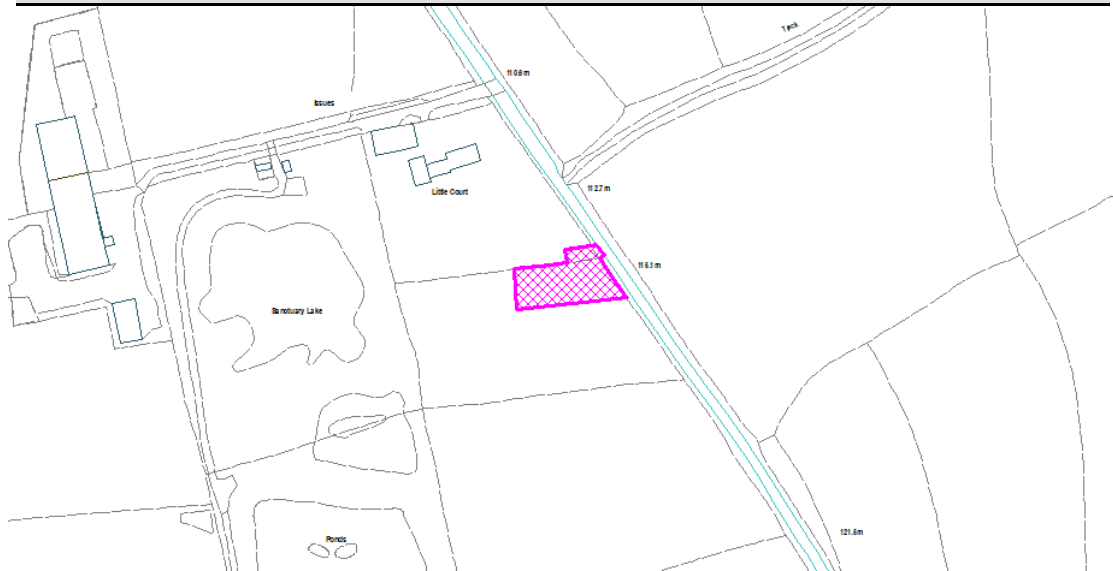


## Committee Report – 11.07.24

<b>Application Number:</b>	1/0148/2024/OUT
<b>Registration date:</b>	22 February 2024
<b>Expiry date:</b>	18 April 2024
<b>Applicant:</b>	Mr Bradley Ley
<b>Agent:</b>	GW Architects Ltd
<b>Case Officer:</b>	Ryan Steppel
<b>Site Address:</b>	Land At Grid Reference 240438 106247, Cookbury, Devon
<b>Proposal:</b>	Outline application for 1 no. local needs dwelling with all matters reserved
<b>Recommendation:</b>	Refuse



## Reason for referral:

Cllr James has called-in this application for the following reason:

*'I wish application 1/0148/2024/OUT to go to plans Committee should the officer is minded to refuse for the following reasons*

- 1 The applicant and partner are local, both from established local farming families*
- 2 They have both grown up in the immediate area and by attending local village schools have added to maintaining the fabric of the Rural Communities*
- 3 Bradley has built a successful Contracting, earth moving business supporting this dispersed Rural Community (illustrated by local support)*
- 4 This type of business and the equipment needed is needed to be based in the area it operates*
- 5 Similar successful businesses all have dwellings connect to it*
- 6 The government has woken up to 30 years of Urbanisation that has led to deprivation in Rural areas hence money given to DEFRA to engage Rural Enables*
- 7 It complies with 7.11 NPPF DM 24  
Economic objective .....strong responsive economy  
Social objective...strong vibrant healthy communities  
Environment objective....moving to low carbon economy (ensuring placement in area of need)*
- 8 DM 24 of the Local Plan.'*

