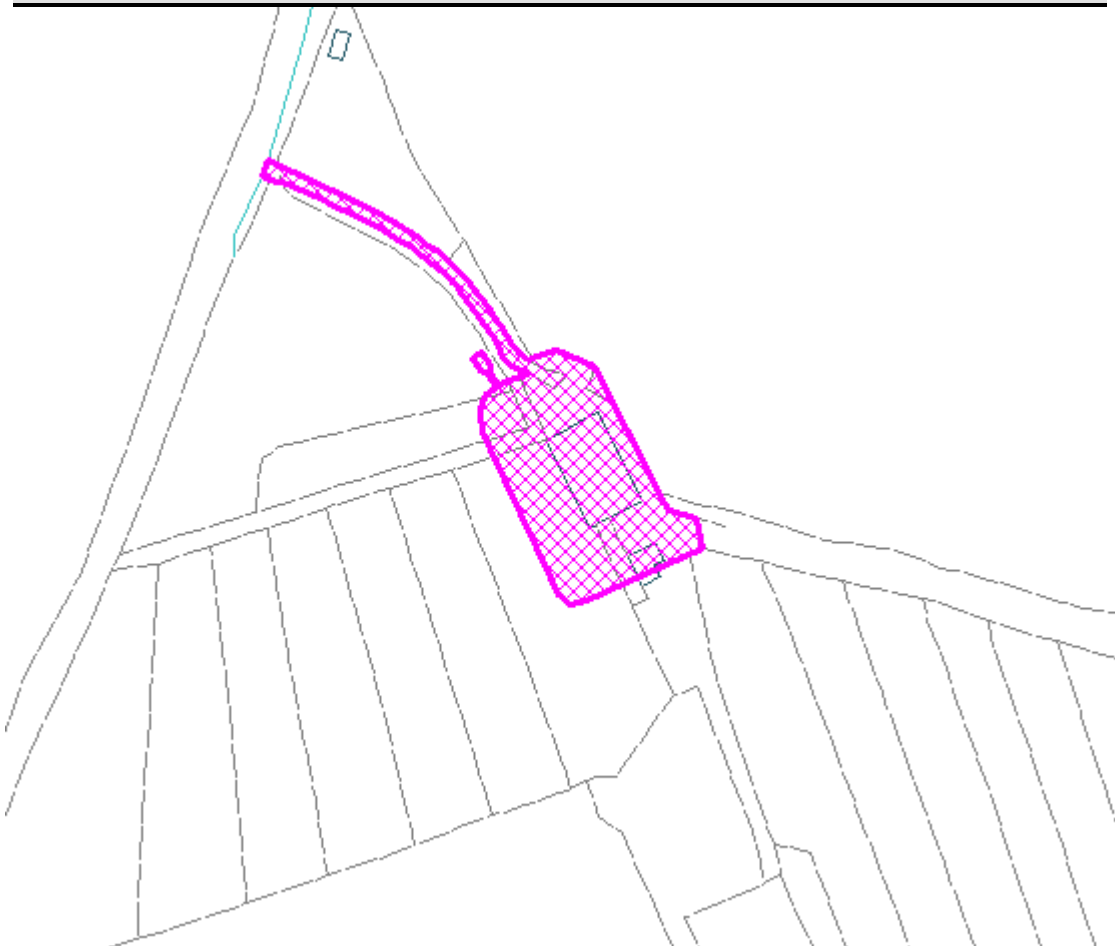


## Committee Report – 11.07.24

<b>Application Number:</b>	1/0366/2024/FUL
<b>Registration date:</b>	17 May 2024
<b>Expiry date:</b>	12 July 2024
<b>Applicant:</b>	Mr and Ms Jeferies and Martin
<b>Agent:</b>	GW Architects Ltd
<b>Case Officer:</b>	Mary-Ellen Whalley
<b>Site Address:</b>	Agricultural Building At Grid Reference 251261 121636, Torrington, Devon
<b>Proposal:</b>	Conversion of barn to dwelling (Resubmission of 1/0654/2023/FUL)
<b>Recommendation:</b>	Refuse



