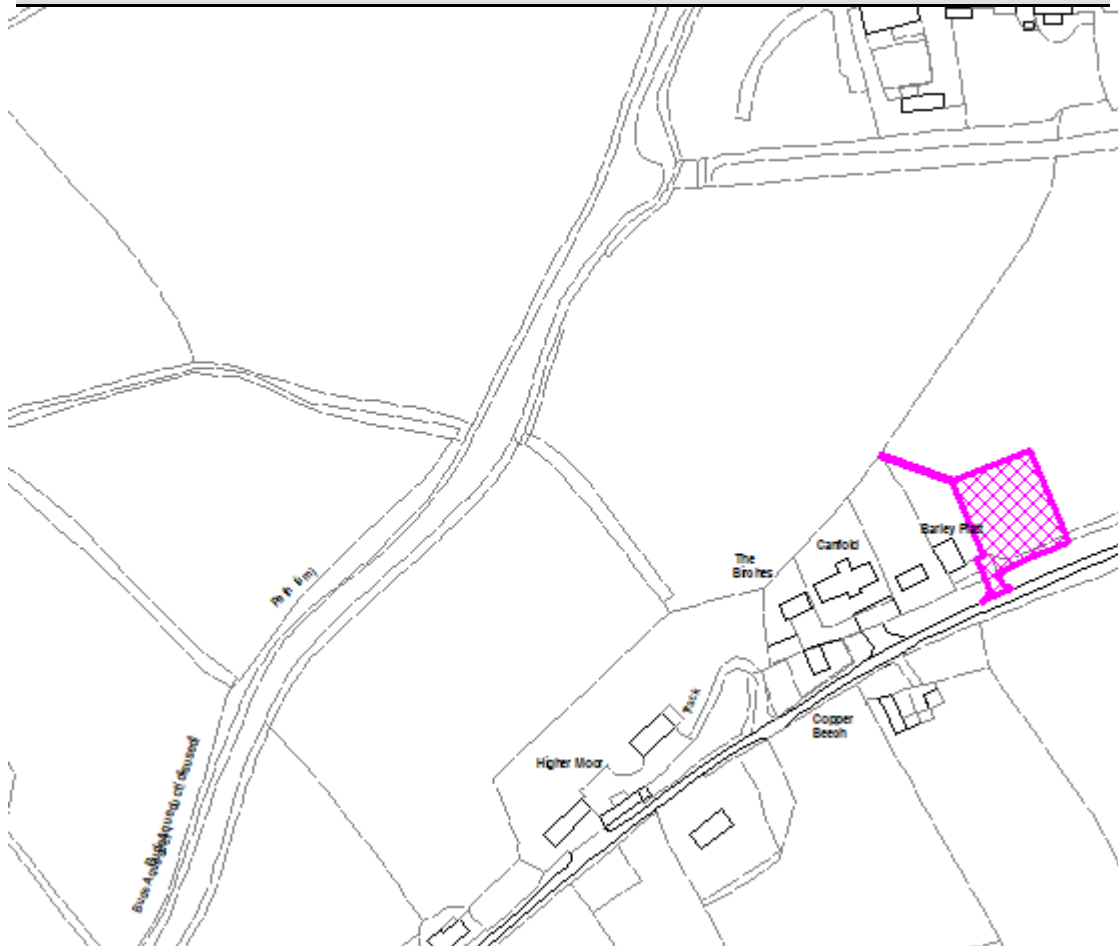


Committee Report – 7 December 2023

Application Number:	1/0632/2023/OUT
Registration date:	28 June 2023
Expiry date:	23 August 2023
Applicant:	Mr & Mrs Bacon
Agent:	DN Planning Services
Case Officer:	Mrs Nicola McGill
Site Address:	Land Adjacent Barley Flat, Pancrasweek, Devon
Proposal:	Outline application for 1 no. local needs dwelling with all matters reserved
Recommendation:	Refuse



Reason for referral:

The application was called in to be heard at Plans Committee by Councillor James. The reasons given are as follows:

- An urgently required bungalow for an applicant with increasing needs
- Adjoins existing local need development
- His daughter lives in one of those adjacent homes
- His son lives at a large dairy unit just up the road
- He is able to get family support
- Similar dwelling built for identical reasons 200yards along the road as a local need.

