

Committee Report – 28th July 2022

Application Number: 1/0171/2022/FUL

Registration date: 14 February 2022

Expiry date: 11 April 2022

Applicant: Mr And Mrs B Hutchings

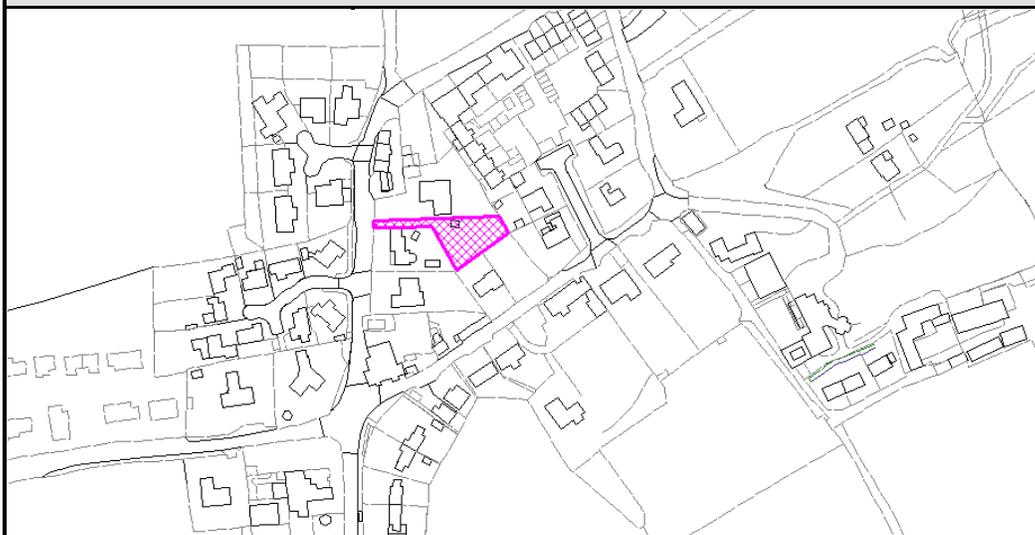
Agent: R A Rowe & Co. Ltd.

Case Officer: Angelo Massos

Site Address: Breckon,
Parkham,
Bideford,
Devon,
EX39 5PL,

Proposal: Proposed erection of dwelling (Resubmission of 1/0821/2021/FUL) (amended plans & tree survey)

Recommendation: Grant



Reason for referral:

Councillor Dart called in this application, if the officer is minded to recommend approval, for the following reasons:

1. It would be in extremely close proximity to the neighbouring property.
2. The driveway appears to have a very poor narrow access and may affect the neighbouring property's boundary trees.
3. There is very limited parking and turning within the site considering the property is 3 bedrooms.
4. There is a sewer pipe running under a portion of the proposed development.
5. The property could be construed as too large for the site it is on.

Relevant History:

Application No.	Description	Status	Closed
1/1446/1988	CHANGE OF USE OF CARAVAN FROM ANCILLARY DOMESTIC TO HOLIDAY USE	PER	13.09.1988
1/0821/2021/FUL	Erection of 1 no. dwelling	WDN	18.11.2021

Site Description & Proposal

Site Description

The site is located within the rural settlement of Parkham and is comprised with an existing dwelling known as Breckon which benefits from existing driveway parking and turning, an attached garage and generous rear garden plot that has an orchard along with a mixture of deciduous and conifer trees that are within and/or adjoining the site. The application site is adjoined by dwellings to the north (The Moorings), east (3 Barton Close), and to the south (Honeywood).

This site was previously subject to application 1/0821/2021/FUL for the erection of a single dwelling however, it was withdrawn due to the absence of an ecological survey, including trees, and percolation tests.

Proposed Development

The application seeks full planning permission for the erection of a single storey dwelling within the rear lower garden of the dwelling known as Breckon, which will be accessed via the existing driveway along the north boundary of the site. The proposed dwelling will be 3 bedrooms with the provision for parking and turning within the site. The proposal will deliver new soft and hard boundary treatments that include hedgerow planting, brick and timber fencing. Three periods of public consultation were required to seek to address concerns raised first regarding highway access and foul drainage and then subsequently consultation was undertaken to assess wider trees within and adjoining the site and diversion route for the foul sewage connection.

Consultee representations:

Parkham Parish Council:

First Response:

Parkham Parish Council has previously considered this Application and a response was made on 6 October 2021. Some of the reasons for recommending refusal remain and are included below.

