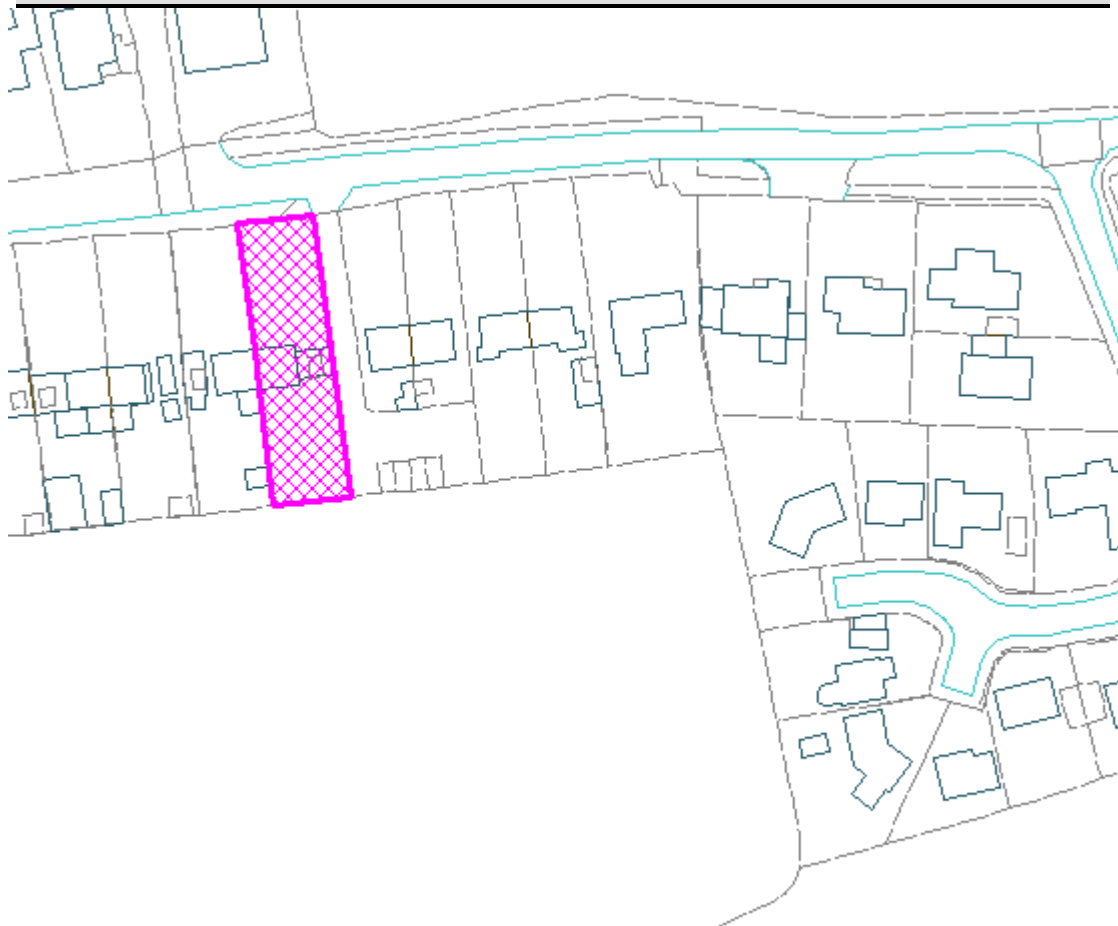


## Committee Report – 9 May 2024

<b>Application Number:</b>	1/0139/2024/FUL
<b>Registration date:</b>	19 February 2024
<b>Expiry date:</b>	15 April 2024
<b>Applicant:</b>	Ms S Reeves
<b>Agent:</b>	Bowden Architecture Ltd
<b>Case Officer:</b>	Mrs Nicola McGill
<b>Site Address:</b>	5 Derriton Road, Pyworthy, Holsworthy, Devon, EX22 6SZ,
<b>Proposal:</b>	Retrospective detached domestic garage and store ancillary to dwelling
<b>Recommendation:</b>	Grant



## Reason for referral:

Councillor Ken James has called in this application for the following reasons:

- The application is retrospective
- Previous application for structures in front of these properties have been subject to enforcement
- Concerns that the application states it is ancillary to the dwelling
- Strong local objection
- Committee decision should provide clarity

## Relevant History:

Application No.	Description	Status	Closed
1/1205/2023/FUL	Retrospective application for retention of car port/storage shed	INVAL	15.01.2024

## Site Description & Proposal

### Site Description

The application site is the front garden of a semi-detached two-storey dwelling in the village of Pyworthy which is defined as a Schedule 'B' village in the adopted North Devon and Torrridge Local Plan (Local Plan). The application site is located within the development boundary of Pyworthy.

