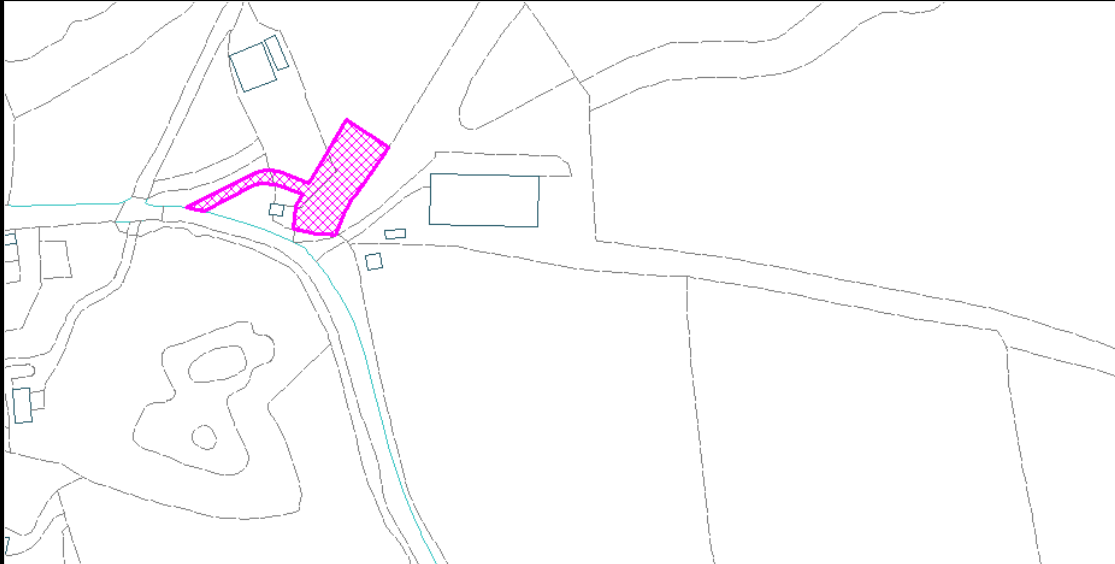


## Committee Report – 03.10.2024

<b>Application Number:</b>	1/0661/2024/FUL
<b>Registration date:</b>	30 July 2024
<b>Expiry date:</b>	24 September 2024
<b>Applicant:</b>	Mr John Read
<b>Agent:</b>	Mr Ian Robertson
<b>Case Officer:</b>	Mr Peter Stapley
<b>Site Address:</b>	Land At Higher Ashmansworthy, Woolsery, Bideford, Devon, EX39 5RE.
<b>Proposal:</b>	Construction of 1 no. dwelling (Self build)
<b>Recommendation:</b>	Refuse



## Reason for referral:

The application was called in to be heard at Plans Committee by Councillor James in his capacity as Leader if the application was to be Refused for the following reasons:

- Supporting the Local Economy, providing essential breakdown and maintenance services in the area.
- Retaining young people in the Rural Area providing that service.

## Relevant History:

Application No.	Description	Status	Closed
1/0666/2023/FUL	Construction of 1 no. dwelling	WDN	31.10.2023
1/1130/2023/CPE	Certificate of existing lawful use and building works for erection of building and use of land for storage, repair and servicing of agricultural vehicles and machinery	REF	17.01.2024
1/0281/2024/CPE	Certificate of existing lawful use and building works for erection of building and use of land for storage, repair and servicing of agricultural vehicles and machinery (Resubmission of 1/1130/2023/CPE)	PER	15.05.2024

## Site Description & Proposal

### Site Description

The application site is located in the countryside, approximately 100 metres to the northeast of the hamlet, known as Ashmansworthy, and 2.6km to the southeast of the development boundary of Woolfardisworthy [Woolsery], which is designated as a 'Village' in the adopted North Devon and Torridge Local Plan (NDTLP).

The application site measures approximately 460 square metres within a wider 0.83 hectares. The supporting documentation states that the wider site currently is used as a workshop and yard, providing a transportation and repair service for agricultural machinery. The commercial use of the site and the erection of the workshop building, benefit from a Certificate of Existing Lawful Use and Development. However, a mobile home is situated to the north of the workshop building which currently does not benefit from any planning permission or lawful certificate, and therefore is unauthorised.

