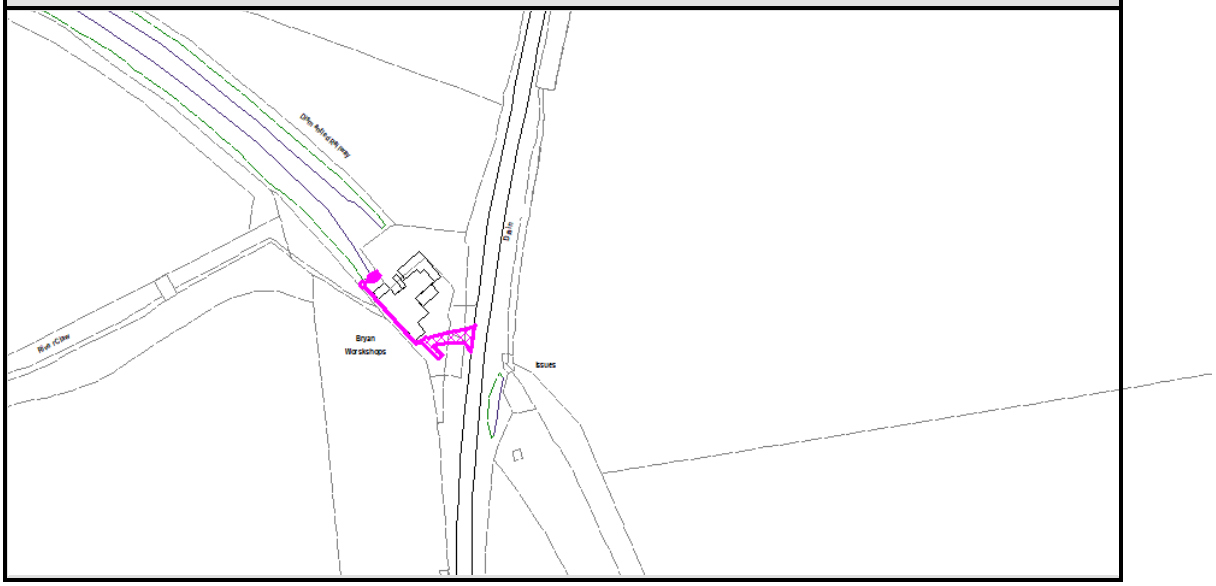
Committee Report – 30 March 2023

Application Number:	1/1119/2022/FUL
Registration date:	25 November 2022
Expiry date:	20 January 2023
Applicant:	Mr Lee Bryan
Agent:	Tree Tops Planning
Case Officer:	Sarah Boyle
Site Address:	B P Bodyworks, Units 1 To 2, Bryan Workshops, Dunsland Cross, Brandis Corner, Holsworthy
Proposal:	Siting of temporary mobile home for management purposes
Recommendation:	Refuse



Reason for referral:

The application has been called in to Plans Committee by Councillor James (Ward Member) if the Planning Officer is minded to refuse the application, for the following reasons:

'1. The applicant runs the area breakdown/crash recovery service needing to be able to respond quickly.
2. Theft of equipment has become such an issue insurance has become problematic.
3. This is a successful Rural enterprise employing local people.'

Relevant History:

Application No.	Description	Status	Closed
1/0831/2013/FUL	Change of use from current permission to car bodyshop/garage and car sales (retrospective)	PER	07.02.2014
1/0659/2018/FUL	Replacement of existing light industrial units for bodyshop repair (B2) and car sales business (sui generis)	PER	03.09.2018

Site Description & Proposal

Site Description
The application site is located in the countryside approximately 1km to the southwest of Brandis Corner. The site is a car bodyshop/garage and car sales site which had permission in 2014 and has had varying permissions since. The site currently operates as a commercial vehicle repair/servicing business (with ancillary car sales). The bulk of the work is repairs, MOTs and general maintenance and servicing. It also provides a roadside recovery service and liaises with emergency services for road accidents.

The site has no neighbouring properties and to the west and southwest lies a plantation and the River Claw runs in close proximity to the site. There is a close boarded fence on the north eastern boundary of the site. The site is accessed via an existing access off a classified highway (A3079), which runs to the east of the site.

