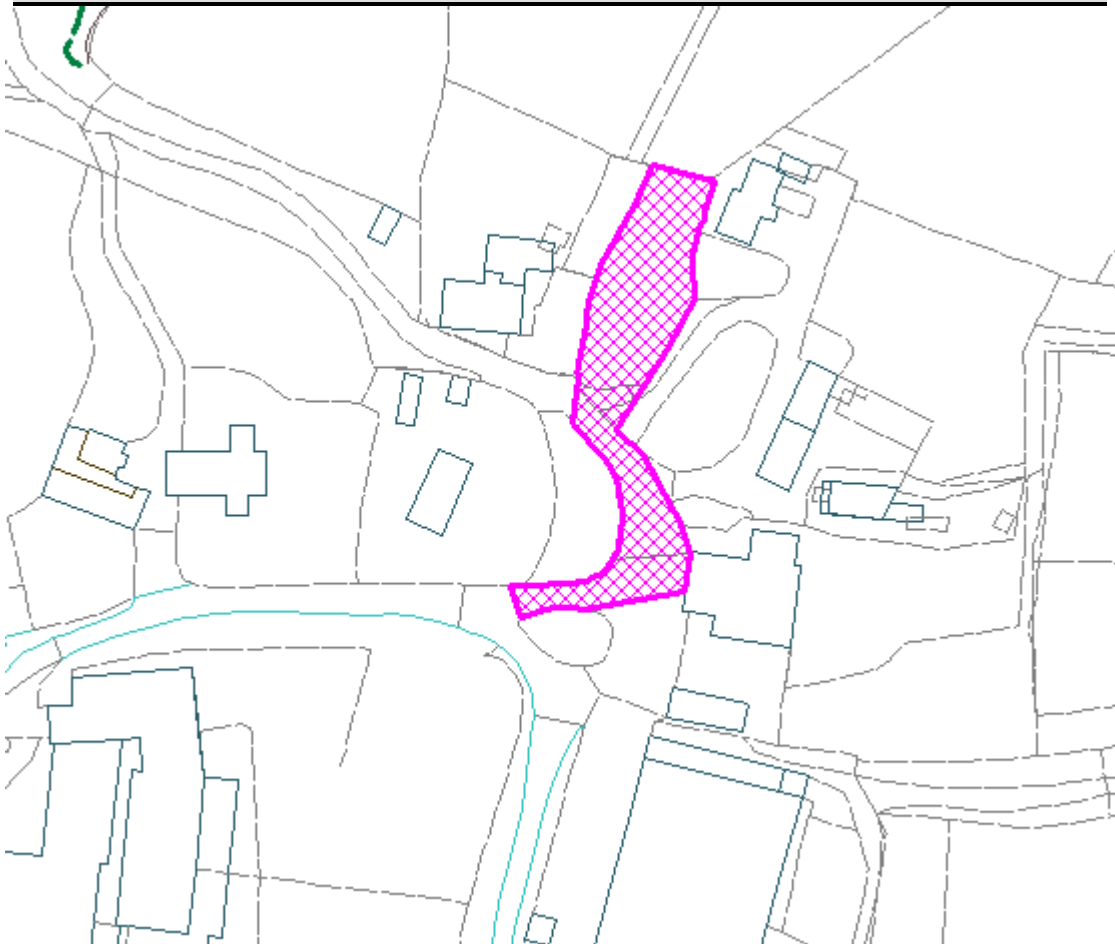


## Committee Report – 11.07.24

<b>Application Number:</b>	1/0116/2024/FUL
<b>Registration date:</b>	28 February 2024
<b>Expiry date:</b>	24 April 2024
<b>Applicant:</b>	Mr Jago & Miss Vincent
<b>Agent:</b>	Piper Architecture Ltd
<b>Case Officer:</b>	Mrs Nicola McGill
<b>Site Address:</b>	The Old Granary, Pyworthy, Holsworthy, Devon, EX22 6SJ
<b>Proposal:</b>	Erection of a local needs dwelling
<b>Recommendation:</b>	Refuse



## Reason for referral:

In the event of a recommendation for refusal, the application was called in to be heard at Plans Committee by Councillor James. The reasons given are as follows:

- This is a local young couple that has grown up in the area.
- Their employment is local.
- The site is an infill site in an established settlement that includes a highly regarded Rural Tourism enterprise which has provided local employment opportunities.