## Reason for referral:

The application has been called-in by Councillor Bright for the following reasons:

*'- The applicant believes that they have sufficient grounds to argue the case for their application to go ahead despite the comments from Environmental Protection around the noise levels of the near by wind turbine.*

*-I believe TDC officers are compliant of following the policies and guidance given, however I cannot help but feel that the policies themselves makes little sense. A development can be granted with sound levels higher if it is built right beside a main road in an estate, compared with a single dwelling in an empty field and a distant wind turbine.*

*-The sound level inside the building when development is completed will not be an issue (once the mitigations are put in place during the construction phase), it seems to be only the garden space which is of concern.*

*-The sound levels outside of the development are near the limit of what is acceptable, and if the dwelling was about 50m further away, it may well be acceptable. Because the sound levels are so close to the acceptable limit, and yet still below the noise levels of a road and will simultaneously bring an unused building back into use, this application should be scrutinised further by committee.'*

## Relevant History:

Application No.	Description	Status	Closed
1/0654/2023/FUL	Conversion of barn to dwelling	WDN	05.12.2023

## Site Description & Proposal

### Site description:

The site at Darracott is approximately 2.2km to the north-east of Great Torrington and 1km from the B3232 to the east. It is accessed from the public highway to the north-west of the site along an existing stone track.

The modern barn is surrounded by a concreted area to the east and north of the building and a low blockwork wall, wooden post and metal railing fence to the east of the site.

The barn is approximately 330m to the north of the nearest of the three wind turbines forming Higher Darracott Wind Farm which was given permission under application 1/1026/2023/FUL to extend its permission until 31/12/2046. The nearest other residential properties to the windfarm are Higher Darracott Farm approximately 580m to the north-west and Three Oaks 470m to the east of the site.

The barn is composed of blockwork with timber cladding to the upper portion of the walls with profiled metal sheeting to the roof and metal gates to the northern elevation and an opening to the southern elevation.

The barn measures approximately 23m in length and 13.7m in width with the height to the eaves approximately 2.3m and 5.5m to the ridge of the building.

### Proposed development:

Planning permission is sought to convert the barn to a dwelling.

The dimensions of the proposed dwellings are to be the same as the existing barn with the walls to be clad with black timber and the roof to be replaced with a metal one. The windows and doors are to be aluminium. There is proposed to be private amenity space to the west and south of the dwelling with a patio/deck area to the west. The existing access track of approximately 80 metres in length from the public highway to the northwest will reach a parking and turning area to the north-east of the site with space for at least two vehicles.

The dwelling is to provide three bedrooms, studio/store, ensuite, dressing room, bathroom, snug, larger, family room, study/guest suite, wet room and utility/plant all at ground floor level.

### Consultee representations:

#### Great Torrington Town Council:

Members of Great Torrington Town Council's Planning Committee had no objections to this application, however, did note the comments made by the Environmental Protection Officer regarding the potential for noise disturbance from the nearby wind farm and recommend that the developer takes this into consideration when assessing the future viability of this development.

#### Environmental Protection Officer:

The Environmental Protection Team acknowledge the new planning application 1/0366/2024/FUL. In light of this new application, I refer back to the comments previously made by Environmental Protection dated 15th of November 2023.

The Environmental Protection Team has reviewed the Noise Representation provided by the applicant. The Noise Representation acknowledges that mitigation was required to the existing wind farm in order to meet the ETSU-R-97 noise limits at existing properties, located further in distance than the proposed dwelling subject of the above application. Furthermore, it acknowledges that it would not be possible to achieve these limits at the application site across a range of wind speeds. Subsequently, the proposed development would not be protected from the ETSU noise limits that existing properties are afforded. The Noise Representation suggests that the predicted noise levels meet the LA90 45dB noise limit for financially involved properties across all wind speeds. Table 4 indicates there would be an exceedance of this limit across wind speeds of 7m/s and greater albeit this is a very slight exceedance.