Proposed Development
The application seeks permission for the temporary (three years) mobile home for management purposes for the business BP Bodyworks on site.

The mobile home will be located to the south east of the main building utilised for the business and will measure approximately 12m by 3.5m. It will consist of a living room and kitchen, bathroom and two bedrooms. The caravan will be approximately 3 metres in height.

Consultee representations:

Bradford & Cookbury Parish Council:
No response received.

Devon County Council (Highways):
Standing Advice.

Environmental Protection Officer:
The Environmental Protection Team has no objections in principle to the proposed development.

It is noted that the mobile home will be served by an existing non-mains foul drainage provision although no detailed information has been provided to assess whether it has sufficient capacity to accommodate the additional loading. The applicant is responsible for ensuring the provision is adequate and complies with BS6297.

Representations:

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

No representations have been received for the application.

Policy Context:

North Devon and Torridge Local Plan 2011-2031:
ST07 (Spatial Development Strategy for Northern Devon's Rural Area); DM28 (Rural Worker Accommodation); DM04 (Design Principles); ST04 (Improving the Quality of Development); DM08A (Landscape and Seascape Character); DM01 (Amenity Considerations); DM05 (Highways); DM06 (Parking Provision); DM08 (Biodiversity and Geodiversity); ST14 (Enhancing Environmental Assets); DM03 (Construction and Environmental Management); ST02 (Mitigating Climate Change);

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 for the planning application are:

1. Principle of Development
2. Impact on Character and Appearance
3. Impact on Amenity
4. Ecology
5. Highways
6. Drainage
7. Planning Balance & Conclusion

1. Principle of Development
The site is located in the countryside, therefore; Policy ST07 of the North Devon and Torridge Local Plan (NDTLP) must be applied. Policy ST07 restricts development in the countryside to be limited to that which is enabled to meet local economic and social needs, rural building reuse and development that is necessarily restricted to a countryside location.

The application seeks consent for a temporary mobile home (three years) for management purposes for the enterprise known as B P Bodyworks.

Alongside Policy ST07, Policy DM28: Rural Workers Accommodation also needs to be considered for the proposed development. Policy DM28 states:

(1) Proposals for the provision of accommodation in the countryside for a rural worker will be supported where:

(a) it can be demonstrated that there is an essential operational need for a full time worker to be resident at or near the place of work;
(b) the size and nature of the development is such that it can be sustained by the scale of the operation, reflective of the location and setting and proportionate to the need of the intended occupants;
(c) the accommodation needs cannot be met by any other means including:
(i) accommodation in a nearby settlement
(ii) by an existing dwelling at or near the site; or
(iii) through the conversion of a suitable redundant or disused building on site; and
(d) appropriate highway access can be provided

(2) Where the enterprise is well established, of a sufficient size to support a full time worker, economically viable and has clear prospects or remaining so, support will be given to the provision of a permanent new dwelling.

The Applicant sets out that the need for the accommodation is twofold. The first reason is that the business has grown and now it partly operates on a 24-hour basis, with 24-hour call outs and breakdowns, which can be either late at night or early mornings. In addition, the garage is 'on call' for the breakdowns and road accidents, however it is detailed that this is severely restricted due to lack of 24-hour presence. The second reason is for security and insurance purposes on site due to recent break-ins, which the Applicants suggests has made insurance problematic. Your Officer notes that there are no formal police crime reports to suggest that theft is a significant issue.

A planning statement has been submitted alongside the application detailing that a 24-hour presence on site is essential for the proper functioning of the enterprise to continue. Your officer notes that the Applicant has introduced increased security, although this is not clearly defined. The installation of some form of CCTV or alarm system could achieve a similar purpose and the SPD is clear that the need for a security presence will not normally form an acceptable basis to justify a new dwelling. In terms of insurance, it is suggested that this is hard to obtain and although your Officer sympathises with the applicant, this in itself is not a material consideration or justification for having a mobile home on site in a countryside location.