## Relevant History:

Application No.	Description	Status	Closed
1/0437/1978	CONVERSION OF BARN TO FAMILY HOLIDAY APARTMENTS & SEPTIC TANK, LOWER LEWORTHY,	REF	23.05.1978
1/0871/1978	CONVERSION OF BARN TO FAMILY HOLIDAY APARTMENTS, LOWER LEWORTHY, HOLSWORTHY	PER	01.08.1978
1/1324/1978	CONVERSION OF EXISTING BARN TO PROVIDE 3 HOLIDAY UNITS, LEAWORTHY, HOLSWORTHY	REF	07.11.1978
1/0112/1979	CONVERSION OF A BARN TO 4 HOLIDAY UNITS, LOWER LEWORTHY HOLSWORTHY	PER	27.03.1979
1/0328/1993	CHANGE OF USE FROM AGRICULTURAL STORE TO DWELLING	PER	05.05.1993

## Site Description & Proposal

### Site description

The application site is a rectangular parcel of land of approximately 665 sq m adjacent to the Old Granary and is located in the open countryside approximately 3 kilometres southwest of the town of Holsworthy. The site forms part of Leworthy Farm holding which is comprised of a mix of dwellings and barn conversions restricted to holiday accommodation use. The farmhouse currently offers bed and breakfast accommodation.

Access to the site is via a track approximately 600 metres in length leading from the public highway to the west. Public Right of Way (PRoW) Clawton Footpath 7 follows the track before heading south at Lower Leworthy Barn.

The site does not fall within any allocated land designation and is not located within close proximity to any protected heritage asset. The Devon Character Area for this site is 66 (Western Culm Plateau) and the Landscape Character type for this site is 1F (Farmed Lowland Moorland and Culm Grassland). 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 therefore considered a low probability of flooding.

### Proposed development

The application seeks full planning permission for the erection of a local needs dwelling. The proposed dwelling would be single storey and accommodate two bedrooms, open plan kitchen, dining, living area, family bathroom, additional toilet, and plant room. Proposed materials include render on the west elevation and timber or composite cladding on other elevations; sheet metal roof with integrated solar PV panels; aluminium or coloured Upvc windows, aluminium or Upvc glazed/composite doors. No details of rainwater treatments have been provided.

Other design features include a vehicle access and hardstanding comprised of permeable stone chippings over weed suppressant membrane and compacted hardcore. The existing hedge bank will be retained and reinforced as a boundary treatment. External downward facing motion sensitive LED security lighting will also be provided.

The proposal includes surface mounted solar PV panels on the roof of the proposed dwelling and air source heat pump on the west elevation.

### **Consultee representations:**

#### **Clawton Parish Council:**

With reference to the planning application above Clawton Parish Council have no objections but would like the following points to be considered:

The access lane is in very poor condition despite several appeals to highways which are now being supported by the Parish Council. A S106 would be preferred so that the house remains as a Local needs' property. The Councillors assume that a contamination survey will be carried out.

#### **Devon County Council (Highways):**

Standing advice.

#### **Environmental Protection Officer:**

*First comment received 28 February 2024:*

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. Having regard for the presence and proximity of existing dwellings, 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. Former land 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 watercourse. DEFRA's General Binding Rules stipulates that the watercourse should normally contain a continual annual flow. The applicant will need to demonstrate compliance with DEFRA guidance by providing video footage and photographic images as well as any formal maps marking the watercourse. The Environmental Protection Team will provide further comments on the suitability of the foul drainage scheme upon receipt of the aforementioned information.

Second comment received 20 May 2024:

Thank you for forwarding the additional information in relation to the foul drainage proposal. Having reviewed the video footage, the watercourse flow does not appear conclusive and furthermore, it is not marked on the accompanying map. I would ask the applicant to provide more comprehensive video footage as well as identify the watercourse on the map.