It is assumed that the applicant has no financial involvement with the wind farm and therefore, the greater noise limit is irrelevant. The Noise Representation mentions the desired LAeq 50dB criterion for external areas outlined in British Standard BS8233. This criterion relates to steady anonymous noise, such as road traffic noise and does not consider acoustic features such as tones that can be associated with wind turbines. Given the relatively tranquil locality, the noise arising from the wind farm would undoubtedly be prominent at the application site, especially considering the noise levels reported. It is worth mentioning that if the application were to be approved and subsequent justified noise complaints from future occupants are received, this could have implications for the operation of the wind farm.

Having reviewed the latest application 1/0366/2024/FUL I have also noted the foul drainage assessment form FDA which was originally submitted on the 3rd of July 2023 along with the percolation tests carried out by GW Architects limited. There has been no photo evidence submitted to substantiate the percolation tests and the intervals at which they were tested. However, the foul drainage scheme is acceptable and no further information is required.

Having regard for the above, the Environmental Protection Team considers the existing wind farm to have a detrimental impact on the living conditions of the proposed dwelling contrary to Policy DM01 and reiterates its objection to the application.

#### Devon County Council (Highways):

Standing advice.

### Representations:

Number of neighbours consulted:	1
Number of representations received:	0
Number of objection letters:	0

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

No representations received.

## Policy Context:

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

ST01 (Principles of Sustainable Development); ST02 (Mitigating Climate Change); ST04 (Improving the Quality of Development); ST07 (Spatial Development Strategy for Northern Devon's Rural Area); ST14 (Enhancing Environmental Assets); DM01 (Amenity Considerations); DM02 (Environmental Protection); DM04 (Design Principles); DM05 (Highways); DM06 (Parking Provision); DM08A (Landscape and Seascape Character); DM08 (Biodiversity and Geodiversity); DM27 (Re-use of Rural Buildings);

### 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 planning considerations

1. Principle of development
2. Character, appearance
3. Access, Parking and Highway Safety
4. Residential amenity
5. Flooding and drainage
6. Biodiversity

1. Principle of development:

In planning terms, the site is located in the open countryside. The North Devon and Torridge Local Plan (NDTLP) seeks to restrict development within the open countryside (beyond villages, local centres and rural settlements) 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,'* (Policy ST07: 'Spatial Development Strategy for Northern Devon's Rural Area'). Therefore, rural building re-use is supported in principle.

This is subject to more detailed consideration under Policy DM27 (Re-use of Disused and Redundant Rural Buildings), which supports the conversion of redundant or disused rural buildings where:-

- '(a) Such conversion would not harm any intrinsic qualities and historic interest of the building;*
- (b) The proposal will have a positive impact on the immediate setting of the building and the wider character is protected;*
- (c) Development can be achieved without significant external alteration, extension or substantive rebuilding;*
- (d) Suitable highway access can be provided and the surrounding highway network can be support the proposed use(s); and*
- (e) Any nature conservation interest within the building or wider site is retained.'*

The barn is currently disused. A structural report was prepared by Mills Engineering and submitted in support of the application on 18<sup>th</sup> April 2024 which concluded that in general terms the conversion should be able to be achieved without significant external alteration, extension or substantial rebuilding. The proposed conversion of this disused barn is acceptable in principle subject to full compliance with the criteria in Policy DM27 and other relevant policies in the NDTLP, as considered below.

## 2. Character and appearance:

Policies DM04: 'Design Principles' and ST04: 'Improving the Quality of Development' in the NDTLP aim to ensure good quality design.