Parkham Parish Council wish to recommend refusal of this Application on the following grounds:

1. There is concern regarding drainage going under the property. According to South West Water, this is not permissible.
2. Access for fire appliances is 2.5m on the plan, and it needs to be over 3m due to the fact that the proposal is going to be located behind the existing property
3. There is impact on a neighbour due to the new property overlooking a bedroom window
4. The development would have a detrimental impact on the character of the village
5. As a Parish, we are concerned of the cumulative impact of the already approved developments in the Parish. If they come to fruition, it may have a severe effect on the infrastructure.

Second Response:

Parkham Parish Council continue to object to this Application and recommend refusal on a number of grounds:

1. Sewer Issues. Re-routing of the sewer is impossible as the only place the architects could be suggesting is along the far right hand side of the property which is unachievable as the neighbour's tree is subject to an exclusion circle of 3.6 metres and no building or disturbance can take place in the circle.
2. Soakaway Issues. The proposed soakaway contravenes the regulations in that: -
 - a. Within 2.5 metres of the adjoining boundaries of two properties
 - b. Barely 5 metres from a neighbouring building
 - c. The proposed soakaway is higher than the adjacent bungalow and therefore will drain toward it.
3. Overbearing Build. This is an overbearing build in a back garden plot within the rural nature of the village, which is one of the main points for refusing permission previously.
4. Tree Survey. A tree survey should have been undertaken.

Third Response:

Parkham Parish Council wish to recommend refusal of this Application, reiterating the same comments as submitted before:

1. Sewer Issues. Re-routing of the sewer is impossible as the only place the architects could be suggesting is along the far right hand side of the property which is unachievable as the neighbour's tree is subject to an exclusion circle of 3.6 metres and no building or disturbance can take place in the circle.
2. Soakaway Issues. The proposed soakaway contravenes the regulations in that: -
 - a. Within 2.5 metres of the adjoining boundaries of two properties
 - b. Barely 5 metres from a neighbouring building
 - c. The proposed soakaway is higher than the adjacent bungalow and therefore will drain toward it.
3. Overbearing Build. This is an overbearing build in a back garden plot within the rural nature of the village, which is one of the main points for refusing permission previously.
4. Tree Survey. A tree survey should have been undertaken.

In addition, the plans appear to be inaccurate as 3 trees are missing, one of which is in a strategic position.

The sewer is still running under the property, so does not obey the rule for a 3m rebuild, and it is questioned whether the sewer comes in on the line.

South West Water

First Response:

Please find attached an updated mapping pdf of the sewer assets in the vicinity following the corrections provided with the previous application. Please note that South West Water cannot guarantee the accuracy of these records. Please note that no development will be permitted within 3 metres of the sewer, and ground cover should not be substantially altered. Should the development encroach on the 3 metre easement, the sewer will need to be diverted at the expense of the applicant. Further information regarding the options to divert a public sewer can be found on our website via the link below: www.southwestwater.co.uk/developer-services/sewer-services-and-connections/diversion-of-public-sewers/ Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that method proposed to discharge into the ground (infiltration) is acceptable and meets with the Run-off Destination Hierarchy.

Second Response:

It is noted on the amended plans that the applicant/agent intends to work with us with regards to the location/positioning of the extant sewer apparatus on site.

As a result, South West Water has no further comment or concern at this time.

Third Response:

South West Water has nothing further to add.

Environmental Protection Officer:

First Response:

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

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.

There appears to be no detailed information provided on the historic use and subsequent land quality of the application site. It appears that the application site is an existing garden or amenity area with no obvious evidence indicating a former contaminative land use. However, given the sensitive end use, it is essential that the application site is appropriately assessed for any potential contamination that arises during development and, where identified, remediated accordingly. 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 sub-phase 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.

Second Response:

Further to the submission of the amended information, the Environmental Protection Team reiterates its comments in the consultation response dated 16 February.

Third Response:

Further to the submission of the amended plans, the Environmental Protection Team has no objections and reiterates its initial comments in the consultation response dated 16 February.

Conservation Officer:

No representations received.

Devon County Council (Highways):

First Response:

Standing Advice

Second Response:

I note your comment that the width of the access measures 2.8m when you measured this on site.

Although I appreciate that concerns have been raised from objectors, we also have to consider the information in Manual for Streets, too. I note that, in certain circumstance, carriageways can be reduced to 2.75m in certain circumstances (this is for carriageways, rather than accesses, but they are analogous).

