

The proposed change of use will not alter the fabric of the building and in principle there are no objections. Shall the use be allowed there may be changes to the grounds but this could happen while in the pub use anyway .

Devon County Council (Highways):

No comments received.

Representations:

Number of neighbours consulted:	12
Number of representations received:	143
Number of objection letters:	139

Number of letters of support:	3
Number of neutral representations:	1

1 general representation, 3 support comments and 139 objection comments have been submitted for the application detailing the following reasons:

1 General Representation

- Clarification on Village Hall running in terms of events and opening and income.

3 Support Comments

- Income from the pub is insufficient to support a livelihood.
- Village has Baxter Hall which could continue some of the activities previously held in the pub
- Not supported by the wider majority of villagers enough to remain a viable business.
- Change of use will entice a wider pool of potential buyers
- The owners have invested in the public house
- Themed nights and good food were available which although initially supported by the local community this tailed off becoming an unviable enterprise.
- Price quoted for the premises was not set by the owners but was advised by the estate agents.

139 Objection Comments

- Only pub in the village and goes a considerable way to holding the village community together.
- Only pub for several miles - locals would have to drive
- Huge/Sad loss to the community
- Options to create more income - put forward by locals
- Hub of the village
- Village Hall - not able to run as a bar full-time/ not an alternative
- Pool, Darts and Skittles Team use the public house
- Do not agree that the Village Hall has affected the trade of the pub
- Marketing price being asked seems rather high in comparison to other pubs for sale
- The Laurels Inn serves as a social hub in this village and is used by a wide variety of age groups.
- Poor menu and lack of friendly atmosphere recently
- Given the right management the Laurels could be financially viable
- No reasonable alternatives in the village
- Residential Amenity
- Local needs requirement
- Cant' walk to the nearest pub due to unlit and unpathed roads - not safe
- The fact there is a pub in the village is a considerable draw for people moving into the village and for holidaymakers
- Loss of social life for single and elderly people
- Financial arguments - not reflect a true picture
- Opening hours have become unreliable
- Policy Reasons
- Detrimental to vitality and viability of the local community and economy
- Holiday lets will suffer as the pub was always recommended for food and used by visitors.
- Close to the Tarka Trail used as a stop off
- Lack of accuracy contained within the supporting documents
- Important Community Asset
- Village growing through planning applications, so this closure won't help
- Vital for economic health of the local community
- Vital for welfare of residents
- Place of employment for residents
- Only 1 bus a week out of the settlement so have to drive to alternative public houses
- Other pubs in the surrounding area have thrived so why can't The Laurels
- In the past was viable and the main hub for social gatherings in the community

Policy Context:

North Devon and Torridge Local Plan 2011-2031:

ST07 (Spatial Development Strategy for Northern Devon's Rural Area); ST22 (Community Services and Facilities); ST21 (Managing the Delivery of Housing); DM04 (Design Principles); ST04 (Improving the Quality of Development); DM08A (Landscape and Seascape Character); ST15 (Conserving Heritage Assets); DM07 (Historic Environment); DM01 (Amenity Considerations); DM05 (Highways); DM06 (Parking Provision); DM02 (Environmental Protection); ST03 (Adapting to Climate Change and Strengthening Resilience); DM08 (Biodiversity and Geodiversity); ST14 (Enhancing Environmental Assets);

Government Guidance:

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

Planning Considerations

The main planning considerations with this application are:

1. Principle of Development
2. Impact on Character and Appearance/Listed Buildings
3. Impact on Residential Amenities
4. Access and Parking
5. Drainage
6. Ecology
7. Conclusion

1. Principle of Development

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

In planning terms, the site is located within the rural settlement of Petrockstowe, and therefore would need to comply with Policy ST07 (3) of the North Devon and Torridge Local Plan (NDTLP). Policy ST07 (3) sets out that in Rural Settlements which contain at least one prescribed service or community facility, appropriately located development of a modest scale will be enabled to meet locally generated needs. The NDTLP Glossary defines Rural Settlements as: '*a small, closely grouped cluster of housing that contains at least one local service or community facility.*' Petrockstowe contains a Pub (which this application seeks to remove) and St Petrock's Church, a Methodist Church, and a Village Hall, with Public Open Space and a local sports club venue which is just outside the main built form of Petrockstowe.

