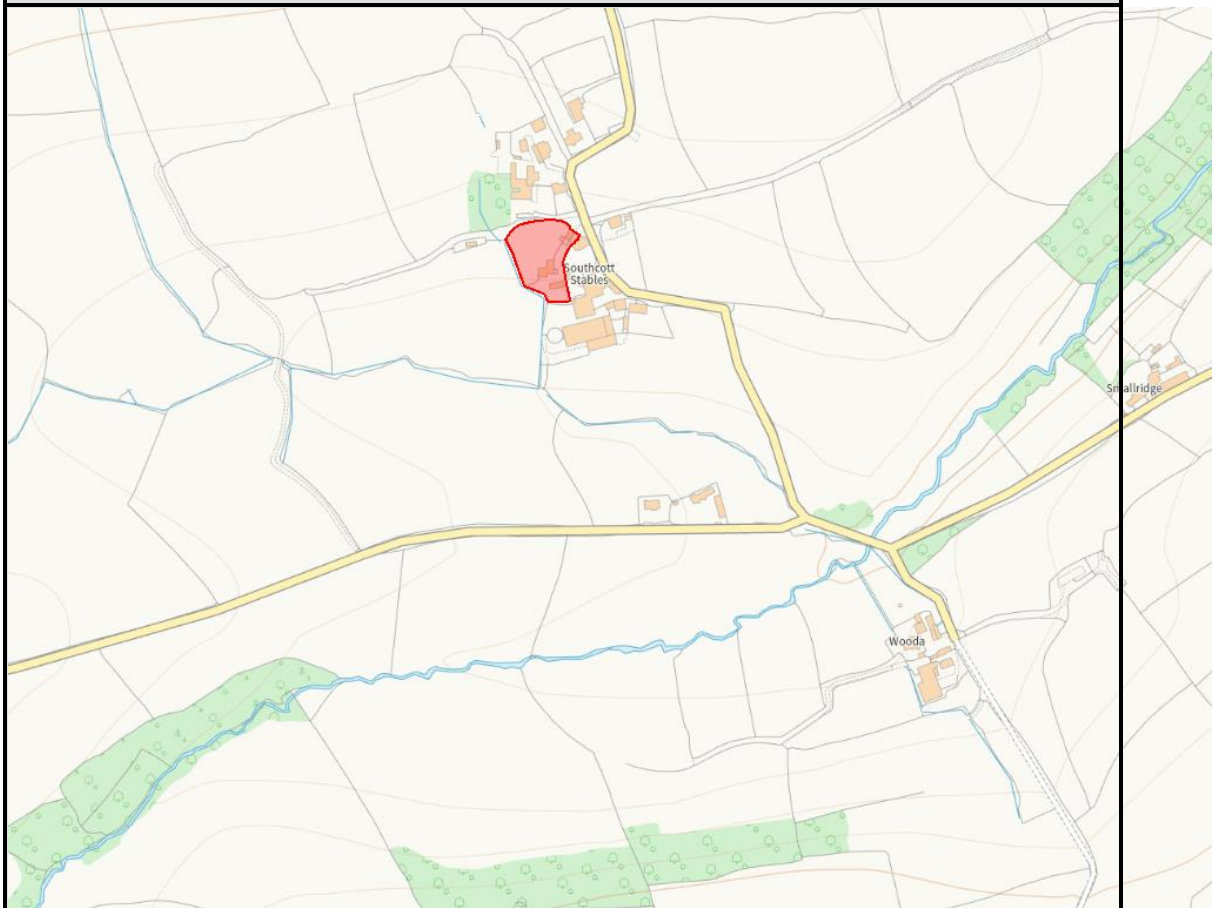


Committee Report – 16.01.2025

Application Number:	1/0917/2024/TDC
Registration date:	23 October 2024
Expiry date:	28 November 2024
Applicant:	Mr Austin Connor
Agent:	Mr Oliver Mathers
Case Officer:	Mr Peter Stapley
Site Address:	Barns At Southcott, Frithelstock, Devon,
Proposal:	Application for approval of technical details for conversion of existing barn to 1no. dwelling and associated works following grant of permission in principle 1/0109/2022/PIP
Recommendation:	Refuse



Reason for referral:

The application was called-in to be heard at Plans Committee by Councillor Pennington, if the application is to be refused, for the following reasons:

- *'Amongst other consideration DM27 stands out as good use of a redundant rural building.'*

Relevant History:

Application No.	Description	Status	Closed
1/1024/2019/AGMB	Prior notification for the change of use of agricultural building to 1no. dwelling under Class Q and associated operational development	PER	20.12.2019
1/0024/2022/OUT	Outline application for the conversion of two redundant rural buildings to create two separate dwellings with all matters reserved.	NPW	18.01.2022
1/0109/2022/PIP	Conversion of existing barns to No.2 dwellings and associated works	PER	09.03.2022
1/0381/2024/TDC	Application for approval of technical details for conversion of existing barns to 2no. dwellings and associated works following grant of permission in principle 1/0109/2022/PIP	INVAL	24.05.2024
1/0580/2024/TDC	Application for approval of technical details for conversion of existing barns to 2no. dwellings and associated works following grant of permission in principle 1/0109/2022/PIP	REF	22.08.2024
1/0024/2022/OUT	Outline application for the conversion of two redundant rural buildings to create two separate dwellings with all matters reserved.	NPW	18.01.2022
1/0109/2022/PIP	Conversion of existing barns to No.2 dwellings and associated works	PER	09.03.2022
1/0381/2024/TDC	Application for approval of technical details for conversion of existing barns to 2no. dwellings and associated works following	INVAL	24.05.2024

1/0580/2024/TDC	grant of permission in principle 1/0109/2022/PIP Application for approval of technical details for conversion of existing barns to 2no. dwellings and associated works following grant of permission in principle 1/0109/2022/PIP	REF	22.08.2024
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Site Description & Proposal

Site Description

The application site measures approximately 0.35 hectares and is located within the open countryside and is approximately 930 metres to the north of Langtree, which is designated as a 'Village' within the adopted North Devon and Torridge Local Plan (NDTLP).

The application site does not fall within any allocated land designation and the Landscape Character Type for the application site is 3A (Upper Farmed and Wooded Valley Slopes) and Devon Character Area 65 (West Torridge Upland Farmland). There are no designated heritage assets or scheduled monuments within close proximity; the site is not located within a SSSI; 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 considered a low probability of flooding.

The application site is neighboured by a private track to the north; residential properties to the east; agricultural land/buildings to the south; and agricultural fields to the west. The site is accessed from the public, unclassified (Class R), highway located to the northeast of the site.

The site currently consists of two rural buildings used in association with the neighbouring residential dwellinghouse. Barn A is located to the south of the site, and is single-storey, measuring approximately 13 metres in length by 5 metres in depth, with an eaves height of 2.7 metres and ridge height of 4.25 metres. The building is constructed from traditional local stone and cob detailing, however, there is evidence of block work repairs throughout the building. The roof is constructed with timber trusses with a corrugated metal sheet covering. The barn is currently used for storage.

Barn B is located to the north of the site, and is single-storey measuring approximately 16.3 metres in length by 14.1 metres in depth, with an eaves height of 4.1 metres and ridge height of 7.1 metres. The building is constructed from traditional local stone, however, there is evidence of block work repairs throughout the building. The roof is constructed with timber trusses with a corrugated metal sheet covering. The barn is currently used for storage and as a gym/games room.

The site benefits from Permission In Principle (reference: 1/0109/2022/PIP) for the '*Conversion of existing barns to No.2 dwellings and associated works.*' The proposal involved the conversion of the existing redundant barns to two, independent, residential dwellings. The permission in principle application considered the location, use and amount, with all remaining matters reserved for technical consent stage.

Permission in Principle was granted on the 09th March 2022. The default duration for such permissions are 3 years, and therefore work must commence prior to 09th March 2025. The permission is, therefore, considered to be extant.

Proposed Development

The application seeks Technical Consent for the conversion of Barn B to a single residential dwelling (Use Class C3), with associated works.

Barn B is located within the centre of the site, and will consist of a two-storey, three-bedroom, dwellinghouse measuring approximately 16.3 metres in length by 14.1 metres in depth, with an eaves height of 4.1 metres and ridge height of 7.1 metres. The dwelling will have a gross internal floor area measuring approximately 163 square metres.