In short, if the argument is that an access should be 3 metres and we're actually dealing with 2.8 metres, can we realistically go to appeal on a 20 cm difference in width and defend this, when MfS offers a different view?

Additionally, supposing we were to recommend refusal on the basis that the access isn't 'safe and suitable', what evidence base can we offer that similar access have an inherent risk? I'm not aware of a suitable evidence base that we can offer.

On this basis, I do not believe it is pertinent to raise highway objections.

Representations:

Number of neighbours consulted:	10	Number of letters of support:	0
Number of representations received:	13	Number of neutral representations:	0
Number of objection letters:	13		

A number of third-party objections have been received their comments are summarised as follows:

First Response

- Highway Access
- Increase traffic
- Loss of privacy
- Need for an arboricultural assessment
- Overbearing
- Harm to character and appearance
- Sewage system at capacity
- Noise disturbance from construction
- Soakaway higher than floor levels
- Backland development would set a precedent for other developments
- Over development

Second Response

- Highway Access
- Backland development
- Loss of privacy and house disturbance
- Overbearing development
- Soakaway separation distances and height higher than neighbouring dwelling
- Sewage Plant Capacity
- Tree Survey

Third Response

- Concern that soakaway would cause a landslide
- Three tree missing from Tree survey Plan and no measures to protect

Policy Context:

North Devon and Torridge Local Plan 2011-2031:

ST07 (Spatial Development Strategy for Northern Devon's Rural Area); ST14 (Enhancing Environmental Assets); ST03 (Adapting to Climate Change and Strengthening Resilience); ST10 (Transport Strategy); ST04 (Improving the Quality of Development); DM01 (Amenity Considerations); DM02 (Environmental Protection); DM04 (Design Principles); DM05 (Highways); DM06 (Parking Provision); DM08 (Biodiversity and Geodiversity); DM08A (Landscape and Seascape Character);

Government Guidance:

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

Planning Considerations

Main Planning Considerations

1. **Principle of Development**
2. **Character and Appearance**
3. **Neighbouring Impact**
4. **Highway**
5. **Environmental Impact**
6. **Surface Water Drainage**
7. **Ecology**

1. Principle

The proposed development is within the development boundary of Parkham and is a 'windfall site' (not specifically allocated for development). Policy ST07 of the North Devon and Torridge Local Plan (NDTLP) must be applied. Policy ST07 identifies Parkham as falling within Schedule B: Villages, where part (2) of the policy states development will be enabled in accordance with the local spatial strategy to meet local needs and growth aspirations.

Therefore, in principle, it is considered the development is acceptable, subject to all other material considerations.

2. Character and Appearance

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

A number of objections were received raising concern regarding the precedent for 'backland development' nonetheless, each application must be assessed on its own merits. As such, the development proposed will be set within the lower rear garden of dwelling known as Breckon, set back from the public highway and thus will be screened from public views. The site has sufficient access, however this will be further assessed and detailed within the highway section of this report. The applicant has demonstrated on the submitted site plan arrangements to ensure the proposed dwelling can function independently from the existing and surrounding dwellings.

Objections were received that raised concerns regarding harm to the character and appearance of the area. The proposed scale and footprint of the dwelling is considered appropriate and proportionate to the size of the site and is reflective of the of surrounding dwellings – the design, character and appearance of dwellings in the vicinity of the site is varied. The layout of the site enables sufficient, and proportionate provision of private amenity space for future occupiers of the dwelling. To ensure the character and the appearance of the dwelling is retained any future development will be required to be agreed in writing with the Local Planning Authority and therefore permitted development rights will be revoked, in this instance by recommended condition 7.

Therefore, given the above, the proposed contemporary design with timber cladding and render walls with a slate roof is considered an acceptable design that accords with Policies ST04 and DM04.

A tree survey and tree protection plan has been prepared by Doug Pratt following initial concerns raised by the Parish Council and interested third parties. During the latest public consultation objections were received that raised an absence of consideration of a number of trees within the curtilage of an adjoining dwelling. However, the survey and tree protection plan are considered to be

reflective of the trees of significance within and/or adjoining the site that may be potentially affected by the development proposal. The findings of the report have identified mitigation measures to protect the integrity of the trees of significance that are either within or adjoining the site – proposed condition 5 will secure these measures prior to and during the construction of the development.

To compensate for the loss of trees within the site a native hedgerow bank will be planted to provide a landscaped boundary treatment along the west and an element of the northern boundaries. In terms of other boundary treatment, a 1.8 metre timber fence will be erected to replace the existing fencing along southern, eastern, and north boundaries of the site as well a low brick wall to separate the access to the site from the existing dwelling, Breckon. The landscaping scheme is proposed to be secured (planted) prior to the first occupation, as is recommended via condition 6.

