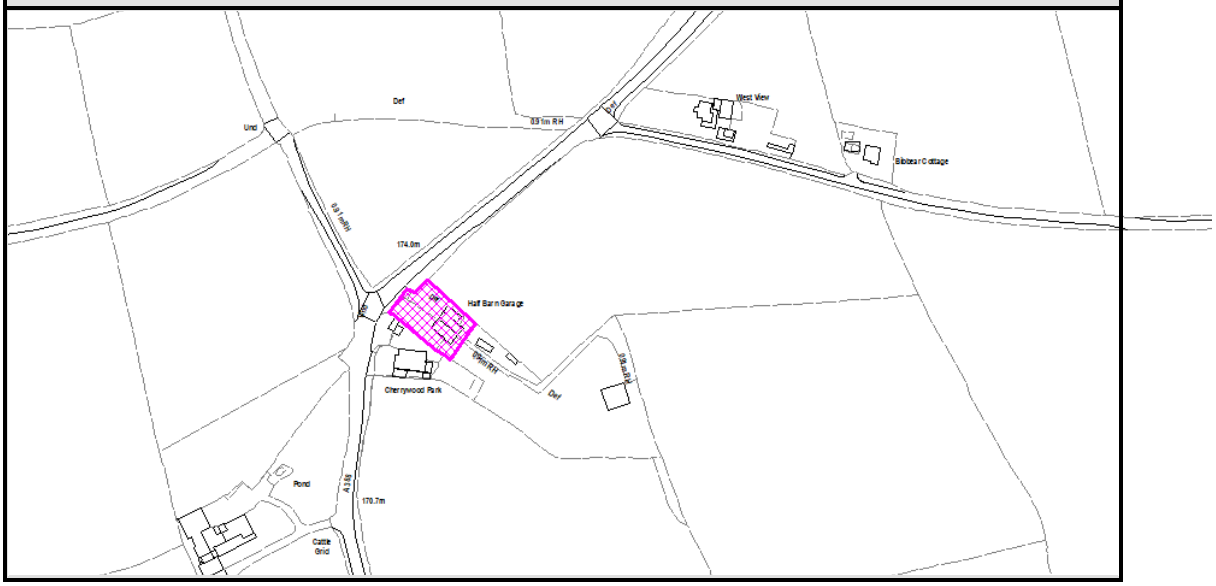
Committee Report – 7th September 2023

Application Number:	1/1292/2022/FUL
Registration date:	6 March 2023
Expiry date:	1 May 2023
Applicant:	Mr. Gary Copp
Agent:	Charlotte Luckett
Case Officer:	Debbie Fuller
Site Address:	Cherrywood Park Business Centre, Langtree, Torrington, Devon, EX38 8LQ
Proposal:	Extensions and alterations to existing commercial business units to incorporate office and storage on the ground floor and 1no. dwelling at first floor
Recommendation:	Refuse



Reason for referral:

Councillor Hurley, (former Councillor) called the application in if the case officer is minded to refuse.

The reasons given are:-

To help expand a thriving local business, which helps support local employment.

On-site accommodation is essential for the increased security of stored goods.

NPPF [National Planning Policy Framework] encourages a prosperous local economy with a positive view to enabling.

Relevant History:

Application No.	Description	Status	Closed
1/0183/2002	CHANGE OF USE OF EXISTING GARAGE PREMISES TO COACH DEPOT	PER	25.04.2002
1/2045/2002	CHANGE OF USE TO RETAIL NURSERY	PER	20.12.2002
1/1225/2005/COU	Change of use from industrial to coffee shop and toilets, including 3 number additional openings	PER	13.03.2007
1/0809/2009/COU	Change of use from A1/A3 to B1 & B8	PER	20.11.2009
1/0965/2014/FUL	Retrospective change of use of land for A1/B1/B8	PER	14.01.2015
1/0614/2019/FUL	Change of use of A1/B1 workshop/office and extension to create a mixed use C3 supervisory (live/work) dwelling and A1/B1 use	REF	07.10.2019
1/0765/2020/COUPD	Prior notification for the change of use of office (B1(a)) to 1 dwelling (C3) under Class O	WDN	09.11.2020
1/1145/2021/FUL	Conversion of disused and redundant rural building to No.1 dwelling	WDN	25.01.2022

Site Description & Proposal

Site Description

The application site is used, as the offices and reception, in association with 'Copps Removal and Storage Company,' which is located on 'Cherrywood Business Park, Langtree.' The site is located within the open countryside, approximately 1km north of 'Stibbs Cross,' which is the closest

recognised settlement, and is designated as a 'Village' within the adopted North Devon and Torridge Local Plan. The site is accessed off the A388.