As this application is seeking a change of use of an existing building and not a new build dwelling in a Rural Settlement, the local occupancy restriction of Policy DM24 would not apply as stated in paragraph 13.143 in the NDTLP '*for the conversion or rural buildings within Rural Settlements, the local occupancy requirements set out in Policy DM24: Residential Development in Rural Settlements, will not apply.*'

Notwithstanding the above, 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/s 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).

Notwithstanding the above, the proposal relates to the conversion of a pub, which triggers Policy ST22 of the NDTLP. Policy ST22 seeks to prevent the loss of community services and facilities where possible (pubs are deemed to be classified as community facilities for the purposes of ST22).

Policy ST22 notes development that involves the loss of community services and facilities will not be supported unless there is compelling evidence to demonstrate:

- a) The existing use is no longer commercially viable or could not be made commercially viable; or
- b) There is alternative local provision that is accessible to the local community by walking or cycling; or
- c) The premises are no longer required to meet the needs of the community.

For clarity each point will be considered separately.

(a) The public house stopped operating on the 17th September 2021 before the application was submitted to the Local Planning Authority. It is detailed in the supporting statement *'The pub had to limit its opening hours and has now, as of the 17th September, had to close its doors, as the revenue is simply not sufficient to keep the business running.'* The applicant has provided evidence to demonstrate that they have gone to great lengths to ensure the viability of the business. It is evident that before COVID-19 the public house was viable and making a profit, however the applicant advises that due to the impact of the global pandemic and a lack of support from residents, the public house is no longer viable.

Although not specifically referenced in Policy ST22, the supporting text at paragraph 8.10 notes:

'Commercially operated facilities must further demonstrate a comprehensive sustained marketing campaign (The facility will be offered for sale locally and in the region, in appropriate publications and through specialised licensed trade agents, at a price agreed with the Council) has been undertaken for its existing use, offering the facility for sale using an agreed realistic valuation of the premises for a period of at least 12 months before an application is submitted.'

The public house first went on to the market in 2019 and remains so. In April 2019 the property was put on the market at £395,000 with Webbers and shortly after an offer was made, however this was eventually rejected. In February 2020 another offer was accepted however, the COVID-19 global

pandemic hit and the deal fell through. In August 2020, JD Commercial took over marketing, and whilst no offers were submitted, enquiries were made. In July 2021, Bond Oxborough Phillips started marketing the property at an asking price of £450,000. It is understood that no enquiries or offers have been made since this time.

Public houses are among the types of property generally referred to as trade related property. They are usually bought and sold having regard to their trading potential. Thus, as this is a commercial business, its 'value' is impacted by the potential profit. The value of the business will have been massively impacted post-Covid.

In terms of the marketing price of the public house this has been questioned by the Parish Council and in third party representations. As such, the Local Planning Authority has gone to the District Valuer to get an independent valuation of the public house. The report received states that an inspection took place on the 8th April 2022 with the special assumptions applied: *'The subject property is to be valued on the basis of Existing Use Value (EUV), as a Public House and premises.'*

The report summarises that due to the restricted information provided, it has been agreed that a valuation range is reported. The opinion of Market Value of the Freehold interest with vacant possession as at 12 May 2022, on the special assumption of a restriction to existing use lies between: £300,000 (three hundred thousand pounds) and £400,000 (four hundred thousand pounds).

It continues to state that:

'From 2019 to present day the pub market has been significantly affected by COVID (starting in March 2020) with lockdown periods predictably having a significant impact on trade. However, the most successful operators were able to establish significant income from take away and click and collect services. It is understood that The Laurels offered such a service in the village.'

As "Freedom Day" (19th July 2021) approached a lot of pub operators re-launched if they had survived the lockdown periods. In terms of demand over this period, investors with cash in the bank reportedly sought out cheap deals during the pandemic. Similar opportunities still exist to date, although they are fewer and farther between. Current demand, therefore, seems to generally be higher than the supply on the market.'

The outlook going forward seems to be optimistic in general with investors and operators still seeking "good deals" to reflect the inherent risk still apparent in the market. It was reported in January 2022 that the prices paid for freehold pubs sold without accounts or that may be closed or vandalised have risen by approximately 7.2% since the halfway point of 2020, and a 5.7% uplift from the start of 2020. However, less than half of these types of property were sold as existing use as a pub, indicating that the majority of purchasers intentions were to convert or develop the sites.'