The site does not fall within any other allocated land designation; however, Ashmansworthy's Special Area of Conservation and Site of Special Scientific Interest is located approximately 200 metres to the south. Additionally, there are no designated heritage assets within close proximity.

The landscape character type for the application site is 1F (Farmed Lowland Moorland and Culm Grassland) and 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 consider a low probability of flooding.

The application site is neighboured by agricultural land to the north; a forestry storage building to the east; the highway to the south; and the workshop and yard to the west. The closest neighbouring residential property to the site is located 106 metres to the northwest and the site is currently accessed from the public, unclassified highway via an existing access track to the southwest of the site.

### **Proposed Development**

The application seeks full planning permission for the erection of a single storey, three-bedroom, residential dwelling measuring approximately 138.5 square metres. The proposed dwelling will measure approximately 8.5 metres in width by 16.3 metres in length, with an eaves height of 3.4 metres and a ridge height of 5.1 metres. The dwelling is not being proposed to be restricted in terms of occupation, for example to a rural worker or local needs, and consequently it has been advertised as a departure from the North Devon and Torridge Local Plan (NDTLP).

The proposed building will be constructed with the following materials: natural stone plinth to a height of 600mm from finished ground floor level with rendered blockwork above; slate roof tiles; uPVC windows in Chartwell Green; and uPVC doors in Chartwell Green.

The wider site includes the provision of two vehicle parking spaces to the front of the property; private amenity space to the north of the dwelling; a proposed package treatment foul water drainage system; a surface water soakaway; and a rainwater harvesting tank.

### **Consultee representations:**

#### **Woolfardisworthy Parish Council:**

Woolery Parish Council wishes to respond with no objections, with support to a local family living and working in the area.

#### **South West Water:**

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.

I trust this provides confirmation of our requirements, however should you have any questions or queries, please contact the Planning Team on 01392 442836 or via email: [DeveloperServicesPlanning@southwestwater.co.uk](mailto:DeveloperServicesPlanning@southwestwater.co.uk).

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

Initial Representation (received: 31<sup>st</sup> July 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. Due to 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 the following condition:

Construction works and site deliveries shall be carried out Monday to Friday 0700 to 1900 hours and Saturdays 0800 to 1300 hours only with no works permitted on Sundays and Bank Holidays  
Reason: To protect neighbouring residential amenity

The application contains no detailed information on the historic use and subsequent land quality of the application site. Former 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.

#### Second Representation (received: 13<sup>th</sup> September 2024)

The Environmental Protection Team considered the dwelling to be ancillary to the existing business in its initial review. If this is not the case, then the Environmental Protection Team would raise concerns with regards the amenity impact arising from the adjacent business. Additional information regarding the business, in particular activities and operating times, would be required to assist in assessing any potential impact. Alternatively, if the proposed dwelling were to be ancillary to the business any concerns for amenity would be negated. Upon further review, it is noted that an agricultural building is located in close proximity to the east of the application site that appears to be outside the ownership of the applicant. Again, further information would be required on the building, such as ownership and use, as its presence has the potential to affect the residential amenity of the proposed dwelling.

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

Standing Advice.

#### **Representations:**

Number of neighbours consulted:	5	Number of letters of support:	2
Number of representations received:	2	Number of neutral representations:	0
Number of objection letters:	0		

The public representations received are summarised below:

#### Support Comment

- Business need; and
- Local need requirement.

#### **Policy Context:**

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

ST01 (Principles of Sustainable Development); ST03 (Adapting to Climate Change and Strengthening Resilience); ST04 (Improving the Quality of Development); ST06 (Spatial Development Strategy for Northern Devon's Strategic and Main Centres); ST07 (Spatial Development Strategy for Northern Devon's Rural Area); ST08 (Scale and Distribution of New Development in Northern Devon); ST10 (Transport Strategy); ST14 (Enhancing Environmental Assets); ST17 (A Balanced Local Housing Market); 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:**

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

## **Planning Considerations**

### **The material planning considerations in the determination of this application are:**

1. Principle of Development;
2. Design and Impact on Character and Appearance;
3. Impact on Amenity;
4. Access, Parking and Highway Safety;
5. Foul and Surface Water Drainage;
6. Impact on Wildlife and Ecology;
  - a. Ecological Impact;
  - b. Biodiversity Net Gain; and
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).