## Relevant History:

<b>Application No.</b>	<b>Description</b>	<b>Status</b>	<b>Closed</b>
1/1146/1994	ERECTION OF AN AGRICULTURAL WORKERS BUNGALOW AND GARAGE	PER	28.09.1994
1/0343/2011/FUL	Construction of a fishing lake	PER	14.06.2011
1/0344/2012/FUL	4 holiday log cabins to support 2 fishing lakes	WDN	06.08.2012
1/0447/2024/OUT	Retrospective application for the erection of a shed/stables and creation of an access	INVAL	24.06.2024

## Site Description & Proposal

### Site Description:

The application site comprises of a parcel of land to the south of Little Court, in the parish of Cookbury. The site measures 1000 sqm (0.1ha) and is agricultural land 237m north of Cookbury. The site is accessed from a narrow rural lane to the east. The northern and eastern boundaries consist of established hedgerow. The site falls within Zone 1 Flood Risk and therefore it has less than 1 in 1,000 annual probability of river flooding and is considered a low probability of flooding.

### Proposal:

This application seeks outline permission with all matters reserved for the erection of a local needs dwelling.

## Consultee representations:

### **Bradford & Cookbury Parish Council:**

The Parish Council support this application. We are keen to keep our young people in our community.

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

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. Having regard for the presence of existing dwellings in close proximity, 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:	4
Number of representations received:	6
Number of objection letters:	0

Number of letters of support:	6
Number of neutral representations:	0

No objections received.

There have been six letters submitted in support of the application, for the following reasons –

- Has worked on 'our' farm many times whilst working with his fathers contracting business and in recent years with his own excavators
- The applicant has lived and worked in Cookbury all his life
- He is an asset to the community providing valuable work with various excavator work
- Planning via the Local Needs route many young local people have an opportunity to get a foothold in the housing market.
- House prices are often out of reach of the local community
- Security is a contributing factor i.e. theft of equipment
- Living on site will allow his company to grow

## Policy Context:

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

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); DM24 (Residential Development in Rural Settlements);

### Government Guidance:

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

## Planning Considerations

Main Considerations:

1. Principle of Development
2. Character and Appearance
3. Impact on Residential Amenity
4. Access and Parking
5. Drainage Provision
6. Ecology
7. Conclusion

### 1. Principle of Development

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). The Local Planning Authority is required by law to determine applications in accordance with the Local Plan, unless there are material planning considerations which would indicate otherwise.

The Spatial Strategy aims to guide development towards established settlements within the urban and rural area in accordance with the hierarchies, as set out within Policies ST06 and ST07 of the NDTLP. In planning terms, the site is not well related to or within any established, qualifying settlement and is therefore considered to be within the Countryside.

Part (4) of Policy ST07 is therefore relevant which states: *'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'*.

National Policy contained within the National Planning Policy Framework (NPPF) emphasises that to promote sustainable development in rural areas housing should be located within existing settlements where it will enhance or maintain the vitality of rural communities and isolated new homes within the countryside will not normally be permitted. Paragraph 84 of the NPPF states that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of a number of circumstances apply:

- o 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;
- o 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;
- o The development would re-use redundant or disused buildings and enhance its immediate setting;
- o The development would involve the sub-division of an existing residential dwelling; or

o 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.

The NDTLP supports the provision of local occupancy dwellings within rural settlements. Policy DM24 states:

*"in qualifying Rural Settlements, proposal 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 the 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 needs exists."*

Paragraph 13.133 states:

*'the primary purpose for allowing limited housing in Rural Settlements is to sustain their vitality and to meet the needs of the local community by identifying that a 'locally generated need' can be demonstrated. Speculative development will not be supported in the view of sustainability considerations. New dwellings will be allowed either as affordable housing or subject to secure arrangements to ensure occupancy is limited both initially and in the future to:-*

- (1) At least one adult in the household was resident continuously in the Rural Settlement for a minimum of five years immediately prior to the 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 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.'*

The application site is within the Countryside, and not in a qualifying rural settlement, therefore Policy DM24 is clearly not relevant in the determination of this application. In policy terms, the proposal is treated as a dwelling within the open countryside, for which there is no basis to support the application which conflicts with the spatial strategy contained in the NDTLP and the principles established within the NPPF.