The site does not fall within any other allocated land designation and there are no designated heritage assets within close proximity. In addition to this, the landscape character type for the application site is 3A (upper farmed wooded valley slopes) and the site falls within a Zone 1 Flood Risk and therefore it has less than 1 in 1,000 annual probability of river flooding and is consider a low probability of flooding.

The site comprises of a detached, single storey commercial office and reception building; business storage; and vehicle paint spray facilities. The application building is two units that are attached and has previously been occupied by two separate businesses. The unit to the south being 'Copps Removals and Storage,' which, (according to the Planning Statement submitted with the application), has been operating from these premises for approximately 14 years, (since 2009), and the unit to the north, was for repairing vehicle paintwork. The two units are now to be considered as the 'application building,' and the Planning Statement clarifies, *'Mr. Copp purchased the adjoining property earlier this year in an attempt to secure the growth of his rural business.'*

It is worth noting that with regards to the unit to the north, an application has previously been made for *'Conversion of disused and redundant rural building to No.1 dwelling,'* (planning reference 1/1145/2021/FUL), which was withdrawn, following concerns from the case officer about the loss of employment, and from Environmental Protection about a dwelling being adjacent to a commercial building. The unit to the south has also had two previous applications - a *'Prior notification for the change of use of office (B1(a)) to 1 dwelling (C3) under Class O,'* which was withdrawn, (planning reference 1/0765/2020/COUPD), due to, again, concerns about commercial activity in proximity to a dwelling, and the other, *'Change of use of A1/B1 workshop/office and extension to create a mixed use C3 supervisory (live/work) dwelling and A1/B1 use,'* refused, (planning reference 1/0614/2019/FUL), for the same reasons as this current application is being recommended for refusal – it is not considered that an essential need has been demonstrated.

The existing 'application building,' measures approximately 14.5 metres in length by 11.2 metres in width with a total footprint of approximately 160 square metres. There is sufficient parking and turning space to the front of the building, with a steel gate to the site, which access the wider site. The wider site includes approximately 0.5 hectares of open storage, with numerous shipping storage containers, a steel storage building and Copps Removal Vehicles.

The 'Copps Removals and Storage' part of the site was granted retrospective change of use of land for A1/B1/B8, (planning reference: 1/0965/2014/FUL). This permission was subject to the following conditions to restrict the hours of the business and traffic movements on to the site:

1. *The storage/removal business use hereby approved shall operate only between the hours of 07.00- 19.00 Monday to Saturday with no operations on Sundays or Bank Holidays. Between the hours of 04.00 – 07.00 and 19.00 and 23.00 the use shall be restricted to vehicle movements only with no loading or unloading taking place on the site. No vehicle movements shall occur between the hours of 23.00 – 04.00 with no vehicle movements permitted on Sundays or Bank Holidays.*

   Reason: To enable the business to operate without detrimentally impacting the amenity of residents in Cherrywood Park.

2. *Apart from the existing retail unit/office on the site, as marking on the site which is hereby approved as a retail unit, the remainder of the premises and site shall be used only for self-storage and as a removal business/parking of delivery vehicles and for no other purposes (including any other purpose in Class B8; of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in the provision equivalent to the Class in any statutory instrument revoking or re-enacting that Order).*

Reason: To restrict the use of the premised to one which is compatible with the surrounding area, having regard to the adjacent neighbouring dwelling known as Cherrywood Park.

Proposed Development

The application seeks full planning permission for extensions and alterations to the existing commercial business units to incorporate office and storage on the ground floor and managers accommodation at first floor.

The proposed building will measure approximately 8.7 metres in width by 15.1 metres in length, with a maximum eaves' height of 4 metres and a ridge height of 6.9 metres.

The existing building is approximately 4 metres in height, so the proposal is to increase the height of the building by approximately 3 metres.

