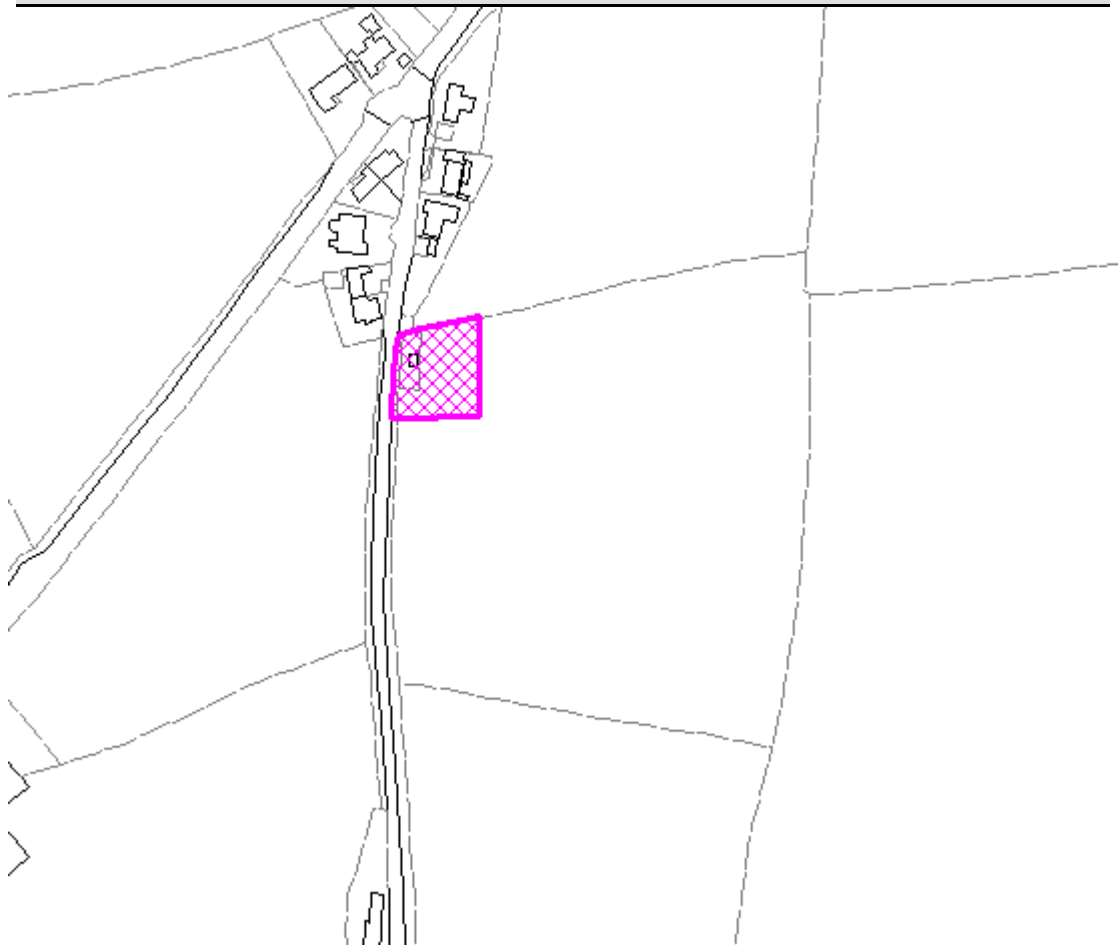


Committee Report – 1st February 2024

Application Number:	1/1146/2023/OUT
Registration date:	22 November 2023
Expiry date:	17 January 2024
Applicant:	Mr. Davey and Ms. Bridgman
Agent:	GW Architects Ltd
Case Officer:	Debbie Fuller
Site Address:	Land At Grid Reference 241658 113849, Newton St Petrock, Devon
Proposal:	Outline application for 1no. dwelling with all matters reserved
Recommendation:	Refuse



Reason for referral:

Councillor Cheryl Cottle-Hunkin, Ward Member for Shebbear and Langtree states: -

I am calling in the decision in support of this application because it is for a local need. The young couple grew up in Newton St Petrock and would now like to raise their family in the same community, around a support network of other family members.