Considering the above, the Local Planning Authority has an adopted SPD for Rural Worker's dwellings, as well as the NDTLP, that outlines the size and location of dwellings in relation to rural enterprises. This clearly defines the functional and financial requirement that needs to be met to support a manager’s dwelling. It is considered that the size and nature of the dwelling would need to be sustained by the scale of the operation, reflective of the location and setting and proportionate to the need of the intended occupants.

In terms of temporary dwellings, the SPD details the following:

‘3.18 NDTLP Policy DM28 also allows consideration to be given for a temporary dwelling to support a rural enterprise which is not well established, with such accommodation normally being a caravan or mobile home. The provision of temporary accommodation, normally over a three-year period, offers the opportunity for the enterprise to become established while enabling operational needs to be met and confirmed prior to progression to a permanent dwelling if justified.

3.19 The operational need for a temporary dwelling will need to be demonstrated on the same basis as a permanent dwelling. The following will be expected to accompany a planning application for a temporary rural worker's dwelling:
I. demonstration of an essential functional need for a resident worker arising from the enterprise (see paragraphs 3.5 - 3.14);
II. clear evidence of a firm intention and ability to develop the enterprise concerned;
III. clear evidence that the enterprise has been planned on a sound financial basis, with a business plan provided;
IV. evidence that the functional need could not be fulfilled by another existing dwelling on the business unit, the absence of a building capable of conversion suitable for the required use or any

other existing accommodation in a nearby village or centre which is suitable and available for occupation by the worker(s) concerned; and
V. other general planning requirements that would apply to any dwelling being met.

3.20 It is recognised that the eventual viability of a new business will only become clear after a trial period, the temporary provision of a dwelling in a Countryside location will however only be approved where there is a realistic prospect of the business thriving and being able to support a permanent dwelling.

3.21 The applicant will be required to set out how the enterprise is intended to develop, taking into account such matters as whether the proposal depends on rented land, on future buildings for which planning permission is needed or on an income not generated through the enterprise.

3.22 It will be necessary to demonstrate that a new enterprise is planned on a sound financial basis. It is for the applicant to demonstrate sound financial planning to the local planning authority. An application for a temporary dwelling should normally be accompanied by a detailed a business plan, which includes budgets and projections. Evidence of a firm intention and ability to develop the enterprise must also be provided. The provided evidence should be able to demonstrate that the enterprise justifying the temporary accommodation will be in profit within the final year of the temporary consent to the extent that it could support a permanent dwelling.

3.23 The period for which the temporary permission is granted will be made clear (usually three years) together with the fact that a temporary dwelling will have to be removed and any other requirements that will have to be met. Successive extensions to a temporary permission over a period of more than three years will not normally be granted and temporary permissions will normally only be granted in locations where a subsequent permanent dwelling would be allowed.'

Taking the above into account and based on the level of information that has been submitted alongside the application, it is considered that a mobile home has not been justified as a functional requirement for the site. The desire for enhanced security is understandable however it is not a justification for the functional need for a management presence 24/7 and Paragraph 3.9 of the SPD confirms: '*the need for a security presence will not on its own normally form an acceptable basis to justify a new dwelling*.'

In terms of the changing direction of the business to 24-hour recovery, the Applicant lives in close proximity to the site and the operation is already being carried out and the information submitted does not provide enough evidence that the temporary dwelling is required. As the SPD details, a temporary dwelling needs to be demonstrated on the same basis as a permanent and therefore in its current form the proposed development would not be seen to comply with policy DM28 of the NDTLP. As there is no justification financially or functionally which would meet the need as defined in the policy and the SPD.

2. Impact on Character and Appearance

The NDTLP encourages good design, which is reflected within national policy. Policy ST04 notes: "Development will achieve high quality inclusive and sustainable design to support the creation of successful, vibrant places. Designs will be based on a clear process that analyses and responds to the characteristics of the site, its wider context and the surrounding area taking full account of the principles of design found in policy DM04."

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

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

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

The application seeks permission for the temporary (three years) mobile home for management purposes for the business BP Bodyworks on site.

The mobile home will be located to the south east of the main building utilised for the business and will measure approximately 12m by 3.5m. It will consist of a living room and kitchen, bathroom and two bedrooms. The caravan will be approximately 3 metres in height.