Therefore, the proposed development is considered to accord with Policy DM08A.

3. Neighbouring Amenity

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

During the public consultation the Parish Council were consulted and raised objection to the application stating the proposal would result in an '*overbearing build in a back garden plot within the rural nature of the village*' and overlooking to neighbouring dwellings. Furthermore, interested third parties have objected to the application indicating it would result in an overbearing harm, loss of privacy and noise disturbance during the construction period.

The site is of a single storey nature and thus sits within an existing residential garden that adjoins three neighbouring dwellings. In terms of the degree of separation between the existing dwellings, the nearest dwelling, The Moorings, is sited to the north and will have the principle elevation orientation towards it, with only the front door as an opening towards the privacy amenity space of The Moorings. Given the proposed orientation and siting between The Moorings and the principle elevation, the massing of the proposal falls away at an angle thus taking the massing away from The Moorings. The relationship of the proposed dwelling to the other neighbouring dwellings is considered to have a suitable degree of separation when taking into account the single storey nature of the proposal. Furthermore, the proposal will aid the degree of privacy rather than erode privacy, this is because the existing garden boundary treatments between the dwellings are predominantly low-level dilapidated timber fencing. The proposed boundary treatment via the erection of a 1.8m timber fence and hedgerow planting will thus enhance the degree of respective privacy and, given the single storey nature of the proposal, the potential for any unacceptable overlooking will be mitigated.

As a part of the application, the Environmental Protection Team were consulted and shared concerns with interested third parties regarding the potential noise disturbance during the construction phases. Therefore, the hours of construction and deliveries has been conditioned by recommended condition 3, in order to protect the amenity of neighbouring dwellings.

The proposal is considered to accord with Policy DM01.

4. Highways

Policies ST10, DM05: Highways and Policy DM06: Parking Provision require that all development must take account of its impact on highway safety and provide appropriate access, servicing and suitable amount of parking.

During the public consultation objection were received raising concerns over the vehicular access and provision for parking and turning within the site. Therefore, DCC Highway Authority were consulted and initially provided comments with Standing Advice. However, DCC Highways were consulted further to address the objection concerns received. The Highways Officer provided comments referring to the Manual for Streets stating carriageways can be reduced to 2.75m in certain circumstances (this is for carriageways, rather than accesses, but they are analogous). The Highway Officer considered, in this instance, 2.8 metres for the proposed access is below the Standing Advice guidance from DCC, however, there is no evidence to suggest that the proposed access

arrangements would be unsafe and not suitable. Consequently, the Highways Officer does not raise any objections to the application.

In light of the comments received from the Highway Officer, the highway access is deemed acceptable in this instance. The proposal will also provide two parking spaces and turning within the curtilage of the site. Therefore, the proposal accords with Policies ST10, DM05 and DM06.

5. Environmental Impact

Policy DM02 requires that development does not result in unacceptable impacts from contaminated land, pollution to water from surface or ground and the atmosphere.

As a part of the application the Environmental Protection team were consulted and provided comments that in the event contamination is found during the construction works, the applicant is required by condition to temporarily cease works and prepare a procedure for addressing such contamination, within that phase or sub-phase or part thereof, to be agreed with the Local Planning Authority or other regulating bodies.

Objection comments were received from interested third parties that raised concerns regarding the repositioning of the Southwest Water foul sewer connection, as well as the Southwest Water treatment plant capacity for additional loading. Southwest Water were consulted and raised no objection to the application and advised the applicant is required to enter into an easement agreement to secure the delivery of the repositioning of the foul sewer connection within the site. Therefore, informative 1 makes the applicant aware of this requirement.

The proposal is considered to accord with Policy DM02.

6. Surface Water Drainage

Policy ST03 of the NDTLP requires development to be designed and constructed to take account of the impacts of climate change and minimise the risk to and vulnerability of people, land, infrastructure and property by locating and designing development to minimise flood risk. Furthermore, development should adopt effective water management including sustainable drainage systems.

To mitigate surface water run-off a soakaway is proposed to be installed and sited to the north of the dwelling. Concerns were raised regarding the location and depth of the proposed soakaway together with the potential for landslide. However, the applicant has undertaken percolation tests that demonstrate the ground has suitable infiltration to accommodate a soakaway as a means for management for surface water run-off. The proposed plan reference HUT.21.PL01 H has an annotation to indicate the proposed ground level of the soakaway will be 162.23 which is lower than the proposed floor level 162.59. The proposed soakaway design and siting is considered to provide a suitable means of management of surface water from the proposal and as such accords with Policy ST03.