The proposed development seeks one local needs dwelling. Paragraph (3) of Policy ST07 of the development plan 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.'* However, the Local Planning Authority considers the application site is located in an isolated open countryside location. The definition of 'Rural Settlement' in the NDTLP, 'Glossary' states *'A small, closely grouped cluster of housing that contains at least one identified local service or community facility.'* It is evidentially the case that the site is in an isolated location a significant distance from the nearest qualifying settlement which would allow local needs housing, in conflict with Policy DM24 which states that:

*"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 the urban areas of other defined settlements;*

Policy DM24 clearly directs that local needs housing should be *in* qualifying rural settlements, part of a *'small, closely grouped or contiguous built form of housing'* – the application site does not meet this policy requirement.

Furthermore, the application is not for a rural worker's dwelling therefore paragraph (4) of ST07 is applicable, which states: - *'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 submitted Planning Statement, call-in reasons and letters of support refer to the Applicant's business being located at Little Court and the benefits / need to be located nearby. The Local Planning Authority has no record of planning permission being granted for the use of Little Court as a contracting business and the application does not propose a rural worker's dwelling so Policy DM28 and the Rural Worker's Dwellings SPD cannot be applied. The Applicant and Agent have confirmed that the application is for a local needs dwelling. In any event, there is already a dwelling at Little Court so residential surveillance exists.

Little Court is a rural worker's dwelling which is occupied and owned by the applicant's father. The nearby agricultural buildings are used in association with the farm at the end of Little Court Lane, and this is owned by the applicant's grandfather. The planning statement suggests that the dwelling is required to supervise the equipment stored at *'Little Court'* however it should be stressed that contracting does not fall within the definition of agriculture and there is no permission for the use of any buildings or land for this purpose. For clarification, this would likely be a Sui Generis use class.

Taking account of the above, the provision of a newly erected dwelling within the Countryside is not considered to benefit from any policy support and is accordingly considered in conflict with Policy ST07 of the NDTLP and the NPPF.

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Your Officer is not aware of any material considerations that would justify this departure from the application of the Council's Local Plan policies.

## 2. Character and Appearance

NDTLP 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. Policy DM08A ensures that development is of an appropriate scale, mass and design, and respects landscape character of designated and undesignated landscapes avoiding such harm wherever possible.

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 to be supported by the policy.

The NPPF also strongly emphasises the need for well-designed places, in which Part 12 of the Framework is solely dedicated to this aim. Paragraph 131 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.

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.

The application is made in outline terms with all matters reserved. Notwithstanding this, it is considered that the proposal would result in an adverse impact upon the rural character of the site and its immediate surroundings. This is because any form of residential dwelling within this plot would be visible from the highway and thus would create additional visual intrusion where currently there is none. The views from this rural lane when travelling south to north offer long-reaching views, including this site, the dwelling known as Little Court, and the fields beyond. At present, this view from the highway only includes one residential dwelling and a series of agricultural buildings in a condensed form. The application would create further development to the south of the site on a prominent section of land to the north of Cookbury. It is not only the permitted residential use which causes harm, but also the inclusion of a domestic access and land used to create external amenity for the proposed dwelling, along with any domestic paraphernalia. As such, the impact of the dwelling whether in outline form or not, would be damaging upon this otherwise undeveloped plot of agricultural land and thus impact the wider rural character of the site and its surroundings.

It is therefore considered that the development of this site would be at odds with the surrounding character of the area. Therefore, the proposal is considered contrary to Policies ST04, DM04 and DM08A of the NDTLP.

### 3. Impact on Residential Amenity

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 the existing or allocated uses.

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 for all existing and future occupants of land and buildings.