Relevant History:

No relevant history.

Site Description & Proposal

Site description

The application site known as 'land adjacent to Barley Platt, Lishper Hill' is located in the open countryside approximately five kilometres northwest of the closest recognised settlement Holsworthy, which is defined as a Main Settlement in the adopted North Devon and Torridge Local Plan (Local Plan).

The site is a small parcel of agricultural land approximately 0.098 hectares in size. The dwelling known as 'Barley Platt' and a barn are located to the west of the site. Agricultural land surrounds the rest of the site, and a classified highway runs along the southern boundary of the site.

The site does not fall within any allocated land designation and is not located within close proximity to any protected heritage asset. The Landscape Character type for this site is 1F (Farmed Lowland Moorland and Culm Grassland) and 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.

Proposed development

The application seeks full planning permission for 'outline application for 1no. local needs dwelling with all matters reserved (amended description)'.

An indicative block plan has been submitted which shows a two-bed bungalow and garage accommodated within the centre of the site, with parking and turning facilities. Entry to site will utilise an existing field entrance. The site would be enclosed by a mixed native hedgebank on its eastern and northern boundaries. An existing boundary hedge separating the site from the public highway will be retained to the south. Surface water is shown to be drained to a soakaway, with foul water to be managed by a mini sewage treatment plant.

Consultee representations:

Pancrasweek Parish/Town Council (first response sent 19 July 2023):

Ref 1/0632/2023/OUT

Outline application for 1 no. dwelling with all matters reserved
Land Adjacent To Barley Platt, Pancrasweek, Holsworthy, Devon

The Council object to the application. The applicant claimed that there were not any suitable properties for sale in the area therefore he needed permission to build a bungalow due to his ill health, near to his daughter who would care for him. There is in fact a bungalow for sale, for which the

applicant had originally obtained planning permission, next to where his daughter lives. His present property is within walking distance of where his daughter lives.

Pancrasweek Parish/Town Council (second response sent 11 August 2023):

1/0632/2023/OUT

outline application for 1 no. local needs dwelling with all matters reserved (amended description)
Land Adjacent To Barley Platt, Pancrasweek, Holsworthy, Devon

With reference to the above-mentioned planning application, the comments previously submitted by the Council still stand.

The bungalow that was for sale is now being offered to let.

Environmental Protection Officer:

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

The application site adjoins agricultural land to the north, east and south with existing dwellings to the west. An agricultural building is located immediately adjacent to the application site on the western boundary and appears to be in the ownership of the applicant. Although reasonably small in scale, the neighbouring building has the potential to adversely impact the residential amenity of the proposed dwelling depending on its use. Should planning consent be granted, the Environmental Protection Team recommends the imposition of a condition stipulating that the neighbouring building cannot be used for livestock accommodation and the storage of slurry or silage in order to protect residential amenity.

The application contains no detailed information on the historic use and subsequent land quality of the application site. Agricultural use and activity can result in ground contamination and ground conditions that are potentially harmful to human health or unsuitable for occupation without remediation.

Although the application site appears undeveloped, having regard for the sensitive end use, it is essential that measures are in place to ensure the application site is appropriately assessed for any potential contamination that may impact future occupants 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.

Reason: To protect residential amenity and the environment

The proposed development is to be served by a new package treatment plant discharging to a watercourse. DEFRA's General Binding Rules stipulates that the receiving watercourse should normally contain a continual annual flow. The site plan appears to indicate discharge to a field which, contrary to Policy DM02, would not be an acceptable means of discharge. The Environmental Protection Team will require further information on the proposed foul drainage scheme to ensure a suitable provision, that accords with relevant guidance, serves the proposed development.

Devon County Council (Highways):

Standing advice.