### Representations:

Number of neighbours consulted:	6	Number of letters of support:	3
Number of representations received:	3	Number of neutral representations:	0
Number of objection letters:	0		

Three letters in support of the application have been received and are summarised below:

- Dwelling provision for young people
- Improvement of existing land

### 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); DM08A (Landscape and Seascape Character); ST14 (Enhancing Environmental Assets); ST10 (Transport Strategy); DM05 (Highways); DM06 (Parking Provision); DM02 (Environmental Protection); ST03 (Adapting to Climate Change and Strengthening Resilience); DM24 (Residential Development in 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.

Paragraph 83 of the NPPF guides Local Planning Authorities in the provision of rural housing and states in part, '*To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services*'.

Policy ST07 of the North Devon and Torridge Local Plan (NDTLP) sets out the spatial development strategy for Torridge's rural area and guides support for development in a hierarchical approach with an overarching aim to direct development in accordance with the local spatial strategy to identified Local Centres (set out in Policy ST07 Schedule A) and Villages (set out in Policy ST07 Schedule B).

Rural Settlements (set out in Policy ST07 Part 3) are generally considered to be locations whereby new housing is resisted due to their rurality and lack of services, however provision is made in exceptional circumstances subject to certain criteria being satisfied. However, it is important to note that policy support for local needs dwellings is restricted to proposals located within qualifying Rural Settlements, subject to compliance with the requirements of NDTLP Policy DM24.

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 policy supporting text at Paragraph 4.15 clarifies: '*appropriately scaled and located development to meet locally generated housing needs will be supported in qualifying Rural Settlements (requiring the settlement to have at least one service or community facility from the following:- community/village hall, post office, public house, convenience shop, place of worship, sports playing field, primary school), as enabled by Policy DM24: Rural Settlements.*'

In this case, the application site is not part of a qualifying Rural Settlement, therefore Policy ST07, Part 4 of the NDTLP applies. This policy sets out the spatial development strategy for northern Devon's rural area, and asserts 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*'.

Consequently, there is no 'in principle' policy support for a local needs dwelling in this location, and the proposal can be considered as an open market dwelling only. For this reason, the proposal is contrary to the NDTLP as there is no policy basis for a local needs dwelling in the proposed location.

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.

On the above basis, it is not possible to support the proposed development as matter of principle.

## 2. Character and appearance

NDTLP 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 the landscape character of both designated and undesignated landscapes and seascapes.

A Joint Landscape Character Assessment (2023) has been prepared for North Devon Council and Torrington District Council. It supersedes the previous Landscape Character Assessment which was adopted by both Councils in 2011. The Devon Character Area for this site is 66 (Western Culm Plateau) and the Landscape Character type for this site is 1F (Farmed Lowland Moorland and Culm Grassland). Distinctive characteristics include a local vernacular of white-washed or local sandstone buildings, often with red brick detailing, and with slate or thatched roofs and landscape guidelines direct for the protection of the landscape's variety of traditional building styles, including white-washed and exposed stone, often with red brick detailing, and slate or thatch as roofing materials.

The proposed dwelling would be single storey and accommodate two bedrooms, open plan kitchen, dining, living area, family bathroom, additional toilet, and plant room. The proposed materials include render on the west elevation and timber or composite cladding on other elevations; sheet metal roof with integrated solar PV panels; aluminium or coloured Upvc windows, aluminium or Upvc glazed/composite doors. No details of rainwater treatments have been provided.

The composite cladding and coloured Upvc window frames would conflict with the local vernacular and should be resisted. It is recommended that, should this application be approved, a condition is included requiring the use of timber cladding. Subject to compliance with the condition, the proposed design would be acceptable and compliant with the above policy requirements.

### 3. Residential amenity

Policy DM01 of the NDTLP 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.

It is noted that no objections have been received from neighbouring occupiers or the Parish Council in respect of residential amenity.