Barn B will be constructed with the following materials: natural stone elevations; natural slate roof tiles; and timber windows and doors.

The proposed development includes the creation of a new access drive and parking; landscaping and biodiversity enhancements; and Surface Water Soakaways.

Consultee representations:

Frithelstock Parish Council:

No representation received.

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.

Devon County Council (Highways):

Standing advice.

Environmental Protection Officer:

The following consultation response is provided by the Environmental Protection Team in relation to the above application.

Having regard for the close proximity of the farmstead to the south of the application site, the Environmental Protection Team has concerns with regards the potential amenity impact. The neighbouring farmstead appears to consist of agricultural livestock buildings which have the potential to adversely impact residential amenity from the associated noise, odour and fly nuisance. Subsequently, the Environmental Protection Team considers the proposed development to be contrary to Policy DM01.

The application contains no detailed information on the historic use and subsequent land quality of the application site. Agricultural use and activity can result in ground contamination and ground conditions that are potentially harmful to human health or unsuitable for occupation without remediation. Given the sensitive end use, it is essential that the application site is appropriately assessed for any potential contamination that may impact future occupants and, where identified, remediated

accordingly. Should planning consent be granted, the Environmental Protection Team recommends the imposition of the Authority's full standard contaminated land condition.

The proposed development is to be served by an existing septic tank discharging to a drainage field. No information has been provided to indicate that the existing foul drainage provision has sufficient capacity to accommodate the additional loading arising from the proposed development. The applicant should provide additional information that satisfies the Authority that a suitable and sufficient foul drainage provision will serve the proposed development.

Representations:

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

No public representations received.

Policy Context:

North Devon and Torridge Local Plan 2011-2031:

ST01 (Principles of Sustainable Development); ST02 (Mitigating Climate Change); 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); 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); DM27 (Re-use of Rural Buildings).

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 which are relevant in the determination of this application are:

1. Principle of Development;
2. Impact on Character and Appearance;
3. Impact on Amenity;
4. Access, Parking and Highways;
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 North Devon and Torridge Local Plan (NDTLP) emphasises that development proposals will be considered with a presumption in favour of sustainable development, as contained in the NPPF.

As a result of the application site being located in the open countryside, the provisions of section (4) of Policy ST07 of the Local Plan 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 Local Plan seeks to control dispersed development, guarding against development in unsustainable locations.

Notwithstanding the above, the site benefits from an extant Permission in Principle application (reference: 1/0109/2022/PIP) for the ‘*Conversion of existing barns to No.2 dwellings and associated works.*’ and thus the principle of the conversion of the barns to two dwellings has been established on the application site. Permission in principle considerations are restricted to location, land use and amount of development, consequently, the principle of development for one residential dwelling is not for consideration within this Technical Consent (Stage 2) application as this was established at the previous stage.

2. Impact on Character and Appearance

The Local Plan 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 states development 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 where possible.

Policy DM27 offers broad planning policy support for the conversion of redundant and disused rural buildings as long as it meets the following criteria:

- (a) *Such a 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 rural 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 support the proposed use(s); and*
- (e) *Any nature conservation interest within the building or wider site is retained*

The Councils 'Frequently Ask Questions' documents, gives guidance on the interpretation of the policies within the Local Plan. With respect to whether the building is 'disused or redundant' the FAQ statement states "*the terms disused and redundant are not defined within the local plan nor in planning legislation, national planning policy or guidance. As such, ordinary dictionary definitions will be utilised as the starting point:*

Disused - "*the condition of not being used (any longer)*"

Redundant – "*unnecessary because it is more than is needed*"

Consideration of whether the building is disused or redundant is a matter for the decision-taker. Applicants should however provide sufficient information as part of the application to enable the decision-taker to establish whether the building can be reasonably considered to be disused or redundant. This information should clearly explain the circumstances as to why the building is no longer required for the intended purpose.

Where the building is, or was formally, in a use that is subject to specific protections or restrictions to changes to alternative uses through the provisions of other development plan policies, the relevant provisions of those policies will be applicable in determining an application. For example Policy DM13: Safeguarding Employment Land may require that, for a building that has been in any form of employment use, it can be demonstrated through appropriate marketing that the site no longer provides a realistic prospect for employment uses and that a sequential test is applied to ensure an employment first approach to redevelopment."