The site does not fall within any allocated land designation and is not close to any protected heritage assets. The site is not located within a Critical Drainage Area (CDA) 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.

Derriton Road is linear in style and most of the dwellings along the road are two-storey, semi-detached. There are neighbouring dwellings to the east and west of the application site, agricultural land to the south and the public highway known as Derriton Road to the north of the site. An existing access from the site is available onto Derriton Road. An access track runs along the eastern boundary of the site to what appears to be a row of garages to the rear of 4 Derriton Road.

### Proposed development

The application seeks retrospective planning permission for the installation of a detached domestic garage and store ancillary to the dwelling. The structure is 3.66 metres by 8.45 metres to a height of 2.83 metres and is constructed in timber with a metal duel pitched roof. A roof overhang of approximately 1.1 metres extends beyond the structure on the west elevation. Two openings are shown in the west elevation which relate to openings for 'parking bays'. The storage area is contained between the parking bays. A small casement window is shown in the south elevation.

The Parish Council have objected to the development on the basis of an existing covenant which '*prohibits the building of structures in the front gardens*'. The existence of a restrictive covenant is not a material planning consideration and cannot be taken into account in determining this application.

## Consultee representations:

### Pyworthy Parish Council:

The Parish Council strongly objects to this application. There is a covenant in place on this property and neighbouring properties which prohibits the building of structures in the front gardens.

## DCC Highways: Standing Advice

### Representations:

Number of neighbours consulted:	3	Number of letters of support:	0
Number of representations received:	7	Number of neutral representations:	0
Number of objection letters:	7		

Seven letters of objection have been received by the Council and are summarised below:

- Loss of privacy and amenity
- Visual impact
- Out of keeping with the surrounds
- Breach of existing covenant

### Policy Context:

#### North Devon and Torridge Local Plan 2011-2031:

DM25 (Residential Extensions and Ancillary Development); ST07 (Spatial Development Strategy for Northern Devon's Rural Area); ST04 (Improving the Quality of Development); DM04 (Design Principles); DM01 (Amenity Considerations); ST03 (Adapting to Climate Change and Strengthening Resilience); DM05 (Highways); DM06 (Parking Provision); ST14 (Enhancing Environmental Assets); DM08 (Biodiversity and Geodiversity)

#### Government Guidance:

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

### Planning Considerations

Main Considerations:

1. Principle of development
2. Impact on design and character
3. Impact on residential amenity
4. Drainage
5. Access and parking
6. Ecology and biodiversity

#### 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.

The proposal site is located in a Schedule B 'Village' as defined in Policy ST07 in the North Devon and Torridge Local Plan 2011 – 2031 (henceforth 'Local Plan'). Policy ST07 outlines that Spatial Development Strategy for Northern Devon's Rural Area. Part 2 of ST07 applies to this proposal and states that, '*Development in Villages, defined in Schedule B, will be enabled in accordance with the local spatial strategy to meet local needs and growth aspirations.*'

Policy DM25 relates specifically to residential extensions and notes that the extension of a residential dwelling, beyond that enabled by permitted development, will be supported in principle, subject to it complying with the following criteria:

- (a) the form, scale, setting and design of the proposal respecting existing development, its context, setting and surroundings;*
- (b) adequate residential amenity space and parking provision being maintained; and*
- (c) there being no significant adverse impact on the amenity of the occupants of neighbouring properties.*

The application seeks retrospective planning permission for a detached domestic garage and store ancillary to the dwelling. The proposal is acceptable in principle subject to other policy considerations.

## **2. Impact on design and character**

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 (1)(a) of Policy DM25 requires the proposal's form, scale, setting and design to respect existing development, its context, setting and surroundings.

Policy DM08A of the Local Plan lays out landscape and seascape character. Part 1 of the policy sets out that *'Development 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'*.

The structure is 3.66 metres by 8.45 metres to a height of 2.83 metres and is constructed in timber with a dual pitched roof. Two openings are shown in the west elevation to create 'parking bays' and a storage area is provided in the middle of the parking bays.