Representations:

Number of neighbours consulted:	4
Number of representations received:	0
Number of objection letters:	0

Number of letters of support:	0
Number of neutral representations:	0

No representations received

Policy Context:

North Devon and Torridge Local Plan 2011-2031:

ST07 (Spatial Development Strategy for Northern Devon's Rural Area); ST04 (Improving the Quality of Development); DM04 (Design Principles); DM08A (Landscape and Seascape Character); DM01 (Amenity Considerations); DM08 (Biodiversity and Geodiversity); ST14 (Enhancing Environmental Assets); ST10 (Transport Strategy); DM05 (Highways); DM06 (Parking Provision); DM02 (Environmental Protection); ST03 (Adapting to Climate Change and Strengthening Resilience); DM24 (Rural Settlements)

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 considerations in the determination of this application are:

1. Principle of development
2. Character and appearance
3. Residential amenity
4. Ecology and biodiversity
5. Highways
6. Drainage

1. Principle of development

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

Rural Settlements are generally considered to be locations whereby new housing is resisted due to their rurality and lack of services, unless the proposed housing meets with a locally identified need. It is acknowledged that the proposal seeks a local needs dwelling.

Policy support for local needs dwellings is restricted to proposals located within qualifying rural settlements, subject to compliance with Policy DM24 of the adopted North Devon and Torridge Local Plan 2011-2031 (Local Plan) as follows:

In qualifying Rural Settlements, proposals for local occupancy dwellings to meet a locally identified housing need will be supported where:

- (a) the development site forms part of a small closely grouped or contiguous built form of housing that is physically separate from urban areas of other defined settlements;*
- (b) the scale is proportionate to the settlement's size, form and character;*
- (c) the site is within or directly adjoining the built form of the settlement;*
- (d) the size of the dwellings are no larger than can be justified by the established need;*
- (e) it would not harm the settlement's rural character and setting; and*
- (f) secure arrangements are made to ensure the dwellings remain available to meet the locally identified housing needs of the local community both initially and in the long term provided the need exists.*

Policy ST07 (3) sets out qualifying 'Rural Settlement' as '*Rural Settlements which contain at least one prescribed service or community facility, appropriately located development of a modest scale will be enabled to meet locally generated needs*'. The Local Plan Glossary defines Rural Settlements as: '**a small, closely grouped cluster of housing that contains at least one local service or community facility.**'

The application site is located within the village of Pancrasweek, a Parish described as consisting of small, scattered clusters of development without a village centre or services. The site seeks to extend existing linear development without village centre or services and is considered for the purposes of the adopted Local Plan to fall outside of the definition of a 'rural settlement'. It is therefore classified as being located in the open countryside.

As the application site relates to open countryside, there would be no in-principle policy support for a local needs dwelling in this location, and thus the proposal will be considered as an open market dwelling.

Policy ST07 of the Local Plan sets out the spatial development strategy for northern Devon's rural area, and clarifies that in the countryside, beyond Local Centres, Villages and Rural Settlements, development will be limited to that which is enabled to meet local economic and social needs, rural building reuse and development which is necessarily restricted to a Countryside location.

The National Planning Policy Framework (NPPF), (Paragraph 80) is clear in that it states that proposals for isolated dwellings in the countryside should be avoided, unless the proposal falls within one of the following categories;

- *There is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*
- *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;*
- *The development would re-use redundant or disused buildings and enhance its immediate setting;*
- *The development would involve the sub-division of an existing residential dwelling; or*
- *The design is of exceptional quality, in that it is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area.*

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

As set out in the planning statement submitted in support of this proposal, the applicant sought pre-application advice prior to the submission of this proposal. The officer concluded that the principle of development on this site is likely to be unacceptable due to its distance from any settlement, and the subsequent harm which arises from new residential development in the countryside.