The application is made in outline form. The detailed design of the proposed dwelling is subject for the reserved matters stage. It is considered that a scheme could be achieved without causing adverse amenity impacts upon any neighbouring properties. The site is within close proximity to a rural worker dwelling. The submitted justification relies upon an unpermitted contracting business which could have an adverse impact the residential amenity of Little Court. This application does not permit the contracting business and instead relates to the dwelling itself, but the Local Planning Authority would otherwise be concerned regarding a contracting business so near to other residential dwellings – even if they are rural workers dwellings.

Notwithstanding this, the presence of a dwelling accords with policies DM01 and DM04 of the NDTLP.

### 4. Access and Parking

Policy ST10 of the NDTLP seeks to ensure that development proposals would not adversely impact local or strategic transport networks. Policies DM05 and DM06 of the NDTLP expect that all development must ensure safe and well-designed vehicular access, the protection and enhancement of existing pedestrian routes, and an acceptable range of parking provision.

Paragraph 115 of the National Planning Policy Framework states that permission should only be refused on highway grounds, if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The application is not supported by detailed access drawings however this is a matter for the Reserved Matter stage. It would be important for any subsequent applications to confirm visibility splays associated with any vehicular access to ensure safe entrance and egress into the site.

As a result, the proposal is considered to have the potential to comply with Policies DM05, DM06 and ST10 of the NDTLP at Reserved Matters stage.

## 5. Drainage Provision

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

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.*'

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.

The proposed dwelling is to be served by a new package treatment plant discharging to a drainage field. The application is supported by percolation tests which indicate the land has suitable permeability to accommodate the proposed foul drainage scheme.

Therefore, the application is considered to contain sufficient evidence to demonstrate the method of foul drainage to support the dwellings and is considered in accordance with Policies ST03 and DM02 of the NDTLP.

## 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). This is further reinforced by Policies ST14 and DM08 of the NDTLP which require that development ensures the protection and enhancement of biodiversity.

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.

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.

The application is accompanied by a wildlife trigger list and report which confirms that no protected species would be adversely affected. However, the proposed development appears to require the removal of an existing hedgerow to create a new vehicular access. As such, a hedgerow assessment has been provided by 'Design with Ecology'. The recommendation of the hedgerow assessment is set out in Section 6.2 of the report and identifies that some of the existing hedgerow would be removed and translocated to partially fill gaps in the remainder of hedgerow 'B'. The report thusly concludes:

*'There will be no net loss of hedgerow habitat. It is considered that, if this mitigation strategy is strictly adhered to, it is unlikely the re-location of the hedgerow section will impact negatively on commuting bats, feeding mammals and invertebrates in the long term.'*



If supported, a condition should be attached to ensure the development is undertaken in accordance with the recommendations of the hedgerow assessment.

In terms of Biodiversity Net-Gain, the application is considered exempt from the statutory BNG requirements due to the application being submitted before 2nd April 2024.

On this basis your Officer is satisfied that the proposal would not result in an adverse impact upon any protected species and is therefore considered to be in accordance with Policies ST14 and DM08 of the NDTLP.

#### 7. Conclusion:

The application proposal is not considered to benefit from policy support in relation to the principle of development and development of a dwelling and associated curtilage in this location would result in an adverse character impact to this rural, countryside setting. The proposal would not result in an adverse impact with respect to amenity, highways and ecology however the conflict with the NDTLP Spatial Strategy directs that the proposal is not acceptable as a matter of principle. Accordingly, the recommendation is one of refusal.

### 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 or qualifying settlement. Without any planning justification being provided for a dwelling in this countryside location, the principle of residential development is unacceptable. The impact of the change of use and a dwelling would be damaging upon this otherwise undeveloped agricultural land and thus impact the wider rural character of the site and its surroundings. The proposal is therefore contrary to Policies ST04, ST07, ST14, DM04, DM08A and DM24 of the adopted North Devon and Torridge Local Plan 2011-2031.

### Plans Schedule

Reference	Received
0615-02 REV A	29.04.2024

### 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. In this instance the applicant did not enter into pre-application discussions with the Council.