Concerns have been raised regarding the design of the structure and the visual effect of the development on the surrounds. A restrictive covenant was imposed on the application (and wider) site which inter alia directed owner/occupants *'Not at any time to make any structural alterations, modifications or additions to the premises without the prior written consent of the Council'*. Without understanding the reason for the restriction, it is not possible to interpret what the purpose of the covenant was. In any regard, restrictive covenants are not material planning considerations and cannot be considered when determining an application.

The dwellings on Derriton Road benefit from extensive amenity land to the front and rear of each property. The original boundary treatments to the front of the dwellings appear to have been a mix of low walls and hedgerows. The open aesthetic of the area has been eroded in the last few years with the erection of several wooden fences as boundary treatments. The fences which are a hotch-potch of materials, designs and colours are detrimental to the street scene and create a sense of enclosure in the wider site, increase the built up feel of the area and provide screening (arguably their purpose) for the front gardens.

The garage is already in situ and set well back away from the public highway and adjacent to the dwelling. The site is well screened from approaches from the east and west. As a wooden structure, the garage blends in with the landscape and appears congruent with it. The site offers extensive

amenity space to the front and back of the property. The garage sits subservient to the host dwelling and is an appropriate scale in relation to it. Consequently, the proposal is in keeping with the above policy requirements.

### **3. Impact on residential amenity**

Policy DM01 requires development to maintain amenity appropriate to the locality and not to result in a significant loss of amenity for the occupiers of neighbouring dwellings. Amenity concerns could include such matters as overlooking, overshadowing, and other privacy issues.

Concerns were received in relation to the openings in the west elevation facing neighbouring properties. Given its proposed use as a garage/storage area and the generous plot sizes, the garage is not anticipated to negatively affect the amenities of surrounding properties. If the application is approved, it is recommended that a condition be imposed restricting the use of the garage to domestic use to prohibit trade or business uses therein.

The proposed extension is not considered to result in a harmful impact on the amenities of neighbouring occupiers. Furthermore, the proposed development is considered to respect the existing development in form, scale and design, whilst also having a positive impact for the occupiers of the dwellinghouse. The proposal would not impact residential amenity within the area and would accord with Policies DM01 and DM25 of the Local Plan.

### **4. Drainage**

Policy ST03 states that development should *'adopt effective water management including Sustainable Drainage Systems, water quality improvements, water efficiency measures and the use of rainwater'*.

In addition, Policy DM04 states development should provide effective water management including Sustainable Drainage Systems, water efficiency measures and the reuse of rainwater.

The property is not within a Critical Drainage Area (CDA) and is not within an area at high risk of flooding. No details have been submitted with the application however, the proposed area was existing hardstanding and used for car parking and does not require any further drainage measures.

### **5. Access and parking**

Local Plan Policies DM05 and DM06 require development to provide well designed, safe vehicular access that provides adequate parking and considers the needs for all highway users and safety.

The proposal is for a double garage which will enhance parking on site. Devon County Council Highways have offered no objections to this proposal directing the Council towards their 'Standing Advice'. The proposed development will have a no difference upon the highway safety and provision of car parking. Therefore, it is considered to accord with Policies DM05 and DM06.

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

The application was accompanied by Devon County Council's Wildlife Trigger List, which advises that the proposal does not include any aspects that require the submission of an ecology report. As the

proposal involves the construction of a separate detached garage it is concluded that an ecology survey is not required and the submitted wildlife trigger list is considered to meet the statutory requirements set out above.

### Human rights

Consideration has been given to the Human Rights Act 1998.

### Conclusion

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

### Recommendation

GRANT subject to the following conditions:

- 1 The development hereby permitted shall be carried out in accordance with the approved plans listed in the Plans Schedule.

Reason: To ensure the development is carried out in accordance with the approved plans.

- 2 The garage and storage shall be used only for purposes incidental to, and in connection with, the use of the site as a dwellinghouse, and no trade or business shall be carried out therefrom.

Reason: In the interests of the amenity of nearby residents.

### Plans Schedule

Reference	Received
24002-PL01-01	19.02.2024

### Statement of Engagement

In accordance with paragraphs 38 of the National Planning Policy Framework (NPPF) in dealing with this application, the Council has worked with the applicant in the following positive and proactive manner. In this instance there was no need for further engagement as the development as submitted is considered to accord with the development plan. In such ways the Council has demonstrated a positive and proactive manner in seeking solutions to problems arising in relation to the planning application.