From a measurement of the internal floor areas on the proposed plans, the proposal includes approximately 100 square metres of business use on the ground floor including commercial storage and office space; and the same of residential space at first floor, providing a single bedroom and living space. The proposal includes a first-floor Juliet balcony on the east elevation.

The proposed materials are rendered blockwork with composite cladding features; slate roof tiles; and uPVC windows and doors.

Consultee representations:

Langtree Parish Council:
The Parish Council has no objections.

Designing Out Crime Officer - DC&D Police: (first response received 17th March 2023)
Thank you for this application, I have no objections in principle to the proposal from a designing out crime and ASB perspective.

It is recommended that any windows and doors, for example those providing access to office space and the attached dwelling, are compliant with PAS24:2022 as a minimum.

Designing Out Crime Officer - DC&D Police: (second response received 21st June 2023)
(email to the agent and sent to the LPA)

My role as the Police Designing out Crime Officer (DOCO) is to act as the single point of contact for the planning authority, architects, and developers to provide advice and guidance with regard to designing out opportunities for crime, fear of crime, antisocial behaviour (ASB) and conflict within the built environment.

The advice and recommendations provided by the DOCO usually follows a crime and ASB analysis (where appropriate) along with a demographic overview in relation to specific sites. This helps to ensure the elements of Crime Prevention through Environmental Design (CPTED) together with the principles and practices of Secured by Design (SBD), are considered and incorporated. Combined, these are an effective method in creating safe, secure, cohesive and sustainable communities where residents, visitors, businesses and legitimate business users are able to go about their daily routine without undue fear of crime, anti-social behaviour or insecurity.

With the above and your enquiry in mind I have reviewed our available log of crimes and incidents recorded since 2019 for the Beat Code CT2G (which covers the site post code EX38 8LQ) which details 1 related incident (neighbour dispute) in 2019 . A review of the wider beat area returned a total of 6 incidents over the same time period June 2019 – May 2023.

Whilst it remains there are no police objections in principle to the proposal, as detailed in my response of 17th March 2023, aside from recommending a review of current physical security measures and

standards, for example, monitored CCTV and intruder alarm, lighting, gates, doors, including roller shutters and windows, I can find no evidence to warrant additional support from a crime reduction perspective for the requirement of a permanent onsite presence. I note your concerns about alarms and false activations, but consultation with an accredited, for example, The National Security Inspectorate (NSI) & SSAIB, installer would enable a suitable monitored system to be identified, installed and maintained.

Devon County Council (Highways):
No representation received.

Environmental Protection Officer:
The following consultation response is provided by the Environmental Protection Team in relation to the above application.

The proposed development consists of a mixed residential and commercial use. Having regard for the existing commercial operations at or adjacent to the application site, there is the potential for the residential amenity of the proposed dwelling to be adversely affected. However, it is assumed that the proposed dwelling will be ancillary to the commercial operation and as such, amenity impact concerns are significantly negated. Should planning consent be granted, the Environmental Protection Team recommends the imposition of a condition stipulating that the proposed dwelling is ancillary to the commercial operation.

Due to the proximity of an existing neighbouring dwelling to the south, 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.

The Phase 1 Preliminary Contamination Assessment Report is very detailed and has been undertaken in accordance with relevant guidance. Having regard for the historic use of the application site, the Environmental Protection Team concurs with the report in that potential sources of contamination may exist that pose a risk to human health. Subsequently, the Environmental Protection Team further concurs that an intrusive ground investigation is required in order to corroborate the presence and extent of any ground contamination. The outcome of the intrusive investigation will assist in formulating the remedial measures needed to ensure the site is suitable for its intended use. Should planning consent be granted, the Environmental Protection Team recommends the implementation of the Authority's full standard contaminated land condition.

It is noted that the proposed development will be served by an existing non-mains foul drainage provision. The applicant is responsible for ensuring the existing provision has sufficient capacity to accommodate any additional loading.

Representations:

Number of neighbours consulted:	6	Number of letters of support:	0
Number of representations received:	1	Number of neutral representations:	0
Number of objection letters:	1		

The public representation received is summarised below:
Objection
- Scale of development;
- Highway access;
- Lack of existing neighbours; and
- Impact on house value.