The location of the proposed dwelling is not in the open countryside but would fit in well adjoining a small settlement of properties at Newton St Petrock Cross. There is also a small derelict shed currently on the site which would be removed as part of the application.

The location is also perfect for them in terms of school transport as it is on the pre-existing bus routes to the local primary and secondary schools which the children would attend, as well as having a public bus stop nearby.

The applicants are both working parents, with Mr Davey running his own carpentry business and both work locally providing for the community. This is a great opportunity for them to build their family home together and I believe as a Council we should be supporting this type of application and opportunities which really help build our communities and help young people thrive.

Relevant History:

Application No.	Description	Status	Closed
FPEG/0885/2022	Erection of 1-2 dwellings.		12.10.2022

Site Description & Proposal

Site Description

The application site is within the dispersed parish of Newton St Petrock, but approximately 1.7 km to the north of Newton St Petrock itself.

It is located within an agricultural parcel of land south of the hamlet of 'Newton St Petrock cross,' approximately 100 metres south of a junction with the A388. There is a small shed on site, but there are no other buildings.

The boundary of the site is approximately 30 metres from the residential property to the north, known as 'Sherwood,' and approximately 10 metres from a residential property across the road, (to the north west) known as 'Cotfield House.'

The nearest settlement with boundaries, as defined in the North Devon and Torridge Local Plan (NDTLP), is a main Schedule B village at 'Stibb Cross' approximately 1.6km to the north-east.

Proposed Development

The proposed planning application seeks outline planning permission with all matters reserved for one (3 bed) open market residential dwelling.

As the application is outline only, there are no detailed plans to consider.

Consultee representations:

Newton St Petrock Parish Council:

No response received.

Devon County Council (Highways):

Refer to Standing Advice.

Environmental Protection Officer:

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

Having regard for the application site, the Environmental Protection Team considers there to be no conflicting neighbouring land use and as such, the proposed development accords with Policy DM01. However, due to the presence and proximity of existing dwellings located to the north, there is the potential for residential amenity to be adversely affected on a temporary basis from the construction works if control measures are not in place. Should planning consent be granted, the Environmental Protection Team recommends the imposition of a condition restricting construction works and site deliveries to Monday to Friday 0700 to 1900 hours and Saturdays 0800 to 1300 hours only with no works permitted on Sundays and Bank Holidays 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. Given the sensitive end use, it is essential that 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 Authority's full standard contaminated land condition.

The proposed dwelling is to be served by a new package treatment plant discharging to a drainage field. The percolation test results provided indicate that the ground has suitable permeability and sufficient land is available to accommodate the proposed foul drainage scheme.

Representations:

Number of neighbours consulted:	9	Number of letters of support:	0
Number of representations received:	1	Number of neutral representations:	1
Number of objection letters:	0		

One representation has been received which requests that specific conditions be applied during the construction process to prevent transfer of mud from the site into the road, as apparently the drain has recently been repaired and there is a risk the debris/mud will be washed into the new drain, blocking it again.

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); 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 DM24 (Residential Development in Rural Settlements).

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 planning considerations are outlined as follows: -

1. Principle of Development
2. Character and Appearance
3. Neighbouring Amenity
4. Environmental Impact
5. Highway Safety
6. Ecology

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 considered in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.

Within the development plan (the North Devon and Torridge Local Plan (NDTLP)), Policy ST07 details the Council's spatial strategy for rural areas. Paragraph (3) of Policy ST07 states: *'In Rural Settlements which contain at least one prescribed service or community facility, appropriately located development of a modest scale will be enabled to meet locally generated needs.'*

The site is outside of an identified development boundary that would support residential development. Given the lack of prescribed services or community facilities the site is considered a Countryside location. The nearest Schedule B village is Stibb Cross approximately 1.6 km to the north-east of the site. The site is not in a 'Rural Settlement,' (as defined in the NDTLP).