In terms of the location of the mobile home, it would be seen in the context of the existing business and would sit adjacent to the commercial building and back form the road behind the fence on site. In terms of impact on the surrounding character of the area, it is considered that the mobile home would be in compliance with policies DM04, DM08A and ST04 of the NDTLP.

3. Impact on Amenity

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

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

Policy DM04 also aims to ensure the amenities of existing and future neighbouring occupiers are safeguarded.

One of the core principles of the NPPF is to secure high-quality design and a good standard of amenity for all existing and future occupants of land and buildings. No representations have been received by third parties for the application.

After assessing the information that has been submitted for the application, and looking at the Council's mapping database, it is evident that the location of the mobile home and would be isolated and not in close proximity to neighbouring properties. Therefore, as the dwelling would be located and occupied in connection with the existing business, it is considered that the application would not significantly harm the amenities of any neighbouring occupiers or uses and would not harm the amenity of the intended occupants of the dwelling. Therefore, the proposal would be compliant with Policies DM01 and DM04 of the NDTLP.

4. Access and Parking

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

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

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

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

The site is accessed via an existing access which connects to a classified highway. Devon County Council Highways have been consulted and they have commented that the application should be dealt with under standing advice. The plans that have been submitted for access and parking demonstrate that there is adequate space for parking and turning on site. As such the application is considered to be in accordance with policies DM05 and DM06 of the NDTLP.

5. Ecology

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

The applicant has provided a wildlife trigger list which is considered to accord with the statutory requirements as set out above. This did not trigger the need for a wildlife survey, given the scale and temporary nature of the proposal

6. Drainage

NDTLP Policy ST03 notes that development should 'adopt effective water management including Sustainable Drainages Systems, water quality improvements, water efficiency measures and the use of rainwater'. Policy DM02 states that development will be supported where it does not result in unacceptable impacts to pollution of surface or ground water. Policy DM04 requires development to 'provide effective water management including Sustainable Drainage Systems, water efficiency measures and the reuse of rain water'.

The application details that the mobile home will be served by an existing non-mains foul drainage provision. Environmental Protection have been consulted and have stated that *'although no detailed information has been provided to assess whether it has sufficient capacity to accommodate the additional loading. The applicant is responsible for ensuring the provision is adequate and complies with BS6297.*'

Taking the above into account it is considered that the application will comply with policies ST03, DM02 and DM04 of the NDTLP, with the onus being on the Applicant to ensure the existing foul drainage system has sufficient capacity.

7. Planning Balance & Conclusion

The application is for a temporary mobile home to be used as manager’s accommodation for the enterprise known as B P Bodyworks. The Applicant details that the main reason for the dwelling is based on the need for a 24/7 presence for call-outs and breakdowns but also for security and insurance purposes. Based on the information that has been submitted, it is considered that the proposal does not comply with Policy DM28 of the NDTLP and the Rural Workers SPD. There is no justification financially or functionally, which would meet the exceptional basis on which a dwelling would be acceptable in this countryside location.

Your Officer recognises that there could be an economic benefit from the increased output of the business and social benefits specifically to the Applicant from increasing their ability to work and reside on the same site, minimising their outgoings and time spent commuting. However, as indicated above, the Applicant already lives in close proximity to the site so any such benefits should attract lesser weight. The totality of the benefits do not outweigh the identified harm through conflict with the NDTLP.

For the foregoing reasons, the application is recommended for refusal.

Human rights

Consideration has been given to the Human Rights Act 1998.

Recommendation

REFUSE for the following reasons:

1 The application as proposed has not demonstrated that there is a functional requirement for a mobile home to be located on site for management purposes for the existing business. The information supplied with the application fails to demonstrate an essential need for a worker to live on site 24/7 and therefore there is no justification for the siting of a mobile home in an open countryside location for the business known as B P Bodyworks. The proposal is therefore contrary to Policies ST07 and DM28 of the North Devon and Torridge Local Plan, the Rural Workers SPD and the National Planning Policy Framework.

Plans Schedule

Reference	Received
Location Plan	25.11.2022
Site Plan	04.11.2022
Proposed Elevations & Floor Plans	04.11.2022

Statement of Engagement

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

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