Information submitted in support of this application indicates the applicant currently lives in a two-storey dwelling located 175 metres to the north of the site. They have mobility issues '*which are expected to deteriorate and so wishes to live in a purpose build bungalow...the site chosen is owned by the applicant and is an ideal location for a new dwelling, both being well related to the existing built form as well as adjacent to their daughter's house. Their son also lives in Pancrasweek. Remaining in Pancrasweek will allow their family to provide any ongoing support. They have looked into purchasing a bungalow in the parish and surrounding area but there are none available or not suitable for Mr Bacon's needs*'.

No further details have been supplied.

Pancrasweek Parish Council were consulted as part of this application and objected on the basis that at the time of the application submission '*there is in fact a bungalow for sale, for which the applicant*

had originally obtained planning permission, next to where his daughter lives. His present property is within walking distance of where his daughter lives'.

The applicant secured one open market dwelling and two local needs dwellings in 2015 under reference 1/0654/2015/FUL. The three dwellings are located approximately 45 metres to the west of the proposed site. One of these dwellings, the open market bungalow, was listed for sale on 5 May 2023. It does not appear to have been sold.

The Parish Council made further representations sent on 11 August 2023 which asserted that the bungalow for sale was now being offered to let.

To support this application the agent provided details of what they believe to be a similar case. Reference number 1/1028/2021/FUL, which relates to the erection of a local needs dwelling in Bridgerule, is relevant. Although the policy considerations are similar, at the time of determination of the Bridgerule application, the Council could not demonstrate a five-year housing land supply. Consequently, there was a need to apply the presumption in favour of sustainable development (the 'Presumption') (paragraph 11(d), NPPF) as a material consideration in determining planning applications for housing.

The same policy context does not exist in the consideration of the current application. The Local Planning Authority currently have a five-year supply of deliverable housing sites (5YHLS), so there is no need to apply the presumption in favour of sustainable development (the 'Presumption') (paragraph 11(d), NPPF). The Council has reason to believe that during the course of this application, a suitable property was available. Further to this the applicant has not demonstrated sufficient need to justify the development plan being set aside and, on this basis, it is not possible to support the proposed development.

2. Character and appearance

Policy DM04 outlines that development proposals adhere to the standards of good design. The policy states that, *'good design seeks to guide overall scale, density, massing, height, landscape, layout, materials, access and appearance of any new developments. It seeks not just to manage land use but supports the creation of successful places and responds to the challenges of climate change.'* The policy provides fourteen design principles that developments should have regard to.

Policy ST04 supports development proposals 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.'*

Part 12 of the NPPF attaches great importance to the design of the built environment and states that developments should be sympathetic to local character and history, including the surrounding built environment, while not preventing or discouraging appropriate innovation or change. Great weight should be given to outstanding or innovative designs which promote high levels of sustainability or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

In addition, Policy DM08A requires development to respect landscape character of both designated and undesignated landscapes and seascapes.

Clearly the residential development of the site would change the character of the site to a significant degree. The proposed building is set away from other residential units and is separated by an existing barn. Although the local planning authority would have control of the detailed design through consideration of a reserved matters proposal, any dwelling in this location (given its countryside location) is likely to appear as incongruous and is contrary to policies ST04, DM04 and DM08A.

3. Residential amenity

Policy DM01 of the Local Plan confirms that development will be supported where it would not significantly harm the amenities of neighbouring occupiers or uses, or result in harm to the future

occupiers of the development from existing or allocated uses. Part (i) of Policy DM04 also includes a similar policy direction.

The Council's Environmental Protection team (EP) were consulted as part of this application, and they raised concerns regarding the proximity of the existing agricultural building to the west of the proposed site. To protect the residential amenity of future occupiers, the EP officer recommended the imposition of a condition stipulating that the neighbouring building cannot be used for livestock accommodation and the storage of slurry or silage.

It is not clear whether the agricultural building is under the control of the applicant. It is noted a mixed native hedge bank could be proposed to the north and east of the site (although this is only indicative at this stage). There is also an established hedgerow screening the proposed site from the public highway to the south. No hedgerow is proposed to screen the proposed dwelling from the agricultural building.

The Environmental Protection Team recommends conditions relating to contaminated land. These could be attached to any planning permission at the site.