Policy DM04 seeks to guide overall scale, density, massing, height, landscape, layout, materials access, and appearance of development. The policy requires development to be appropriate and sympathetic to its setting in terms of scale, density, massing, height, layout appearance, fenestration, materials and relationship to buildings and landscape features in the local neighbourhood. Policy ST04 states *'design will be based on a clear process that analyses and responds to the characteristics of the site, its wider context and the surrounding area taking full account of the principles of design found in DM04.'*

In terms of design, Policy DM27 supports the conversion of rural buildings where:-

*'(a) Such conversion would not harm any intrinsic qualities and historic interest of the building;  
(b) The proposal will have a positive impact on the immediate setting of the building and the wider character is protected;  
(c) Development can be achieved without significant external alteration, extension or substantive rebuilding.'*

The existing building is built of blockwork and timber cladding with profiled sheeting roof and is not considered to have any intrinsic qualities or historic being composed of rendered blockwork. Therefore, it is considered that criterion (a) has been satisfied. The conversion would have a positive impact on the immediate setting by tidying up the appearance of a disused and dilapidated barn in accordance with criterion (b). The proposed dwelling is to be composed of black cladding to the walls and a metal roof with aluminium windows and doors. The conversion will be achieved without significant alteration, extension or re-building in compliance with criterion (c). Provided Permitted Development Rights were removed as a condition on this permission to prevent a change in the appearance of the building and a negative impact on the wider character and appearance of the surrounding rural area, it is considered acceptable in design terms. A hedgebank is proposed to be planted to the west and south of the building as shown on the proposed location and site plan (0559-01) with additional tree planting surrounding the property. This would be required to be retained to minimise the impact of the development on the wider landscape.

The proposed redesigned development is considered to be in accordance with NDTLP Policies ST04, DM04 and DM27 and national guidance.

## 3. Access, Parking and Highway Safety:

Paragraph 115 of the NPPF advises that development should only be prevented or 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.

Policy DM05 in the NDTLP requires development to have safe and well-designed vehicular access and egress, adequate parking and layouts which consider the needs and accessibility of all highway users including cyclists and pedestrians, and all development shall protect and enhance existing public rights of way, footways, cycleways and bridleways and facilitate improvements to existing or provide new connections to these routes where practical to do so.

Policy DM06 of the NDTLP states that proposals will be expected to provide an appropriate scale and range of parking provision to meet anticipated needs. Policy DM04: 'Design Principles' has a criterion related to *'safe and appropriate highway access.'*

Policy DM27 criterion (d) requires development to provide suitable highway access and the surrounding highway network can support the proposed use(s).

There is an existing hardcore track of approximately 80 metres in length from the building to the public highway to the north-west of the site. There is adequate space for parking of at least two vehicles and

turning on site. The Highway Authority directed towards their Standing Advice, and it is considered that the proposed development is in line with the requirements of this.

The proposed development therefore accords with Policies DM05 and DM06 of the NDTLP.

#### 4. Residential Amenity:

Policy DM01 of the NDTLP confirms that development will be supported where it would not harm the amenities of neighbouring occupiers or uses, or result in harm to the future occupiers of the development from existing or allocated uses. Policy DM04: 'Design Principles' aims to ensure the amenities of existing and future neighbouring occupiers are safeguarded. Policy DM02 'Environmental Protection,' of the Local Plan, states that development will be supported where it does not result in unacceptable impacts to smell, fumes, noise etc.

There are no neighbouring dwellings with the nearest being approximately 500m to the west of the site. There is therefore not considered to be any impact on neighbouring residential amenity caused by the development.

The proposed barn conversion has sufficient floor space to satisfy the Nationally Described Space Standards. There is adequate amenity space and parking for the barn.

The Local Authority's Environmental Protection Team (EPT) have been consulted on this application and raised concerns as follows regarding the proximity to the neighbouring Higher Darracott windfarm: *'The Environmental Protection Team has reviewed the Noise Representation provided by the applicant. The Noise Representation acknowledges that mitigation was required to the existing wind farm in order to meet the ETSU-R-97 noise limits at existing properties, located further in distance than the proposed dwelling subject of the above application. Furthermore, it acknowledges that it would not be possible to achieve these limits at the application site across a range of wind speeds. Subsequently, the proposed development would not be protected from the ETSU noise limits that existing properties are afforded. The Noise Representation suggests that the predicted noise levels meet the LA90 45dB noise limit for financially involved properties across all wind speeds. Table 4 indicates there would be an exceedance of this limit across wind speeds of 7m/s and greater albeit this is a very slight exceedance.'*