Policy Context:

North Devon and Torridge Local Plan 2011-2031:
ST01 (Principles of Sustainable Development); ST03 (Adapting to Climate Change and Strengthening Resilience); ST04 (Improving the Quality of Development); ST07 (Spatial Development Strategy for Northern Devon's Rural Area); ST10 (Transport Strategy); ST14 (Enhancing Environmental Assets); DM01 (Amenity Considerations); DM02 (Environmental Protection); DM04 (Design Principles); DM05 (Highways); DM06 (Parking Provision); DM08 (Biodiversity and Geodiversity); DM08A (Landscape and Seascape Character) and DM28 (Rural Worker Accommodation).

Supplementary Planning Documents:
Rural Workers Accommodation

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

Planning Considerations

The main considerations in the determination of this application are:

1. Principle of Development;
2. Impact on Character and appearance;
3. Impact on Amenity;
4. Access, Parking and Highways;
5. Environmental Protection and Drainage;
6. Ecology; and
7. Conclusion

1.0 Principle of Development

1.1 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).

1.2 The site is located in the countryside; therefore, Policy ST07 of the NDTLP must be applied. Policy ST07 (4) sets out that development in the countryside should 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*.

1.3 The NDTLP advises that live/work development will be considered as a form of residential development and will be afforded support where it accords with the relevant policies of the Local Plan.

1.4 Paragraph 80 of the National Planning Policy Framework (NPPF) states that *"planning decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:*

(a) There is an essential need for a rural worker, including those taking majority control of farm business, to live permanently at or near their place of work in the countryside;
(b) The development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
(c) The development would re-use redundant or disused buildings and enhance its immediate setting;
(d) The development would involve the subdivision of an existing residential building; or
(e) The design is of exceptional quality, in that it:

- *Is truly outstanding, reflecting the highest standards in architecture, and would help raise standards of design more generally in rural areas; and*
- *Would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area."*

1.5 Policy DM28 relates specifically to rural worker accommodation and notes that the provision of accommodation in the countryside for a rural worker will be supported in principle where a number of criteria can be met. These are set out below:

(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 needs of the intended occupants;*

(c) *the accommodation needs cannot be met by any other means including:*

i. *accommodation in a nearby settlement; or*
ii. *by an existing dwelling at or near the site; or*
iii. *through the conversion of a suitable redundant or disused building on the 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 of remaining so, support will be given to the provision of a permanent new dwelling.

(3) Where the enterprise does not meet the criterion set out to support the provision of a new permanent dwelling, the provision of temporary accommodation will be considered for an initial period of three years.

(4) New accommodation provided for rural workers will be, and all existing dwellings at the rural business may be, subject to occupancy restrictions and, where it is felt appropriate by the Local Planning Authority may be subject to a legal agreement tying its use to the specific rural business.

1.6 Policies ST07 and DM28 of the NDTLP are considered to be in harmony with more recent policy changes in the National Planning Policy Framework (NPPF), (in particular paragraph 80). Paragraph 80 of the NPPF provides that isolated homes in the countryside should be avoided unless there are special circumstances, which includes the essential need for a rural worker to live permanently at or near their place of work in the countryside. Paragraph 80 of the NPPF does not offer guidance for establishing what constitutes 'essential need.'

1.7 In addition to the above, the Councils 'Rural Workers' Dwellings' Supplementary Planning Document states 'New permanent dwellings will be supported on well-established rural enterprises subject to the demonstration of the following:

I. there is a clearly established existing functional need (see below);
II. the need for a full time worker throughout the year (an annual average of at least 37 hours per week) on the site of the enterprise, including a requirement for unsocial hours and being "on call" in case of emergencies;
III. the rural enterprise has been established for at least three years and has been profitable in at least one of those three years, is currently financially sound and has a clear prospect of remaining so (see paragraph 3.15 below);
IV. the functional need could not be fulfilled by another existing dwelling on the enterprise, or any other existing accommodation in the area which is suitable and available for the occupation of the worker(s) concerned; and

V. *other planning requirements, e.g. in relation to access, impact on the countryside, are satisfied.*

1.8 Paragraph 3.7 of the SPD, states to establish a functional need the following requirements must be satisfied:

I. *a genuine need to live on the site and to be available at short notice at all times rather than living in a nearby centre or village;*
II. *it is not possible for the rural enterprise to run effectively without having the worker living on site;*
III. *no one undertaking the essential functional work already lives at the rural enterprise, or insufficient provision exists if there is a functional need for more than one worker;*
IV. *there is no dwelling available at the rural enterprise for occupation by the worker and there is no possibility of adapting a building at the rural enterprise; and*
V. *there is no suitable and available dwelling in a nearby village available for occupation by a worker who is required to provide the functionally essential service.*

1.9 Functional Need

1.10 The current business enterprise has been operating for approximately 14 years and therefore is considered to be well established. The applicant currently lives in Torrington, approximately 5 miles from the site and a 10-minute drive.