I am of the view that despite the pub closing, the subject property does have potential as a trading entity, and I am of the view that a reasonably efficient operator would be interested in running it. The significant amount of residential accommodation adds value to the property and cannot be ignored alongside the special assumption. In my view, the additional rooms actually offer the potential to add to the business as letting rooms, which I think a reasonably efficient operator would consider in this location.'

The evidence available suggests that the latest asking price for the property of £450,000 is too high. I believe this opinion is supported by the lack of recent enquiries. The sales evidence of other pubs recently sold in the wider locality shows a range of values between £183,500 and £359,000. However, each of these properties are not entirely comparable to the subject property, which is unique in terms of location and ratio of ancillary residential accommodation to commercial accommodation.'

Having regard to the subject property, compared to the sales comparable, I am of the view that despite closing, the potential is still there for it to be run as a pub. Also, the inherent value in the buildings and the site as a whole makes it a relatively attractive prospect, perhaps more so for alternative uses which I am instructed to ignore in formulating an opinion of value in this case.'

Despite market commentary outlining a general strong demand, I believe that for a property of this type, in this location, there is still a significant risk in purchasing it to be run as a pub. Further, there is a potential stigma that needs to be considered in connection with objections to the current planning application. This is difficult to quantify. Having reviewed the objections to the change of use application, it is evident that there is a firm preference from the local community for the property to remain as a pub. On this basis, I am of the opinion that the local opposition to the change of use actually has a positive impact on the value, under the special assumption I have applied.

On balance of all the evidence I am of the view that the Market Value of the property lies within the range of £300,000 - £400,000, reflecting the special assumption that the property is to be run as a pub with ancillary residential accommodation, with no alternative use considered.'

Taking into account all of the above it is considered that although COVID-19 has had an impact on this industry, it does not mean that the site is not viable if an efficient operator would be interested in running it, with the potential to expand the operations. In addition, there is conflicting evidence in terms of the marketing price of the public house.

(b) In terms of local provision, from the information submitted it has been detailed that there is alternative provision in the form of the Village Hall and a local sports pavilion which is outside of the built form of the Rural Settlement. It has been put forward that the popularity of these local provisions may be one of the reasons the public house is no longer used or effectively needed by the local community. However, it is considered that the Village Hall and the local sports pavilion are not considered as 'alternative' local provisions to replicate a public house. The cricket pavilion is unsuitable for many reasons due to its distance from the village and the fact that it is an open-sided building which has no public footway link to the Village and no lighting to allow the community to safely walk to the site and back to use it as an 'alternative'. The Village Hall is also not considered to provide the same ability for ad-hoc social meetings such as may be afforded by a public house.

This position in terms of Policy ST22 has been established via an appeal under reference APP/W1145/W/21/3269314: a public house known as the Crealock Arms located in Littleham, which is also a Rural Settlement as defined by ST07 of the NDTLP.

(c) It has been noted in the submitted documents that the pub is considered to no longer meet the required needs of the local community. The appeal decision referenced above expressed that although the public house is not used by local people to the extent that the appellants would like, there is little firm evidence as to the extent or pattern of usage by the local community that might demonstrate that the premises are no longer required. The appeal has many similarities to the site subject to this application. However, after reviewing the level of objection from residents and non-residents, together with the views of the Parish Council, these representations suggest that the loss of the pub would have an impact on the community and that there seems to be a required need for it in the area. Therefore, the proposal is considered to not comply with this criterion.

Conclusion

This is a traditional pub which prior to Covid had a reasonable 'trade'. The site has the benefit of a four/ five bedrooms on the first floor, large car park, and a rural feel at the centre of the settlement. The customer potential is there for the public house as can be seen in previous years accounts. Although, it is acknowledged that there has been a significant submission of objection comments which are material, it also can't completely reflect the use and pattern of the community utilising the public house. In terms of other community facilities in the settlement, the sports pavilion is not considered comparable, but likewise the offering of a village hall is different to that of a pub and therefore is not seen as an alternative. The pub was viable prior to Covid; however, it is not clear if this still would be the case, especially as the pub has been shut since September 2021 since restrictions have been lifted. The site has been on the market since 2019, but this has been questioned and an independent valuation has detailed that the current value is outside the range the public house is currently being marketed at. For this reason, it is considered that the marketing campaign is only given limited weight (especially as limited information was received regarding the valuation, or the breakdown of the sales). Whilst the planning officer can sympathise with hospitality

businesses in this current climate, there is not compelling evidence to suggest the long-term future of this pub is not viable. Overall, Policy ST22 is not considered to be satisfied.