The proposed development is approximately 330m to the north of the nearest of the three wind turbines forming Higher Darracott Wind Farm, which was given permission under application 1/1026/2023/FUL to extend its permission until 31/12/2046. The nearest existing residential properties to the windfarm are Higher Darracott Farm approximately 580m to the north-west and Three Oaks 470m to the east of the site. Therefore, given that there were mitigation measures put in place to ensure that the existing residential dwellings were not significantly affected by the windfarm it is considered that as the barn is nearer to the wind turbines it would have a detrimental impact on the living conditions of the proposed dwelling for the applicant as well as future residents. It is acknowledged that the exceedance is only slight however the limits need to be put in place at a certain level and even a slight exceedance is considered to have an impact on future occupants of the proposed dwelling.

The EPT also commented that *'It is assumed that the applicant has no financial involvement with the wind farm and therefore, the greater noise limit is irrelevant. The Noise Representation mentions the desired LAeq 50dB criterion for external areas outlined in British Standard BS8233. This criterion relates to steady anonymous noise, such as road traffic noise and does not consider acoustic features such as tones that can be associated with wind turbines. Given the relatively tranquil locality, the noise arising from the wind farm would undoubtedly be prominent at the application site, especially considering the noise levels reported. It is worth mentioning that if the application were to be approved and subsequent justified noise complaints from future occupants are received, this could have implications for the operation of the wind farm.'* Subsequent communication with the agent and local ward member has suggested that the Applicant would be willing to accept a condition that they accept the noise level at the site and would not raise any complaints regarding noise levels. Unfortunately, it is not possible to include such a condition on any permission as consideration has to also be made to future residents of the site. It was also suggested that external noise barriers could be installed but due to the height of the wind turbines this is not possible as it might be if the noise was coming from a source at a lower elevation such as a road. It was also noted by the EPT that sound refraction is also a factoring element in how the sound waves

will travel over the given distance to the noise receptor and would again in turn render any noise barriers ineffective.

It is also acknowledged that there may be higher noise levels in city centres, urban areas and adjoining strategic transport networks, however in a relatively tranquil locality it is considered that the noise arising from the wind farm would be prominent and this has been found to be the case on numerous site visits carried out by the Case Officer as well as the EPT.

The use of the ETSU standard to assess the noise levels of the wind turbines has also been questioned but it is the most pertinent guidance available to wind turbines. It is usually applied to new wind turbines being introduced in an area of existing residential properties, but the principles remain and are relevant to the consideration of this application.

It was also raised by the applicant that there is an existing condition on the original permission for the wind farm (1/1345/2002) *"Unless the Local Planning Authority give consent to any variation, noise emissions from the site (as measured by LA90,10mins) in free field conditions, at any dwelling in existence prior to the development, shall not exceed the greater of 35dB(A) or 5dB(A) above the background noise level (LA90,10mins) during the day and evening (7.00hrs to 23.00hrs) and shall not exceed the greater of 43dB(A) or 5dB(A) above background noise level (LA90,10mins) during the night (23.00hrs to 7.00hrs), all at wind speeds up to 12ms<sup>-1</sup>. The noise emission values of the turbines shall include a tonal penalty if such is identified in accordance with the methodology set out in the ETSU-R-97 report."* As the proposed development is not an existing dwelling the above condition would not apply and therefore this condition would not be applicable.

It is also noted by Environmental Protection *'that the noise assessment indicated that predicted noise levels exceed those specified in ETSU, the recognised method for wind turbine measurement, which relates to external levels. However, noise associated with wind turbines (eg. mechanical noise, 'thumping' sound associated with amplitude modulation – which has not been mentioned in the assessment) can affect indoor living and EP has received and investigated noise complaints to this effect. Therefore, whilst the assessment demonstrates that external conditions are not compliant with ETSU, noise (as mentioned above) can affect indoor living as well.'* Therefore, it is considered that the location of the wind turbines in close proximity to the proposed development would have an impact on both external and internal amenity.