1.11 The applicant seeks the provision of a residential property on the application site, primarily, for security reasons. With respect to existing security measures, the supporting statement advises CCTV has been installed, however, this is not considered to be sufficient because offenders will cover their faces with balaclavas. The agent has suggested that a dwelling in site could reduce the risk of crime occurring together with additional measures such as lighting and an alarm system.

1.12 There is currently no alarm system used on site as the agent considers this would disturb the neighbours on site, when activated by wildlife or power surges.

1.13 Although it is well documented through previous appeal decisions for dwellings in the open countryside that security against predation, theft, injury, or disease is not normally a justification for a permanent dwelling in the open countryside, it can contribute to an overall functional need where there is an overall essential operational need for the business for a full-time worker to be resident at or near their place of work. Security (in particular from theft) is very rarely considered to be an overriding reason purely on its own merits. For the avoidance of doubt, the Rural Workers' Dwellings' Supplementary Planning Document makes clear that *"the need for a security presence will not on its own normally form an acceptable basis to justify a new dwelling."*

1.14 It is noted by the Local Planning Authority that there is an existing residential dwelling adjacent to the site, which effectively overlooks the site and in particular the main access. Whilst it is noted the property is not in the ownership of the applicant, the presence of a residential dwelling does not appear to have put off criminals attempting to gain access and therefore the Local Planning Authority would question whether the further provision of a residential dwelling would reduce the potential of criminal activity being attempted.

1.15 The business appraisal also included the justification of the effective management of the business as a reason for a residential dwelling on the site. Stating that there is a need for a key worker to reside at, or in close proximity, to manage and organise the business prior to workers arriving in the morning, servicing, and attending to vehicle and equipment after the day's work.

1.16 The operational hours of the commercial enterprise are restricted through condition 1 of planning permission, (reference: 1/0965/2014/FUL), which states "*The storage/removal business use hereby approved shall operate only between the hours of 07.00- 19.00 Monday*

to Saturday with no operations on Sundays or Bank Holidays. Between the hours of 04.00 – 07.00 and 19.00 and 23.00 the use shall be restricted to vehicle movements only with no loading or unloading taking place on the site. No vehicle movements shall occur between the hours of 23.00 – 04.00 with no vehicle movements permitted on Sundays or Bank Holidays."

1.17 The security and effective management of business reasons provided do not demonstrate a functional need for a permanent rural workers dwelling on the site, given there would not be a genuine need to reside on the site and to be available at short notice at all times rather than living in a nearby centre or village (such as the applicant does); the business has operated effectively for a number of years without having a worker living on site; and no evidence has been provided to demonstrate that there is no suitable and available dwelling in a nearby village (closer than Torrington), on the contrary there are a number of dwellings available within the settlements of Frithelstockstone, Langtree, or Stibbs Cross.

1.18 Additionally, the Local Planning Authority considers there could be other security measures that could potentially be used at the site, including an alarm system. The agent considers this would be a nuisance to the adjacent neighbouring property. However, an alarm system linked to the applicant's home or to a UK monitoring centre where a team member will call the key holder and/or police depending on the level of cover offered could be potentially beneficial and is likely to deter criminal activity on the site.

1.19 Whilst living on site, adjacent to the business, may be desirable, there is no functional or essential need for the applicant to live at the place of their employment and to be readily available at most time of the day and night.

1.20 Financial Test

1.21 If a functional need has been established for a permanent dwelling, then it will be necessary to confirm that the operation, which has generated the need for a resident worker is economically viable and there is a realistic prospect of it remaining so.

1.22 Guidance contained within the Council's Rural Worker's Dwellings SPD notes that for a permanent dwelling a rural enterprise should have been established for at least three years and have been clearly profitable for at least one of them, is currently financially sound and has clear prospects of remaining so.