It is noted that no objections have been received from neighbouring occupiers.

The proposal is considered to accord with Policy DM01 and part (i) of Policy DM04.

4. Ecology and biodiversity

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 also supported by Policy DM08 of the Local Plan. Policy ST14 of the Local Plan seeks to deliver biodiversity net gain where possible.

The application was accompanied by Devon County Council's Wildlife Trigger List, which confirms that an ecological survey and report is not required.

In relation to biodiversity enhancement, the application includes a statement which confirms that the proposal would deliver new native species hedge banks and tree planting. It is agreed that this would deliver sufficient enhancement. This would be further assessed as part of any further Reserved Matters application, with the proposed site plan being only indicative at this stage.

It is concluded that the proposal accords with policies DM08 and ST14, as well as the other legislation referred to above, subject to a condition to secure the enhancement measures.

5. Highways

Policies ST10 and DM05 of the Local Plan seek, inter alia, to ensure that development does not adversely affect the local or strategic highway network and that vehicular accesses are safe and well designed. In addition, DM06 of the Local Plan seeks to ensure that appropriate parking provision is delivered as part of development. ST10 and DM06 also seek to encourage the use of sustainable modes of transport and reduce reliance on the use of private motor vehicles.

The Highway Authority has referred to its standing advice document.

Whilst it is noted that access is a matter for future consideration, due consideration must be given to the principle of an access at the site. The existing access, shared with the agricultural building, offers acceptable visibility and the surrounding highway network can comfortably accommodate the vehicle movements that would likely be associated with the proposal.

The indicative site plan shows that acceptable parking and turning facilities can be provided. These details would fall to be considered as part of a future reserved matters submission.

Taking account of the above, it is concluded that the proposal accords with policy DM05, ST10 and DM06.

6. Drainage

Policy DM02 of the Local Plan 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. Policy ST03 seeks to reduce flood risk.

Surface water is proposed to be addressed via a soakaway to the north. The proposed development is to be served by a new package treatment plant discharging to a watercourse. The Council's Environmental Protection team have been consulted as part of this application and offered the following view:

'DEFRA's General Binding Rules stipulates that the receiving watercourse should normally contain a continual annual flow. The site plan appears to indicate discharge to a field which, contrary to Policy DM02, would not be an acceptable means of discharge. The Environmental Protection Team will require further information on the proposed foul drainage scheme to ensure a suitable provision, that accords with relevant guidance, serves the proposed development'.

As the application is for outline permission with all matters reserved then drainage will be considered in full as the reserved matters stage. At this outline stage, it is considered that suitable drainage provision can be accommodated on site for the proposed development.

7. Conclusion

As discussed earlier, the site is located within the countryside, outside of any defined development boundary. The principle of residential development in this location is not supported by adopted planning policy and is therefore unacceptable. The Council can demonstrate a five-year housing land supply, identifying a 5.09-5.16-year supply of deliverable housing land when considered against the relevant housing requirement. As such, the Local Plan has primacy in relation to planning decisions.

Accordingly, it is concluded that the proposal does not accord with the provisions of the spatial strategy set out in the development plan. Given that there are no other material considerations that suggest that the development plan should be set aside, it is recommended that planning permission be refused.

Human rights

Consideration has been given to the Human Rights Act 1998.

Recommendation

REFUSE for the following reasons:

- 1 The proposed dwelling would be located within a countryside location, outside of any defined development boundary. Without any justification being provided for a dwelling in this countryside location, the principle of residential development is unacceptable, and the proposal is contrary to Policies ST07 & DM24 of the adopted North Devon and Torridge Local Plan 2011-2031.
- 2 The development would appear incongruous in this countryside location and would not respect or relate to the surrounding context and thus would detract from the rural character, causing harm to the intrinsic qualities of the countryside. The proposal is therefore contrary to Policies ST04, DM04 and DM08A of the adopted North Devon and Torridge Local Plan 2011-2031.

Plans Schedule

Reference	Received
Location Plan	28.06.2023

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.