The proposed site is therefore considered to be within the Countryside and the provisions of part (4) of Policy ST07 would be relevant. These states: *'(4) 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 proposed development seeks one open market dwelling, which is considered to not accord with the spatial strategy in the NDTLP under Policy ST07. The proposed development is not considered to be in an appropriate location for open market development. This is due to the lack of infrastructure and provision of services to support the daily needs of residential occupiers. Therefore; the proposed development is considered an unsustainable location that will result in a dependency upon private car travel to access services within the main and local centres of Great Torrington approximately 8.5km to the north-east.

There is a bus route on the A388, (which is 100 metres to the north), but in terms of the proximity to bus stops, there is no public bus stop at the location known as Newton St Petrock Cross. The nearest bus stop is 1.6 km away at Stibb Cross, or Woodford Bridge Country Club 2.4 km to the south. It would be unsafe to walk to these bus stops along roads with fast speeds and no pavements.

A pre-application enquiry has previously been made for this site, (which was at a time when the Local Authority lacked a five-year housing land supply), yet the planning officer at that time, concluded that the site is not considered to be an appropriate location, and inconsistent with the spatial strategy for northern Devon's rural area as set out in Policy ST07. This was due to the lack of provision of services and community facilities to support the daily needs of open market residential development, and they concluded that the adverse impacts associated with the proposed development would significantly and demonstrably outweigh the benefits.

Taking account of the above, it is considered that the proposal would not be in a suitable location given it would conflict with Policy ST07 of the NDTLP.

2. Character and Appearance

The NDTLP has policies which are relevant - Policy DM04: Design Principles and Policy ST04: 'Improving the Quality of Development' aims to achieve high quality inclusive and sustainable design.

Policy DM04 seeks to guide overall scale, density, massing, height, landscape, layout, materials access and appearance of development. The policy requires development to be appropriate and sympathetic to its setting in terms of scale, density, massing, height, layout appearance, fenestration, materials and relationship to buildings and landscape features in the local neighbourhood. Policy ST04 states '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 DM04.'

NDTLP policy DM08A, expects development to be of an appropriate scale, mass and design that respects landscape character of both designated and undesignated landscapes.

The site is not directly adjoining built development in the area. As the planning application is outline only, there are no plans of the siting and layout, and/or the scale and design, of the proposed dwelling. However, if it were to be sited where the existing shed is on the site, this is approximately 40 metres from the property to the north 'Sherwood' and approximately 20 metres from 'Cotifield House,' over the road. Development in this location would therefore be read as being remote from the built form of the settlement, and an intrusion into the countryside impacting on the rural character of the area.

Notwithstanding the outline nature of the application, the proposed addition of a dwelling on the site would result in additional built form being located within the surrounding landscape, to the detriment of the character and appearance of the surroundings. On this basis, the proposed development is out of keeping with Policy DM04 of the NDTLP, which states as one of its principles that development should be sympathetic to landscape features. DM08A of the NDTLP seeks to protect the landscape from harm. The proposed development would result in additional built form being added to the existing rural landscape.

The proposal is therefore considered to be contrary to Policies DM04, ST04, ST07 and DM08A of the NDTLP.

3. Neighbouring Amenity

Policy DM01 of the NDTLP confirms that development will be supported where it would not harm the amenities of neighbouring occupiers or uses or result in harm to the future occupiers of the development from existing or allocated uses. Policy DM04: 'Design Principles' aims to ensure the amenities of existing and future neighbouring occupiers are safeguarded.

A proposed residential use of the site would unlikely result in any significant harm to the neighbouring dwellings to the north-west and north of the site. However, a design would need to respect and ensure that the dwelling does not adversely impact neighbouring dwellings in terms of overlooking, loss of privacy, dominance, overshadowing, loss of daylight or sunlight.

It is considered that there would not be a significant adverse impact on the amenities of occupiers of other dwellings in terms of dominance, overshadowing, loss of daylight or sunlight provided that the dwelling is designed sympathetically with adequate boundary treatment.

Policy DM02: 'Environmental Protection,' states 'Development will be supported where it does not result in unacceptable impacts,' including smells, fumes, pollution of surface or ground water.