1.23 The financial accounts, which have been submitted with the application, are accepted. The accounts demonstrate that the business enterprise has operated in a net profit for the last three years. The proposed development is therefore considered to meet the requirements of section (a). The existing enterprise is considered to be sufficiently profitable and to be likely to remain so, sufficient to provide the new dwelling.

1.24 In relation to section (b), the proposal is for the erection of a one-bedroom, rural workers dwelling, above the existing commercial premises. Guidance on the size of rural worker's dwellings is set out in the Council's Rural Workers' Dwellings SPD. Whilst it is noted the SPD only outlines the space standards for three- and four-bedroom properties, it does reference the National Space Standards and affords an uplift to this area is required for an agricultural worker to allow provision of a boot room, larger utility room etc. as well as office space for the principal dwelling on a holding. It is anticipated that the uplift could be accommodated within 15% of the overall gross internal area and therefore when assessing the proposal against the National Space Standards for a one-bedroom, one-storey dwelling including the 15% uplift, an area of 59 square metres is recommended.

1.25 The proposed plans illustrate that the one-bedroom dwelling will have a gross internal area of approximately 69 square metres and therefore is above the permitted 59 square metres, set out within the Councils Rural Workers Dwelling Supplementary Planning Document (SPD), by approximately 10 square metres. It is noted, the proposed dwelling is to be located above the commercial premises and therefore is somewhat guided by the scale of the commercial requirements.

1.26 Whilst the SPD is clear in that "*any uplift from the floorspace standards would not be supported, if proposed simply to provide additional living accommodation."* On this basis, given the close relation to scale of the commercial premises it is considered the slight increase in floor area is acceptable.

1.27 Taking account the above considerations, there are not considered to be any exceptional circumstances in this instance which would warrant a departure from the development plan. The development is therefore contrary to Policies ST07 and DM28 of the NDTLP, the Rural Workers Accommodation SPD and the NPPF.

2.0 Impact on Character and Appearance

2.1 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.

2.2 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.

2.3 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.

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

2.5 The application site is not located within any special designated landscapes and falls, within Landscape Type 3A (Upper Farmed and Wooded Valley Slopes) as identified within the Joint Landscape Character Assessment for North Devon and Torridge Districts.

2.6 The NPPF also strongly emphasis the need for well-designed places, in which Part 12 of the Framework is solely dedicated to this aim. Paragraph 126 of the NPPF notes *'the creation of high-quality buildings and places is fundamental to what the planning and development proves should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work, and helps make development acceptable to communities.'* Part 12 of the framework, lists 6 key design principles that are required to be met in order to demonstrate the design is of high quality.

2.7 In addition to this, the National Design Guide is considered to be the most up to date national guidance in relation to design. The design addresses the question of how we recognise well-designed places and outline and illustrate the priorities for well-designed places and provides ten characteristics that should be considered in any forthcoming design and decision making.

2.8 The application site currently consists of a detached, single storey commercial building. The building, as a whole, is not considered to be of relatively high quality and there is no heritage or special architectural interest in the building.

2.9 The proposal is for extensions and alterations to existing commercial business units to incorporate office and storage on the ground floor and managers accommodation at first floor.

2.10 The proposed building will measure approximately 8.7 metres in width by 15.1 metres in length, with a maximum eave's height of 4 metres and a ridge height of 6.9 metres. The proposal includes approximately 100 square metres of business use on the ground floor including commercial storage and office space; and approximately 100 square metres of residential space at first floor, providing a single bedroom and living space.

2.11 The proposed building is proposed to be constructed with the following materials: rendered blockwork with composite cladding features; slate roof tiles; and uPVC windows and doors.

2.12 A public representation was received, which raised concerns over the scale of the development. The application site is located adjacent to the public highway and therefore is highly visible within the street scene.

2.13 Whilst the proposed building cannot be said to be of high architectural merit, it is considered that the scale, massing, form, and design of the proposed building is appropriate and sympathetic its context and setting; and would overall provide an overall betterment to the site. Consequently, it is considered to be compliant with policies ST04, DM04 and DM08A of the NDTLP.

3.0 Impact on Amenity

3.1 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.

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

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

3.3 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 of all existing and future occupants of land and buildings.

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

3.5 The application site is located within the open countryside and is neighboured by agricultural land to the northeast; the wider commercial premises to the southeast; a neighbouring residential property to the southwest; and the public highway to the northwest.