Paragraph 84 of the National Planning Policy Framework (NPPF) states that “*planning decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:*

- (a) *There is an essential need for a rural worker, including those taking majority control of farm business, to live permanently at or near their place of work in the countryside;*
- (b) *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;*
- (c) *The development would re-use redundant or disused buildings and enhance its immediate setting;*
- (d) *The development would involve the subdivision of an existing residential building; or*
- (e) *The design is of exceptional quality, in that it:*
  - *Is truly outstanding, reflecting the highest standards in architecture, and would help 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.”*

Policy ST01 of the NDTLP emphasises that development proposals will be considered with a presumption in favour of sustainable development, as contained in the NPPF.

The application site is located outside of the settlement boundary of Woolserly, as identified on the Proposals Maps to the NDTLP. The settlement boundary is located approximately 2.6 km to the northeast of the site and therefore in planning terms the site is considered to be located within countryside.

As a result of the application site being located outside of the settlement boundary, the provisions of section (4) of Policy ST07 of the NDTLP are relevant which states 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. The accompanying text to Policy ST07, in relation to section (4) notes that in the countryside, the NDTLP seeks to control dispersed development, guarding against development in unsustainable locations.

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 of the NDTLP 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 on 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.'*

Taking account of the above, it is clear that the proposed development would be contrary to Policies ST01 and ST07 insofar that it does not relate to an extant planning permission; is located within the countryside and not within a qualifying rural settlement or within any identified development boundary; and is not proposed to be restricted as rural worker's accommodation.

Consequently, the proposed development conflicts with the development plan as a whole, which is the starting point for decision making. More specifically the proposed open market dwelling is contrary to Policies ST01, ST07 and DM24 of the NDTLP and the NPPF.

Notwithstanding the above, during the lifetime of the application, the applicant has provided further additional information to demonstrate an essential need. The essential need identified by the applicant is for a *rural worker dwelling* in association with the transportation and repair services for agricultural machinery enterprise located on the wider site.

It is your Officers view that, a Rural Workers Dwelling cannot be considered at this time, given the proposed development which was originally submitted for was an open market dwelling and a rural worker dwelling would be assessed against alternative policies, therefore a new application would be required. The applicant has been made aware that an alternative application would be required in order to consider a Rural Workers Dwelling.

In any case, it is your Officer view, based on the further information provided, that a rural worker dwelling would not be justified as a functional requirement for the site; nor would it meet the financial or design tests of a Rural Worker Dwelling. Consequently, the principle of development on the application site for rural workers dwelling, could not be supported and would be contrary to Policies ST01, ST06, ST07, ST08, DM24 and DM28 of the NDTLP and the NPPF.

## **2. Design and Impact on Character and Appearance**

The NDTLP policies on design are relevant - Policy ST04 (Improving the Quality of Development) and Policy DM04 (Design Principles), which both aim to achieve high quality, inclusive and sustainable design.

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 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.

Policy DM08A seeks to protect the landscape and seascape character stating 'developments should be of an appropriate scale, mass and design that recognises and respects landscape character of both designated and undesignated landscapes and seascapes; it should avoid adverse landscape and seascape impacts and seek to enhance the landscape and seascape assets wherever possible. Development must take into account and respect the sensitivity and capacity of the landscape/seascape asset, considering the cumulative impact and the objective to maintain dark skies and tranquillity in areas that are relatively undisturbed.'

The application site is not located within any special designated landscapes and falls, within Landscape Type 1F (Farmed Lowland Moorland and Culm Grassland) as identified within the Joint Landscape Character Assessment for North Devon and Torridge Districts.