The proposal therefore falls contrary to Policy ST22. Notwithstanding this policy conflict, given the lack of 5YHLS the planning considerations will need to be weighed up within the planning tilted balance with the NPPF's requirement to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits as a material consideration. The planning considerations are set out below.

2. Impact on Character and Appearance/Listed Buildings

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 ST15 of the NDTLP, states that 'great weight will be given to the desirability of preserving and enhancing northern Devon's historic environment by:

- (a) Conserving the historic dimension of the landscape;
- (b) Conserving the cultural, built, historic and archaeological features of national and local importance and their setting, including those that are not formally designated;
- (c) Identifying and protecting locally important buildings that contribute to the area's local character and identity; and
- (d) Increasing opportunities for access, education and appreciation of all aspects of northern Devon's historic environment, for all sections of the community.

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 DM07 of the NDTLP requires that all proposals affecting heritage assets should be accompanied by sufficient information, in the form of a Heritage Statement, to enable the impact of the proposal on the significance of the heritage asset and its setting to be properly assessed. The policy also outlines that proposals that conserve and positively enhance the heritage asset and their setting will be support and where there is unavoidable harm to heritage assets and their settings, proposals will only be supported where the harm is minimised as far as possible.

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 and states that development should in terms of design:

- (a) Function well and add to an overall quality of the area, not just for the short term but over the lifetime of the development;
- (b) Be visually attractive as a result of good architecture, layout and appropriate and effective landscape; and
- (c) Be sympathetic to local character and history, including surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.

In addition to this, Paragraph 199 of the NPPF states that, 'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.'

Paragraph 202 of the NPPF states that, 'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'

The application seeks permission for the change of use from a mixed use of public house and private dwelling to solely a private dwelling.

The supporting information details that there are no proposed external changes and if there are any changes internally in the future that these do not meet the definition of development and would therefore not require planning permission.

The change of use of the public house to a dwelling on this plot would result in a 4/5 bedroom family dwelling with limited amenity space which would not be commensurate to the needs of the likely occupiers. In addition, the amenity space that is provided is not of a quality or size that would be supported, due to the context of the setting and the useable nature of the site. The site is adjacent the classified highway and although there is ample parking the green space is not private and due to the constraints of the site there are no possibilities for extending the amenity in the future.

As the application affects the setting of a listed building the Conservation Officer has been consulted and they have commented the following:

'The building is not listed but stands close to and within an area of the settlement that has high visual value. The original building is of some age but has been altered to its current use such that it was not deemed to be listable.'

'The proposed change of use will not alter the fabric of the building and in principle there are no objections. Shall the use be allowed there may be changes to the grounds but this could happen while in the pub use anyway.'

Taking all of the above into account it is considered that in terms of amenity space and the wider layout of the proposed dwelling within its curtilage, it is considered that this could be seen as a negative within the planning balance.

3. Impact on Residential Amenities

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.

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.

One representation, 3 support comments and 139 objection comments have been submitted for the application, which have been summarised in the representations section. The supporting information details that there are no proposed changes, there is adequate parking spaces and amenity areas for the dwelling, given the building already functions in such a use.

However, after visiting the site and assessing the information submitted, it is considered that although there is adequate parking this does not include private amenity space for the intended occupiers of the proposed dwelling. The application site is located between the churchyard of the Church of St Petrock and the classified highway to the east. To the south is the adjoined outbuildings in the

applicant's ownership, and the public green which contains the war memorial. The only parcel of land for the site is to the east which is a small area of grass and is in no respect private from neighbouring occupiers or useable for intended occupiers to use as private amenity space in connection with the dwelling.

In light of the above it is considered that the proposed development does not provide a high-quality design which creates a good standard of amenity for all existing and future occupants of the land and buildings. As such it is considered that the dwelling would have substandard amenity space and would not be considered commensurate to the intended occupiers, causing an impact on the standard of living in this location; therefore, contrary to Policy DM04 of the NDTLP, amongst other things, is concerned with protecting occupants' amenities. It is not considered to be contrary to Policy DM01, which is designed to protect existing residents from adverse effects arising from new development – this would not be the case, here.