If approved, the Environmental Protection Team recommends the imposition of the Authority's full standard contaminated land condition, and due to the presence and proximity of the existing dwellings to the north, the Environmental Protection Team recommend, that if approved, the standard working hours condition is applied restricting construction works and site deliveries to Monday to Friday 0700 to 1900 hours and Saturdays 0800 to 1300 hours only with no works permitted on Sundays and Bank Holidays in order to protect residential amenity.

With the conditions applied, the proposal would accord with Policies DM01 and Policy DM02 of the NDTLP.

4. Environmental Impact and drainage

NDTLP Policy DM02 requires that development will be supported where it does not result in unacceptable impacts to 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. Policy ST03: 'Adapting to Climate Change and Strengthening Resilience,' requires that development adopts effective water management and sustainable drainage systems. In addition, policy DM04 states development should provide effective water management including Sustainable Drainage Systems, water efficiency measures and the reuse of rainwater.

The application site sits in zone 1, Environment Agency flood zone (low risk).

The proposed dwelling is to be served by a new package treatment plant discharging to a drainage field. The Local Authority's Environmental Protection Team have been consulted and have commented on the percolation data that has been submitted: - *'The percolation test results provided indicate that the ground has suitable permeability and sufficient land is available to accommodate the proposed foul drainage scheme.'*

A Phase I contaminated land survey will be required, and any relevant additional surveys should the phase I raise any contamination concerns.

With a pre-commencement condition regarding contaminated land applied, the proposal would accord with Policy DM02.

5. Highway Safety

Paragraph 115 of the NPPF advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or where the residual cumulative impacts of development are severe.

Policy DM05 in the NDTLP requires development to have 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, and all development shall protect and enhance existing 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. Policy DM06 of the NDTLP states that proposals will be expected to provide an appropriate scale and range of parking provision to meet anticipated needs.

No information has been submitted regarding the access or the provision of parking on site although it is considered there is sufficient space within the site area for parking and turning for vehicles.

As a part of a pre-application enquiry, Devon County Council Highway Authority were consulted. In the consultation response from DCC Highways they indicated the following:

- 1. I'm assuming that the development will access onto the minor road, rather than the A388, so my comments are on this basis. Although the minor leg is a National Speed Limit, given the width and alignment of the carriageway, combined with observed traffic speeds, 'actual' traffic speeds are more akin to a 30-mph limit. Therefore, I would accept visibility splays of 2.4 x 43 metres in either direction when measured to the nearside edge of carriageway.*
- 2. Provisions will need to be made to ensure that no excess surface water drains onto the carriageway.*
- 3. I would expect a minimum of two parking spaces as well as turning provisions within the site.*
- 4. Although I appreciate that there will be sustainability issues here, these factors are considered by the LPA, rather than the HA.*
- 5. I have considered the impact of additional movements through the junction with the minor leg and the A388, particularly as there is a 'Stop and Give Way'. However, two dwellings would not result in a significant increase in overall movements through this junction. I have also noted that there are no recorded crashes at this location on the Collision Database. Therefore, I do not believe that this is an issue.*

Assuming the above points are met, I do not believe it's likely that the Highway Authority would raise objections.'

As part of the planning application, the Local Highway Authority (Devon County Council) were consulted and has stated that the proposal should be dealt with under Standing Advice. Visibility splays have not been provided as part of the application, as access is a reserved matter, (not for consideration now). However, it is likely that adequate visibility could be provided with some hedgerow removal.

Therefore, provided the conditions recommended by the Highways Engineer are included within any permission granted and dealt with at reserved matters stage it is acceptable in accordance with Policies DM05 and DM06.

6. Ecology

Local Planning Authorities have a statutory duty to ensure that the impact of development on wildlife is fully considered during the determination of a planning application under the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, The Conservation of Habitats and Species Regulations 2010 (Habitats Regulations 2010). Policies ST14 and DM08 of the Local Plan require that development ensures the protection and enhancement of biodiversity.

The need for a wildlife survey has not been triggered by good practice guidance. No information has been given on the access to the site, but this may require the removal of hedgerow to achieve visibility splays which would need to be compensated for, with a net gain achieved.