7. Ecology

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

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

A Wildlife Trigger List and an Ecological Impact Assessment Report were submitted as part of the planning application which concluded that there is the potential for disturbance of nesting birds, loss of nesting sites, loss of foraging habitat and damage to roots of off-site Ash trees. Therefore, the mitigation and biodiversity net gain measures as detailed within the report by Penport Ecology are recommended to be secured via proposed condition 8.

It is thereby considered that the local planning authority has satisfied its statutory duty and the development accord with Policies ST14 and DM08, subject to the proposed planning condition.

Conclusion

In conclusion the principle of development is supported, and the proposed development would not cause significant harm to the character and appearance of the site and the wider landscape, highways safety, neighbouring amenity, the environment, and ecology. Therefore, the proposal would be in accordance with the NDTLP Policies ST01, ST03, ST04, ST06, ST10, ST14, DM01, DM02, DM04, DM05, DM06, DM08 and DM08A.

Human rights

Consideration has been given to the Human Rights Act 1998.

Conclusion

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

Recommendation

GRANT subject to the following conditions

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

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

Reason: To ensure the development is carried out in accordance with the approved plans.
- 3 Construction works and delivery times shall not take place other than between 0700hrs and 1900hrs on Mondays to Fridays, Saturdays between 0800hrs and 1300hrs and at no time on Sundays and Bank Holidays.

Reason: To protect the amenities of neighbouring properties to thus accord with Policy DM01 in the North Devon and Torridge Local Plan.
- 4 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.

Reason: To ensure that there is no risk to human health and the environment and thus ensuring the development accords with Policy DM02 of the North Devon and Torridge Local Plan 2011-2031
- 5 Recommendations within the Tree Survey & Tree Protection Plan produced by Doug Pratt Tree Consultancy dated 1st June 2022 shall be implemented prior to the commencement and followed during the construction of the development hereby approved.

Reason: To ensure the development does not result in harm to trees within and adjoining the site.

- 6 The proposed hard and hedgerow boundary treatment as indicated by the plan referenced HUT.21.PL01 H shall be implemented prior to the occupation of the dwelling hereby approved and shall be retained in perpetuity. If any hedgerow plants die, become damaged or diseased within 5 years of the completion of the development hereby approved those hedgerow plants shall be replaced with the same or similar native non coniferous species in the first available planting season.

Reason: To ensure the character and appearance of the dwelling hereby approved is in keeping within the landscape and thus accords with DM08A in the North Devon and Torridge Local Plan 2011-2031

- 7 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order) no development of the types described in Part 1 of Schedule 2, other than that hereby permitted shall be carried out without the further grant of planning permission.

Reason: In the interest of retaining the rural character and appearance of the building in accordance with Policies ST04, DM04 and DM08A in the North Devon and Torridge Local Plan 2011-2031

- 8 The proposed development must be carried out in full accordance with the mitigation and biodiversity net gain measure detailed in the Ecological Impact Assessment Report dated February 2022 carried out by Penpont Ecology Services Ltd specifically:

- No associated construction works, including removal of any vegetation can be conducted during the time period after the 30th April until the 1st September. Any works during the bird nesting season must be checked by an ecologist immediately prior to commencement of works.
- Install one integral nesting bird box into the new unit to increase bird habitat.
- Install Hedgehog gates in dividing fences so that hedgehog can move freely between gardens.

The net gain features shall be provided on site prior to occupation of the dwelling hereby approved and retained thereafter.

Reason: To mitigate against the loss of potential wildlife habitats to accord with Policies DM08 and ST14 of the North Devon and Torridge Local Plan 2011-2031

Plans Schedule

Reference	Received
HUT.21.PL01 H	16.06.2022

Informatives

- 0.1 The applicant is advised to contact Southwest Water regarding entering into an easement agreement regarding the reposition of the foul sewer connection.

Statement of Engagement

In accordance with paragraphs 38 of the National Planning Policy Framework (NPPF) in dealing with this application, the Council has worked with the applicant in the following positive and proactive manner. In this instance there was no need for further engagement as the development as submitted

is considered to accord with the development plan. In such ways the Council has demonstrated a positive and proactive manner in seeking solutions to problems arising in relation to the planning application.