3.6 The Environmental Protection Officer was consulted on the proposed development and commented, *"The proposed development consists of a mixed residential and commercial use. Having regard for the existing commercial operations at or adjacent to the application site, there is the potential for the residential amenity of the proposed dwelling to be adversely affected. However, it is assumed that the proposed dwelling will be ancillary to the commercial*

operation and as such, amenity impact concerns are significantly negated. Should planning consent be granted, the Environmental Protection Team recommends the imposition of a condition stipulating that the proposed dwelling is ancillary to the commercial operation.

3.7 *Due to the proximity of an existing neighbouring dwelling to the south, 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*.

3.8 *The Phase 1 Preliminary Contamination Assessment Report is very detailed and has been undertaken in accordance with relevant guidance. Having regard for the historic use of the application site, the Environmental Protection Team concurs with the report in that potential sources of contamination may exist that pose a risk to human health. Subsequently, the Environmental Protection Team further concurs that an intrusive ground investigation is required in order to corroborate the presence and extent of any ground contamination. The outcome of the intrusive investigation will assist in formulating the remedial measures needed to ensure the site is suitable for its intended use. Should planning consent be granted, the Environmental Protection Team recommends the implementation of the Authority's full standard contaminated land condition."*

3.9 The proposal is for extension and alterations to the existing commercial building and the provision of a manager accommodation above. The occupants of the dwelling are to be closely tied to the business, and in the event planning permission is granted the Council would look to secure this via a Section 106 agreement. Consequently, the existing commercial operations would not impact the amenities of any intended occupants of the dwelling.

3.10 In addition to the above, the design is such that the majority of the window openings and glazing is on the northeast elevation, and therefore overlooking the adjacent agricultural greenfield. There are limited openings on the southwest elevation.

3.8 In light of the above, the impacts of the proposed development are not considered to be significantly detrimental to visual or residential amenity and would be suitably designed for the intended purposes. As such, the development is in accordance with policies DM01, DM04 and DM25 of the NDTLP.

4.0 Access, Parking and Highways

4.1 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.

4.2 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.

4.3 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.

4.4 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.

4.5 Devon County Council Highway were consulted on the proposed development; however, no representation was received.

4.6 The proposed development is to utilise the existing highway access with the provision of two private vehicle parking spaces to the north of the building. The access currently serves a significant volume of traffic, resulting from the business operations and the proposed development would not add only an insignificant volume of traffic. Suitable vehicle turning can be provided on the site, allowing vehicle to exit the site in forward gear.

4.7 Taking account the above, the proposed development is unlikely to result in a 'severe' cumulative highway impact and the proposal is in accordance with Policies ST10, DM05 and DM06 of the NDTLP and the NPPF.

5.0 Foul and Surface Water Drainage

5.1 Policy ST03(f) (Adapting to Climate Change and Strengthening Resilience) states that future development should be designed and constructed to take account of the impacts of climate change and minimise the risk to and vulnerability of people, land, and property by adopting effective water management including Sustainable Drainage Systems, water quality improvements, water efficiency measures and use of rainwater.

5.2 The supporting text of Policy ST03 states that *'all developments will seek to minimise flood risk through the use of Sustainable Drainage Systems and appropriate integration with green infrastructure. Controls to manage surface water runoff should be located as close as possible to where the rainwater drains, providing varying degrees of treatment for surface water through natural processes of sedimentation, filtration and biological degradation.*

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

5.4 The NPPF reinforces the need for an appropriate drainage strategy, stating that developments should ensure that flood risk is not increased elsewhere, (Paragraph 167).

5.5 The Council's Environment Protection Officer commented on the proposed development stating "*It is noted that the proposed development will be served by an existing non-mains foul drainage provision. The applicant is responsible for ensuring the existing provision has sufficient capacity to accommodate any additional loading."*

5.6 The proposed drainage scheme utilises an existing non-mains foul drainage (septic tank), and surface water drainage is to be dealt with via a soakaway. Given the rural location of the site and the extent of the land ownership, the Local Planning Authority is reasonably confident the proposed drainage scheme is acceptable.

5.7 Taking account of the above, it is considered that the proposal accords with Policies ST03, DM02 and DM04 of the NDTLP.

6.0 Ecology

6.1 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.

6.2 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.