4. Access and Parking

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

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

Policy DM05 of the NDTLP relates to highways and states:

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

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

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

The main vehicular parking area has space for around 10/12 cars and turning off road, which is located to the north of the public house. The parking has an existing access from the public classified highway that runs along the eastern boundary. The application is not proposing to change the existing arrangements on site. Devon County Council Highways were consulted on the application, but no comments were received. After assessing highways standing advice and reviewing the proposed arrangements, it is considered that the application accords with the above policies as detailed in the NDTLP.

5. 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.

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.

Policy DM02 of the NDTLP states that *'developments will be supported where it does not cause an unacceptable risk to public health and safety due to:*

(a) Coastal erosion or land stability;

(b) Its siting on known or suspected contaminated land which is unsuitable for the use proposed; or

(c) The storage or use of hazardous substance;

Unless taking account of appropriate remedial, preventative or precautionary measures to remove, reduce or mitigate risk to an acceptable level.'

The application is proposing to connect into the mains sewer for foul sewage and surface water. In accordance with the above policy the proposal accords with policies ST03 and DM02 of the NDTLP.

6. Ecology

Local Planning Authorities have a statutory duty to ensure that the impact of development on wildlife is fully considered during the determination of a planning application under the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, the Conservation of Habitats and Species Regulations 2010 (Habitats Regulations 2010). This is further reinforced 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.

A Wildlife Trigger List has been submitted for the application which is considered to accord with the statutory requirements as set out above. A Wildlife Report has not been triggered and therefore it is considered the application is in accordance with Policies DM08 and ST14 of the NDTLP.

7. Conclusion and Planning Balance

Planning Law indicates that planning decisions must be taken in accordance with policy unless material considerations indicate otherwise. In this case, because the LPA cannot demonstrate a 5-year supply of housing, there is a need to apply 'the presumption in favour' and the 'tilted balance' as a material consideration. As with most planning decisions, there will be benefits and harm, and it is up to the decision makers to ensure that the negative aspects of the scheme are not significantly harmful and/or if the negative impacts demonstrably and significantly outweigh the positives, the proposal should be refused.

This proposal results in the loss of a community facility, which is contrary to ST22. This is a negative within the planning balance.

As identified within the officer report, this proposal would also, due to a lack of private amenity for the intended occupiers (DM04), result in a negative impact.

The proposal is neutral in terms of its highways impact, drainage and ecology.

The proposal would result in the development of one dwelling, which has a minor positive social impact and would assist in the councils 5YHLS deficit, however, any economic impact is neutral/negative, as ultimately this proposal also seeks the loss of a business.

In conclusion, based on the above material considerations and the planning balance, the planning officer considers that the negatives of this scheme, when combined, significantly outweigh the positives. As such the proposal should be refused in accordance with the planning balance.

Human rights

Consideration has been given to the Human Rights Act 1998.

Recommendation

REFUSE for the following reasons:

- 1 This application proposes the loss of a community facility, without demonstrating that: the existing use is no longer commercially viable or could not be made commercially viable; that there is an alternative local provision; and that it is no longer required to meet the needs of the local community. As such, the proposal is contrary to Policy ST22 of the North Devon and Torridge Local Plan. In applying the tilted balance, it is deemed that the negatives demonstrably outweigh the positives. Therefore, the proposal is unacceptable under paragraph 11(d)(ii) of the National Planning Policy Framework.
- 2 The proposed development does not provide a high-quality design which creates a good standard of amenity for all future occupants of the dwelling. The limited amount of private amenity space available, due to the constraints of the site, would be substandard and not commensurate to the need of the likely occupiers, causing an adverse impact on the standard of living in this location; therefore, the proposed development would be contrary to Policy DM04 of the North Devon and Torridge Local Plan.

Plans Schedule

Reference	Received
BLOCK PLAN	24.09.2021
FLOOR PLANS	24.09.2021
LOCATION PLAN	24.09.2021

Statement of Engagement

In accordance with the National Planning Policy Framework (NPPF) in dealing with this application, the Council has worked with the applicant in the following and positive and proactive manner. We have made available detailed advice in the form of our statutory policies in the Development Plan, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice service, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably. In such ways the Council has demonstrated a positive and proactive manner in seeking solution to problems arising in relation to the planning application. In this instance the applicant did not enter into pre-application discussions with the Council. Some discussions were undertaken during the processing of the application, however, ultimately the proposal was considered contrary to policy.