The special qualities and characteristics of landscape type 1F, include, a gently undulating landform with open long views afforded at elevation over the landscape of contrasting green fields of surrounding farmland. The landscape character has a sense of remoteness with high levels of tranquillity and dark skies, particularly in the southern part of the area. Some of the forces for change within these landscape character types are:

- Urban fringe influences on the landscape in some areas, e.g. golf clubs, fisheries and pony paddocks as well as occasional fly-tipping near settlements;
- Renewable energy developments becoming more common in the landscape; and
- Tourism pressure in some parts of the landscape resulting in seasonally high levels of traffic on rural lanes.

Policy ST14 of the NDTLP seeks to enhance the District's environmental assets, noting within section (g), the need to protect and enhance the local landscape character, taking into account the key characteristics, historical dimensions of the landscape and their sensitivity to change.

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

Paragraph 139 of the NPPF states that permission should be refused for the development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

The proposal is for the erection of a single storey, three-bedroom, residential dwelling measuring approximately 138.5 square metres. The proposed dwelling will measure approximately 8.5 metres in width by 16.3 metres in length, with an eaves height of 3.4 metres and a ridge height of 5.1 metres.

The proposed building will be constructed with the following materials: natural stone plinth to a height of 600mm from finished ground floor level with rendered blockwork above; slate roof tiles; uPVC windows in Chartwell Green; and uPVC doors in Chartwell Green.

It is clear the proposed dwelling would have a limited wider landscape impact, given its siting within close proximity to the existing workshop building and is well-screened from distant views by the well-established vegetated boundaries.

The design is relatively simple and would be appropriate for its countryside location and there would be limited wider landscape harm from the erection of a dwelling in this location. The proposed development for an open market dwelling would be in accordance with Policies ST04, DM04, and DM08A of the North Devon and Torridge Local Plan and the National Planning Policy Framework.

### **3. Impact on 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 existing or allocated uses.*

Policy DM02 of the NDTLP, states that development will only be supported where it does not result in unacceptable impacts to:

- (a) Atmospheric pollution by gas or particulates, including smell, fumes, dust, grit, smoke and soot;
- (b) Pollution of surface or ground water including rivers, canals, other watercourses, water bodies, wetlands, water gathering grounds including catchment areas, aquifers, groundwater protection areas, harbours, estuaries or the sea;
- (c) Noise or vibration; and
- (d) Light pollution where light overflows on to areas not intended to be lit.

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 of all existing and future occupants of land and buildings.

Part H1 of the National Design Guide states that '*good design promotes quality of life for the occupant and users of buildings. This includes function [...] comfort, safety, security, amenity, privacy, accessibility and adaptability.*'

The application site is neighboured by agricultural land to the north; a forestry storage building to the east; the highway to the south; and the workshop and yard to the west. The closest neighbouring residential property to the site is located approximately 106 metres to the northwest.

The Environmental Protection Officer was consulted on the proposed development and commented "*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. Due to 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 the following condition:*

*Construction works and site deliveries shall be carried out Monday to Friday 0700 to 1900 hours and Saturdays 0800 to 1300 hours only with no works permitted on Sundays and Bank Holidays*  
*Reason: To protect neighbouring residential amenity*

*The application contains no detailed information on the historic use and subsequent land quality of the application site. Former 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 Environmental Health Officer provided further comments and stated "*The Environmental Protection Team considered the dwelling to be ancillary to the existing business in its initial review. If this is not the case then the Environmental Protection Team would raise concerns with regards the amenity impact arising from the adjacent business. Additional information regarding the business, in particular activities and operating times, would be required to assist in assessing any potential impact. Alternatively, if the proposed dwelling were to be ancillary to the business any concerns for amenity would be negated. Upon further review, it is noted that an agricultural building is located in close proximity to the east of the application site that appears to be outside the ownership of the applicant. Again, further information would be required on the building, such as ownership and use, as its presence has the potential to affect the residential amenity of the proposed dwelling."*

The scale, design and nature of the proposed development are such that there would be no significant adverse impact on the amenities of occupiers of nearby dwellings in terms of overlooking, loss of privacy, dominance, overshadowing, and loss of daylight or sunlight. The building located to the east is a forestry implement storage building and therefore would have limited harm to the amenities of the occupants.