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

6.4 Two ecology reports were carried out, relating to each individual commercial building, both carried out by Orbis Ecology, and received 22nd December 2022. The Preliminary Ecological Appraisal Report, (reference: ORB0507OC), was carried out 15th June 2021, relates to the South West Dent and Scratch Centre, and concluded that, *'there were no bats nor any evidence of bats inside the workshop and no suitable roost features on the exterior of the building [and] there was no evidence of nesting birds in or on the workshop.'*

6.5 The Preliminary Ecological Appraisal, (reference: ORB0507OC), was carried out 14th December 2018, relates to Copps Removals and concluded that *"the building was assessed as having negligible suitability based on the absence of any evidence of bat use within the building and a lack of potential roost features" however, "there is potential for nesting birds to be present based on the evidence of previous nesting activity in the roof space."*

6.6 The report recommends the following mitigation measures:

- *Works to the building should be programmed to commence outside of the bird nesting season (1st March to 31st August, inclusive), or when the last young have fledged, whichever should be later. No works shall commence during the bird nesting season unless a competent ecologist has undertaken a careful, detailed check of the building for active birds' nests immediately before works commence and provide written confirmation that no birds will be harmed or that there are appropriate measures in place to protect nesting bird interest on site; and*
- *If works are planned to commence after the start of the nesting period (1st March), potential delays can be avoided by clocking any access points into the roof during the winter months, thus preventing birds entering the roof come the spring.*

6.7 Given that the reports were carried out over twelve months prior to the submission of the application, the case officer requested an addendum from the ecologist to determine whether the finding of the reports remain valid. The addendum states that following a repeat survey, *"the conditions of the site have not changed in the intervening period and the findings and recommendations of the 2018 report are still valid."*

6.8 In light of the above, the proposed development would not result in a significant adverse effect towards any protected habitats or species and therefore the proposed development is considered to be in accordance with Policies ST14 and DM08 of the NDTLP.

7.0 Conclusion

7.1 For the avoidance of doubt, the application site is located outside of the development boundary of Langtree and Stibb Cross and the Council are able to demonstrate a five-year housing land supply, identifying a 5.9-year supply of deliverable housing land when

considered against the relevant housing requirement. Accordingly, there is a presumption against new residential development unless there is an essential operational need for a full-time worker to be resident at or near their place of work, in this instance ‘Copps Removal and Storage Company.'

7.2 The functional needs test, rest solely on the security reasons for the business, where it is the opinion of the Local Planning Authority that the evidence provided does not clearly demonstrate a functional need. Consequently, the proposed development is contrary to the provisions of policies ST07 and DM28 of the North Devon and Torridge Local Plan; the Rural Workers Dwellings Supplementary Planning Document; and the principles of the National Planning Policy Framework.

7.3 In light of the above, it is considered the harm demonstrably outweighs the limited benefit of the proposal and the Local Planning Authority recommends the application is refused.

Human rights

Consideration has been given to the Human Rights Act 1998.

Recommendation

REFUSE, for the following reason:

1 In the opinion of the Local Planning Authority, the proposed development would result in a form of unsustainable development involving residential development within the countryside at a time the Local Planning Authority can demonstrate a five-year housing land supply and a functional need for a rural workers dwelling has not been adequately demonstrated. The proposed development is contrary to Policies ST01 (Principles of Sustainable Development), ST07 (Spatial Development Strategy for Northern Devon's Rural Area) and DM28 (Rural Workers Dwellings) of the North Devon and Torridge Local Plan; the Rural Workers Dwellings Supplementary Planning Document; and the principles of the National Planning Policy Framework.

Plans Schedule

Reference	Received
PROPOSED SOUTH _ NORTH ELEVATIONS (DG-006-18- 4 REV A)	12.06.2023
PROPOSED EAST _ WEST ELEVATIONS (DG-006-18-5 REV A)	12.06.2023
PROPOSED SECTION (DG-006-18-6 REV A)	12.06.2023
PROPOSED ROOF PLAN (DG-006-18-7 REV A)	12.06.2023
PROPOSED FLOOR PLANS (DG-006-22-3 REV A)	12.06.2023
PROPOSED SITE PLAN (DG-006-22-8)	18.01.2023
PROPOSED LOCATION PLAN (DG-006-22-9)	18.01.2023

Statement of Engagement

In accordance with paragraph 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.