Whilst a small amount of hedgerow may have to be removed to facilitate adequate visibility splays at the access, this could be compensated for, (and a net gain achieved), by planting of new trees/hedgerow, (for example). A landscape condition may ensure a net gain through increased native habitat and/or the installation of a bird box conditioned to be added to the dwelling. However, in terms of protected species, no further survey work is necessary.

Accordingly, the proposed development is considered to comply with Policies ST14 and DM08 of the NDTLP.

7. Other Considerations

The reason for call in states that the application is to enable young people to remain in the community they were born into and have grown up in.

The policy for 'Rural Settlements' is Policy DM24, which, is not relevant to this site. However, if it were a 'Rural Settlement' - in assessing applications for Local Needs dwellings, the background text to the policy outlines criteria that would apply: -

- (1) at least one adult in the household was resident continuously in the Rural Settlement for a minimum of five years immediately prior to occupation; or*
- (2) at least one adult of the household was resident in the Rural Settlement for five years within the previous ten years immediately prior to occupation; or*
- (3) at least one parent, guardian, child or sibling, of at least one adult in the intended household, has been resident in the Rural Settlement for a minimum of 5 years immediately prior to occupation; or*
- (4) at least one adult in the household has been in continuous employment for at least 16 hours per week in the Rural Settlement for at least five years immediately prior to occupation; and in all cases*
- (5) at least one adult in the household needs a separate home (defined as those setting up a new household as a result of co-habitation, marriage, divorce or separation, or those that have, or are about to leave, tied accommodation on retirement) or whose present accommodation is sub-standard or unsuitable to their present circumstances because of their age, an impairment, medical condition or to meet the needs of a growing family, or there is no suitable accommodation available.*

Therefore, it is likely that the applicants would meet criteria 1 and 2 if Policy DM24 was applicable to the location of the proposed development. However, it must be noted that the application is not for a Local Needs Dwelling, and therefore the requirement cannot be considered. Also, if the proposal were for a 'Local Needs Dwelling,' the site is not within a 'rural settlement' and therefore does not qualify as being compliant with Policy DM24.

8. Conclusion

Paragraph 2 of the NPPF states that planning law (namely Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and 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 is a material consideration in planning decisions.

The Local Planning Authority can currently demonstrate a five-year supply of housing land to meet the identified need within the district. It is therefore not necessary to assess the adverse impacts against the positive contribution of one dwelling towards local housing supply and the proposal is contrary to policies ST07 and DM24. It is recognised that it will help a local family. However, the site is removed from the built form of the settlement and located in the Countryside and in a location that lacks key facilities and services. The proposed development is therefore considered to be in an unsustainable location that will result in a dependency upon private car travel to access services as well as causing harm to the landscape character of the open countryside. Therefore, a recommendation of refusal is made.

Human rights

Consideration has been given to the Human Rights Act 1998.

Recommendation

REFUSE for the following reason: -

The proposed development, due to its siting in the Countryside, is considered to result in the addition of an individual dwelling which would have an incongruous and adverse visual impact on the surrounding landscape. Furthermore, the application site is within a Countryside location, which would result in occupants being reliant on private transport for day to day living to access facilities, services and employment. As such, and in combination, the proposal is not considered to constitute 'sustainable development' and is contrary to the provisions of Policies ST04, DM04, DM08A and ST07 of the North Devon and Torridge Local Plan, and national policy guidance contained in paragraph 11 of the National Planning Policy Framework (2023).

Plans Schedule

Reference	Received
0600-01	22.11.2023
0600-02	22.11.2023

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.

A pre-application enquiry has been made, at a time when the Local Planning Authority lacked a five-year housing land supply, yet the planning officer at that time concluded that the site is not considered to be an appropriate location, inconsistent with the spatial strategy for northern Devon's rural area and that the adverse impacts associated with the proposed development would significantly and demonstrably outweigh the benefits. The applicants have therefore been previously advised that the Local Planning Authority is unlikely to support such a proposal.

In such ways the Council has demonstrated a positive and proactive manner in seeking solution to problems arising in relation to the planning application.