The EPT has had experience of dealing with the wind farm at Higher Darracott and the noise nuisance associated with it. As the proposed development is closer to the wind farm than existing properties, and the information submitted indicates that the noise levels would exceed the recommended noise limit, it must be concluded that the proposed development would be subject to adverse living conditions. It is only the existing dwellings that are protected by the planning condition attached to the wind farm consent.

Having regard for the above, it is considered that the existing wind farm would have a detrimental impact on the living conditions of the proposed dwelling contrary to Policy DM01 of the NDTLP.

#### 5. Flooding and drainage:

The site is not within an Environment Agency flood zone and/or Critical Drainage Area. There are no known surface water issues. Percolation tests results have been provided by the Applicant.

Having reviewed the latest application 1/0366/2024/FUL, the EPT has noted the foul drainage assessment form (FDA) is as that which was originally submitted on the 3rd of July 2023 along with the percolation tests carried out by GW Architects limited. There has been no photo evidence submitted to substantiate the percolation tests and the intervals at which they were tested. However, it was confirmed by the EPT on 21<sup>st</sup> June 2024 that the foul drainage scheme is acceptable and no further information is required.

#### 6. 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 NDTLP 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.

A Wildlife Trigger List was submitted which indicated that there was to be works to the roof which triggered the need for an Ecology Report. An updated bat and nesting birds survey by Penpont Ecology was submitted on 30<sup>th</sup> May in support of the application.

It was concluded that roosting bats were absent from the building, and these species shall not provide a constraint to the proposed works being undertaken.

Evidence of swallows and sparrows nesting within the barn was found and it was recommended that works should commence outside of the bird nesting season which occurs between 1 March and 15 September. Works that have been started may continue into the bird nesting season provided they are sufficiently advanced by 1<sup>st</sup> March to deter returning pairs.

For enhancement it is recommended that continued provision for nesting swallows by incorporating deep overhangs at the eaves. Continued provision for nesting sparrows can be achieved by the incorporation of integrated nesting terrace boxes. These have been added to the approved plans. Provision for crevice type roosting bats has included retaining small gaps measuring 15-20mm width x 70mm length under fascias, timber cladding, barge boarding and/or at ridge tiles where a small section of pointing is missed and retaining "blind" holes in masonry.

The application was submitted with the Biodiversity Net Gain small sites metric but over the course of the application due to the querying of the proposed methods to achieve the biodiversity net gain it was amended to state that the dwelling would be a custom/self-build property. Any development on the site would need to be conditioned to ensure it is completed as such.

It is therefore considered that the proposal is in line with Policies ST14 and DM08 of the NDTLP.

#### Conclusion:

The principle of development is accepted as being in accordance with NDTLP Policy DM27, and technical requirements of design, highways, drainage, and ecology are satisfied. However, as stated above, the proposal conflicts with Policy DM01 of the NDTLP due to the adverse amenity impact on future occupiers arising from the sites proximity to the Higher Darracott Wind Farm. The conflict with Policy DM01 is considered to be such so as to direct that the application should be refused.

#### Human rights

Consideration has been given to the Human Rights Act 1998.

#### Recommendation

REFUSE for the following reasons:

- 1 The information submitted with this application has been assessed by the Council's Environmental Protection Team as not meeting the standards required for living areas of residential properties. Given this objection, it is considered that the amenities of the intended occupants of the proposed dwelling would be harmed as a result of the existing Higher Darracott Wind Farm meaning the proposed development is contrary to Policy DM01 of the North Devon and Torridge Local Plan.



## Plans Schedule

Reference	Received
0559-01	18.04.2024
0559-02	18.04.2024
0559-03 A	14.05.2024

## Statement of Engagement

The National Planning Policy Framework (Paragraph 38) requires local planning authorities to work positively and proactively with applicants to achieve sustainable development. Throughout the application process guidance has been given to the applicants and all outstanding issues have been identified. The Council has therefore demonstrated a positive and proactive manner in seeking solutions to problems arising in relation to the planning application.