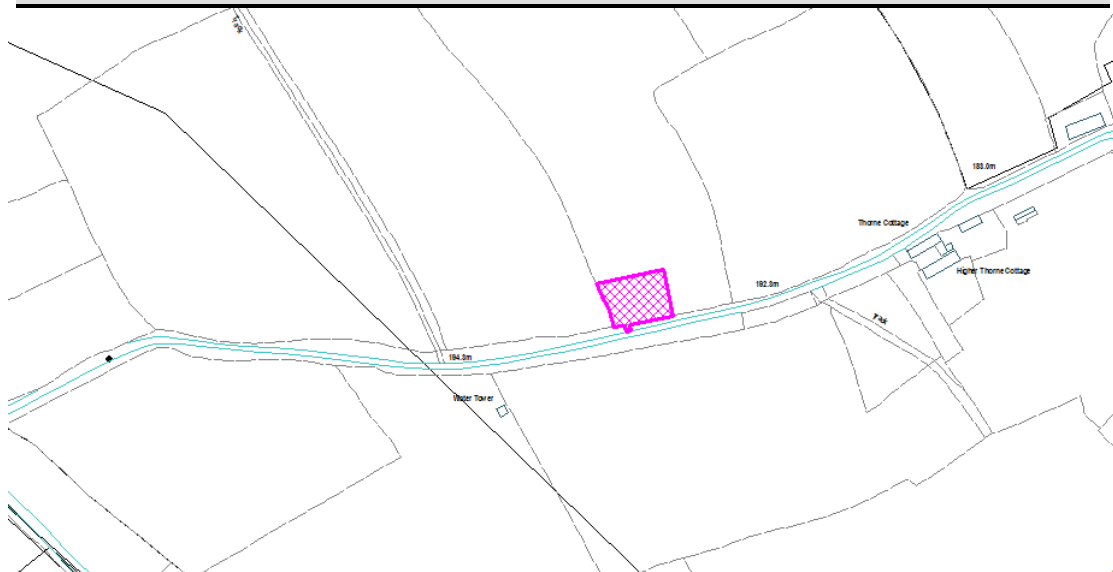


Committee Report – 11.07.24

Application Number:	1/0418/2024/OUT
Registration date:	3 May 2024
Expiry date:	28 June 2024
Applicant:	Mr and Mrs Andrew
Agent:	GW Architects Ltd
Case Officer:	James Clements
Site Address:	Land Adjacent Higher Thorne Cottage, Buckland Brewer, EX39 5NU
Proposal:	Outline application with all matters reserved for no.1 local needs dwelling
Recommendation:	Refusal



Reason for referral:

The application has been called to planning committee by Councillor Hicks for the following reasons:

'The proposal is well sited adjacent to this rural community.

Whilst agricultural need could easily be established, especially in this instance personal problems preclude such a development so that the proposed local needs application is an ideal solution to this extremely difficult problem.'

Relevant History:

None.

Site Description & Proposal

Site Description:

The application site comprises a parcel of agricultural land (improved grassland) measuring 0.09ha in size. The site is within an isolated countryside location on the northern side of an unclassified road some 1.5 miles to the northwest of Stibb Cross and 2.6 miles from Buckland Brewer. The site falls from south to north and northeast and has far reaching views to the north and particularly to the northeast.

The land forms part of the agricultural holding associated with Silklands Farm. The main holding and farmhouse is located approximately 800m to the north of the site, approximately 1 mile by road.

The nearest residential property is Higher Thorne Cottage, which is a Grade II listed building, located approximately 135m to the southeast of the site. To the east of Higher Thorne Cottage is Thorne Widger Farmhouse which is also Grade II listed building with associated listed buildings and structures.

The site is not within a formal landscape or wildlife designation.

The site falls within flood risk zone 1 and therefore it has less than 1 in 1,000 annual probability of river flooding which 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. The area of land measure 0.09ha and would be accessed via an existing agricultural access from the adjacent highway. The south and west boundaries are delineated by native hedgerows. The north and east boundaries of the redline site relate to the wider agricultural field.

Consultee representations:

Buckland Brewer Parish Council:

This application was supported by BBPC (8 votes for and 1 against)

South West Water:

With reference to the planning application at the above address, the applicant/agent is advised to contact South West Water if they are unable to comply with our requirements as detailed below.

Surface Water Services

The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off

Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):

1. Water re-use (smart water butts, rainwater harvesting, grey flushing toilets)
2. Discharge into the ground (infiltration); or where not reasonably practicable,
3. Discharge to a surface waterbody; or where not reasonably practicable,
4. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
5. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that method proposed to discharge into the ground (infiltration) is acceptable and meets with the Run-off Destination Hierarchy.

Devon County Council (Highways):

Standing advice issued.

Representations:

Number of neighbours consulted:	2	Number of letters of support:	0
Number of representations received:	0	Number of neutral representations:	0
Number of objection letters:	0		

Policy Context:

North Devon and Torridge Local Plan 2011-2031:

ST01 (Principles of Sustainable Development); 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); DM08A (Landscape and Seascape Character); DM08 (Biodiversity and Geodiversity); DM24 (Residential Development in Rural Settlements).