In the opinion of the LPA, the proposed development is for an open market dwelling and for a rural worker dwelling to be considered a further application would be required. Consequently, the LPA would raise serious concerns with regards to the impact on the amenities of the occupants of any unrestricted dwelling arising from the transportation and agricultural machinery repair enterprise located immediately to the west of the site. The proposed open market dwelling would conflict with Policies DM01, DM02 and DM04 of the North Devon and Torridge Local Plan and the National Planning Policy Framework.

#### **4. Access, Parking and Highway Safety**

Paragraph 115 of the NPPF advises that development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highways safety, or the residual cumulative impacts on the road network would be severe. In addition, Paragraph 116 notes that development should minimise the scope for conflict between pedestrians, cyclists and vehicles, respond to local character and design standards, allow for the efficient delivery of goods, and access by service and emergency vehicles.

Policy ST10 of the NDTLP, sets out the transport strategy for Northern Devon. It aims to reduce the environmental and social impact of transport by ensuring that access to new developments is safe and appropriate.

Policy DM05 of the NDTLP relates to highways and states:

- (1) All development must ensure the 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.*
- (2) All development shall protect and enhance 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.*

In addition to this, Policy DM06 of the NDTLP relates to parking provision and states:

- (1) Development proposals will be expected to provide an appropriate scale and range of parking provision to meet anticipated needs, having regard to:
  - (a) Accessibility and sustainability of the site;*
  - (b) Availability of public transport;**

- (c) Provisions of safe walking and cycle routes; and
  - (d) Specific sale, type and mix of development.
- (2) Proposals must encourage the use of sustainable modes of transport through careful design, layout and integration of the existing built form.

Devon County Council Highways, as the Local Highways Authority, were consulted and had no objections, subject to the standing advice being met.

The application site utilises an existing access, currently used by the business under the same ownership. There is currently no evidence to suggest that the existing access is unsuitable or unsafe and the proposed development would not significantly increase the traffic volume to the site. Additionally, the proposed site plan demonstrates that there is sufficient vehicle parking for the proposed dwelling.

Consequently, the Local Planning Authority is reasonably confident that the proposed development would not result in a severe cumulative impact on highway safety and is in accordance with policies ST10, DM05 and DM06 of the NDTLP and the NPPF.

### **5. Foul and Surface Water Drainage**

Policy ST03(f) (Adapting to Climate Change and Strengthening Resilience) states that future development should be designed and constructed to take account of the impacts of climate change and minimise the risk to and vulnerability of people, land and property by adopting effective water management including Sustainable Drainage Systems, water quality improvements, water efficiency measures and 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 Local Plan relates to pollution and at Section (2) states that development will be supported where it does not result in unacceptable impacts to:

*'(b) pollution of surface or ground water (fresh and salt) including rivers, canals, other watercourses, water bodies, wetlands, water gathering grounds including catchment areas, aquifers, groundwater protection areas, harbours, estuaries or the sea'*

In addition, part (n) of Policy DM04 notes that development proposals should provide effective water management including Sustainable Drainage Systems, water efficiency measures and the reuse of rainwater.

The NPPF and Planning Practice Guidance provide further advice on foul drainage, with a hierarchical approach being used. The Planning Practice Guidance notes that new development should aim to discharge foul water into the public sewer; however, if this not possible then a package treatment plant may be used. However, 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.

The application site is located within Flood Zone 1 (low probability) and therefore is considered to having a less than 1 in 1,000 annual probability of river or sea flooding. The proposed site plan demonstrates that the surface water is to be dealt with via soakaways and a rainwater harvesting tank and the foul drainage will be connected to a package treatment plant, discharging to a drainage field.

The Councils Environmental Protection Team were consulted on the proposed development and commented *"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."*

Taking account the above, the proposed development is considered to be in accordance with Policies ST03, DM02 and DM04 of the NDTLP.

## **6. Impact on Wildlife and Ecology**

### **a. Ecological Impact**

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 NDTLP through Policies DM08 and ST14 which state that all developments must ensure that the importance of habitats and designated sites are taken into account.

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.

Given the result of the Wildlife Trigger List, the Council are confident that the proposal will have no harmful impact on wildlife and ecology and the proposal fulfils the above statutory duties and the provision of policies DM08 and ST14 and the requirements of the NPPF.