An existing hedge bank currently runs along the east and west boundaries of the plot. It is proposed to reinforce the hedge bank with a native hedge mix and a condition should be included securing the provision and retention of the hedge bank.

The Council's Environmental Protection Team have been consulted in respect of this application and while not objecting, have recommended conditions in relation to construction hours and unexpected contamination. Assuming inclusion of and compliance with the recommended conditions, the proposal is considered to accord with NDTLP 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 NDTLP. Policy ST14 of the NDTLP seeks to deliver biodiversity net gain (BNG) 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, this application was submitted prior to the implementation date for mandatory BNG as set out under Schedule 7A of the Town and Country Planning Act 1990 which enables Schedule 14 of the Environment Act 2021. The application includes a statement which confirms that the proposal would reinforce native species hedge banks. Additionally, a condition could be included to install at least 1no. bird box and 1no. bat box on the north or east facing elevations of the building.

Subject to the above conditions, it is concluded that the proposal accords with NDTLP Policies DM08 and ST14, as well as the other legislation referred to above.

## 5. Highways

Policies ST10 and DM05 of the NDTLP 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, Policy DM06 of the NDTLP seeks to ensure that appropriate parking provision is delivered as part of development. Policies 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 proposal seeks to utilise an existing access track approximately 600 metres in length leading from the public highway to the west. The Highway Authority has referred to its standing advice document. The Parish Council submitted observations as follows, *'the access lane is in very poor condition despite several appeals to highways which are now being supported by the Parish Council'*.

Despite the condition of the track which was poor in places, the entry onto the public highway is considered to be suitable and sufficient. The proposed site plan shows that acceptable parking and turning facilities can be provided. Taking account of the above, it is concluded that the proposal accords with NDTLP Policies DM05, ST10 and DM06.

## 6. Drainage

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. Policy ST03 seeks to reduce flood risk.

The NPPF and Planning Practice Guidance (PPG) provide further advice on foul drainage, with a hierarchal approach being used. The PPG notes new development should aim to discharge foul water into the public sewer; however, if this is not possible then a package treatment plant may be used. It proceeds to note if a package treatment plant is not possible to use, then a septic tank will be considered. Justification for the use of alternative drainage systems other than mains drainage is required.

Surface water is proposed to be addressed via storm water attenuation crates to the north. The initial foul drainage proposal considered a new package treatment plant and the Council's Environmental Protection Team offered the following comments:

*'The proposed dwelling is to be served by a new package treatment plant discharging to a watercourse. DEFRA's General Binding Rules stipulates that the watercourse should normally contain a continual annual flow. The applicant will need to demonstrate compliance with DEFRA guidance by providing video footage and photographic images as well as any formal maps marking the watercourse. The Environmental Protection Team will provide further comments on the suitability of the foul drainage scheme upon receipt of the aforementioned information'*.

*'Thank you for forwarding the additional information in relation to the foul drainage proposal. Having reviewed the video footage, the watercourse flow does not appear conclusive and furthermore, it is not marked on the accompanying map. I would ask the applicant to provide more comprehensive video footage as well as identify the watercourse on the map'*.

The drainage proposal was subsequently changed and will now consist of a sewage treatment plant to discharge to a drainage field. Subject to compliance with the Environment Agency's 'general binding rules' and the proposal is in accordance with the above policy considerations.

## 7. Conclusion

As discussed above, 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, as such the NDTLP 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 NDTLP. Given that there are no other material considerations that suggest that the development plan should be set aside, your Officer recommends 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 and DM24 of the North Devon and Torridge Local Plan 2011-2031.

## Plans Schedule

Reference	Received
1203 10	09.02.2024
1203 11	09.02.2024
1203 12	09.02.2024
1203 13 B	21.06.2024
1203 14 B	21.06.2024

## Informatives

01. The applicant is informed that the drainage mound must be located, designed and constructed in line with the recommendations in British Standard BS 6297:2007 set out in guidance from the Environment Agency <https://www.gov.uk/guidance/general-binding-rules-small-sewage-discharge-to-the-ground>.

## 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.