Government Guidance:

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

Planning Considerations

The main planning consideration are considered to be:

1. Principle of development
2. Character, appearance and setting of heritage assets
3. Neighbouring amenity
4. Environmental impact
5. Highway safety
6. Ecology

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 any established settlement and is therefore considered to be within open countryside.

Part (4) of NDTLP Policy ST07 is 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, rather than a 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.'* The nearest community facility is at Stibb cross some 1 mile (1600m) to the southeast. It is essentially the case that the site is in an isolated location a significant distance from Stibb Cross in conflict with Policy DM24 which states that:

"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;'

In addition, at circa 1 mile along unlit rural roads with no pavements the facilities at Stibb Cross are clearly not within safe walking distance.

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 Design and Access Statement (D&S) and call-in reasons suggest that a rural worker's dwelling could be justified. However, it is not clear why this is not the subject of this application. The primary reason is most likely because the dwelling is not within 'site and sound' of the main built-up part of the farm, existing farmhouse and associated buildings. This is for understandable reasons due to a family tragedy. It is not evident, however, why the dwelling would need to be 800m to the south of the holding and why a closer site could not be identified. In any event, an agricultural worker's justification has not been provided and the agent has confirmed that the application is for a local needs dwelling.

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.

The personal circumstances of private individuals, in this case the applicants, (unless relating to a disability, for example) are not a material planning consideration and should not be taken into account in the determination of this planning application.

2. Character, appearance and setting of heritage assets

NDTLP 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. NDTLP 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 ST14 (Enhancing Environmental Assets) states that *'the quality of northern Devon's natural environment will be protected and enhanced by ensuring that development contributes to: (g) protecting and enhancing local landscape and seascape character, taking into account the key characteristics, the historical dimension of the landscape and their sensitivity to change.'*

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 in order 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 process 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 National Design Guide 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.

NDTLP Policies ST15 and DM07 seek to protect the setting of heritage assets.

The site is within Landscape Character Type (LCT) 1F: Farmed Lowland Moorland & Culm Grassland. The key characteristics, amongst other characteristics, are 'Gently undulating landform, in some places of a plateau-like character; Elevation affording long views across the landscape and beyond; open areas of culm grassland surrounded by a regular pattern of medium-scale post medieval and modern fields; landscape crossed by frequent streams, springs, wet ditches and small ponds fringed by wet woodland; Sparse settlement pattern with scattered farmsteads, small clustered hamlets and nucleated villages often occupying ridgetop positions; variety of traditional building styles, particularly white/cream cob render with slate; straight roads crossing ridgeline.

The special qualities, amongst other aspects, are:

- Distinctive culm grassland habitats and associated birdlife;
- Traditional management regimes;
- Small field patterns enclosed by thick Devon banks and surrounded by open grazing land.
- Isolated farms and farmsteads.
- High levels of tranquillity and remoteness.

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 would create additional visual intrusion where currently there is none. The site is also in an elevated location and is likely to be seen in longer distance views.

In addition to a dwelling, the site would be formalised for domestic purposes including parking turning and garden spaces as well as any associated domestic paraphernalia. An appropriate design and

suitable boundary treatments and landscaping could ameliorate this to a degree. However, the impact of the change of use and dwelling whether in outline form or not, would be damaging upon this otherwise undeveloped plot of this isolated agricultural land and thus impact the wider rural character of the site and its surroundings.

As regards heritage assets, there are a number of listed buildings a significant distance to the east of the site, with the nearest being some 135m (Higher Thorne Cottage), separated and screened to an extent by intervening hedgerows. Furthermore, the site does not appear to form the historic setting of these buildings. As such, it is considered that there would be no harm to the significance of the listed building therefore the application is considered to accord with NDTLP Policies ST14 and DM07.

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, ST14, 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 a subject for the reserved matters stage. It is considered, given the isolated nature of the site, that a scheme could be achieved without causing adverse amenity impacts upon any neighbouring properties.

On that basis, the proposal accords with policies DM01 and DM04 of the NDTLP.

4. Highways, 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 NPPF 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.

Devon County Highways have issued their standing advice.

The application is not supported by detailed drawings to confirm the visibility splays associated with any potential access however this is likely to be a matter for the Reserved Matter stage. Were the application supported, a condition could be imposed to ensure that suitable visibility splays are provided.

The proposal is therefore considered to comply with Policies DM05, DM06 and ST10 of the NDTLP.

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 would 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 and Biodiversity Enhancement

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 which indicates that an ecology report is not required because the site falls under 0.1ha. As such no ecology report has been submitted. A condition could ensure that a reserved matters application provides biodiversity enhancements such as bat and bird boxes, hedgerow planting and wildflower meadow grass.

The application was submitted following the mandatory net-gain for small sites came into effect. The application form states that the proposal is for a self-build property, which is exempt from providing mandatory net-gain.

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 NDTLP Policies ST14 and DM08.

7. Conclusion:

On balance, the proposal is not considered to benefit from policy support in relation to the principle of development. The proposal would also result in an adverse character impact to the setting of the countryside. The proposal would not result in an adverse impact with respect to amenity, highways and ecology. As such, the proposal is not considered to be acceptable and is accordingly recommended for refusal.

Human rights

Consideration has been given to the Human Rights Act 1998.

Recommendation

- 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 and isolated 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
0620 - 01	03.05.2024
0620 - 02	03.05.2024

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 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. The agent/applicants were informed of the officer recommendation.