### **b. Biodiversity Net Gain**

As of the 02<sup>nd</sup> April 2024, it is mandatory under the Schedule 7a of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) that small-sites developments (unless exempt) must deliver a Biodiversity Net Gain of 10%.

The Permission which has been granted is for development, which is exempt from the requirements set out within Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 [Biodiversity Net Gain] being a:

- Self and Custom Build Development, meaning development which:
  - (i) consists of no more than 9 dwellings;
  - (ii) is carried out on a site which has an area no larger than 0.5 hectares; and
  - (iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

Section 1 (A1) of the Self-build and Custom Housebuilding Act 2015 defines self-build development as “*the building or completion by:*

- (a) individuals,*
- (b) associations of individuals, or*
- (c) persons working with or for individuals or associations of individuals,*

*of houses to be occupied as homes (an individual’s sole or main residence) by those individuals.”*

Government Planning Guidance also acknowledges that in order for a development to be considered a self-build there is an expectation that the individual must have a primary input into the final design and layout of the house.

The applicant has confirmed that they meet the definition of a self-build development. Consequently, the proposed development, in accordance with the recommended condition, is exempt from the so-called Biodiversity Net Gain requirement, as set out by Schedule 7a of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).

## **7. Conclusion**

For the avoidance of doubt, your officer concludes that the proposed development would result in a form of unsustainable development involving unrestricted residential development within the countryside. The proposed development is contrary to Policies ST01 (Principles of Sustainable Development), ST06 (Spatial Development Strategy for Northern Devon's Sub-regional, Strategic and Main Centres), ST07 (Spatial Development Strategy for Northern Devon's Rural Area) of the North Devon and Torridge Local Plan and the principles of the National Planning Policy Framework.

Furthermore, in the opinion of the Local Planning Authority, the location of the proposed open market dwelling in close proximity to the transportation and agricultural machinery repair business could significantly harm the amenities of any future occupiers of the dwelling. The proposed development is contrary to Policies DM01 (Amenity Considerations), DM02 (Environmental Protection) and DM04 (Design Principles) of the North Devon and Torridge Local Plan and the National Planning Policy Framework.

The information submitted with regards to the Rural Worker Dwelling is acknowledged; however, at this time this cannot be considered as the application before the Council is advertised as an Open Market dwelling. Any future application will be considered on its own merits, albeit, the evidence presented to date would not demonstrate an essential need for a worker on site.

Notwithstanding the above, your Officer recognises that there could be an economic benefit from the increased output of the business and social benefits specifically to the Applicant from increasing their ability to work and reside on the same site, minimising their outgoings and time spent commuting.

It is therefore recommended the application is refused.

## **Human rights**

Consideration has been given to the Human Rights Act 1998.

## **Recommendation**

REFUSE, for the following reasons:

- 1 In the opinion of the Local Planning Authority, the proposed development would result in a form of unsustainable development involving unrestricted residential development within the countryside. The proposed development is contrary to Policy ST01 (Principles of Sustainable Development), ST06 (Spatial Development Strategy for Northern Devon's Sub-regional, Strategic and Main Centres), and ST07 (Spatial Development Strategy for Northern Devon's Rural Area) of the North Devon and Torridge Local Plan and the principles of the National Planning Policy Framework.
- 2 In the opinion of the Local Planning Authority, the location of the proposed open market dwelling in close proximity to the transportation and agricultural machinery repair business could significantly harm the amenities of any future occupiers of the dwelling. The proposed development is contrary to Policies DM01 (Amenity Considerations), DM02 (Environmental Protection) and DM04 (Design Principles) of the North Devon and Torridge Local Plan and the National Planning Policy Framework.

## **Plans Schedule**

<u>Reference</u>	<u>Received</u>
LOCATION PLAN	19.07.2024
PROPOSED ELEVATIONS	19.07.2024
PROPOSED FLOOR PLAN	19.07.2024
PROPOSED SECTIONS & SE	19.07.2024

ELEVATIONS	
PROPOSED SITE PLAN	19.07.2024
PROPOSED WASTE STORAGE	19.07.2024

### **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.