The Councils 'Frequently Ask Questions' documents, gives guidance on the interpretation of the policies within the Local Plan. With respect to what constitutes 'significant external alteration' or 'substantive rebuilding' the FAQ statement states "*The local plan does not define the terms significant external alteration or substantive rebuilding, nor are they defined in national planning policy or relevant legislation. In lieu of a planning definition, ordinary dictionary definitions of significant and substantive can provide a useful the starting point for the application of the policy provisions:*

Significant – "*important, notable, or momentous*"

Substantive – "*of considerable amount or quantity; substantial*"

The application of the policy provisions will require judgement and pragmatic application by the decision taker.

As a yardstick, the replacement of a large part of an external wall, the replacement of the majority or entirety of the roof structure and/ or covering, would normally be taken by the local planning authority as constituting substantive rebuilding. Equally, the replacement of more modest elements, in combination, could also collectively be determined to be substantive.

Similarly, the filling in an otherwise open elevation, changes to the external facing materials across one or more elevations or the creation of a substantial number of new openings, could all be construed individually as being significant external alterations. More modest alterations, in combination and read together, could also collectively be taken to be significant."

Policy ST14 of the Local Plan seeks to enhance the District's environmental assets, noting at 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, beautiful and sustainable 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.

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.

As a starting point, the Design and Access Statement states that both barns are currently used for purposes incidental to the enjoyment of the dwellinghouse, despite both being considered outside of any identified residential curtilage. The DAS sets out that Barn B is currently used partially for storage and a personal gym/games room. The Case Officer confirmed during their site visit that the barn is largely redundant, albeit part of the barn has been converted to form a gym/games rooms. Nonetheless, it is accepted that the barn is primarily redundant and would benefit from the provisions of Policy DM27.

A Structural Inspection Report was carried out by Gilham Consulting Ltd and submitted for consideration, received 26th June 2024. The Structural Report relates to both barns and concludes that the barns "*demonstrate adequate overall stability*" and that "*The work proposed does not seek to extend the existing buildings. Nor does it involve significant external alteration or rebuilding.*"

It is noted, that Barn A is to be retained as existing and does not form part of this application. The detailed consideration relating to individual Barn B is set out below:

Barn B

Walls:

Whilst the load upon the existing walls will be increased due to the new roof and floor the increase has been estimated to be no more than 16% with a resultant unfactored bearing pressure of 95 kN/m². This is believed to be within the capacity of the natural ground underlying the site.

Floor:

In the same way as discussed with Barn A above, the ground is capable of re-use supporting a new ground floor slab incorporating insulation. Where insulation is required to the existing walls it may be contained in timber studs built against them supported on the ground floor slab. The studs may also be used to support the floor joists.

Roof:

The roof proposed is slated and incorporates dormers on the front pitch. It appears that the dormers occupy that same plan position as the trusses. The trusses will need to be removed. The new roof structure can be formed as a structural ridge, spanning between gables, with intermediate support offered by the internal first floor partitions. New rafters and the dormers can span between the flank walls and ridge.

The structural survey is stated to be based on a visual inspection only, with no intrusive investigations undertaken. From the Case Officers observations, Barn B would appear to be structurally sound as detailed within the Structural Engineers Report, albeit it is evident that large parts of the barn original structure have more recently been rebuilt and would appear to have been increase in overall ridge height, with large areas of modern blockwork forming the elevations, new roof trusses, and new roofing.

Notwithstanding the above, the proposed development includes the conversion of the existing barn to form a single residential dwellinghouse. The proposed drawings demonstrate that the conversion includes a number of design alterations, including alterations to the roof materials; provision of a first-floor storey on Barn B with rooflights.

It is acknowledged that the FAQ state that, *the replacement of the majority or entirety of the roof structure and/ or covering, would normally be taken by the local planning authority as constituting substantive rebuilding.* Nonetheless, it is evident that the existing roof materials are relatively new and are in good condition, as confirmed by the Structural Survey, and therefore could be reused if necessary. The proposed replacement materials would offer a higher quality design finish and would improve the overall design, retaining the agricultural character of the building. On this basis, the proposed replacement materials are considered to be acceptable.

In addition to the above, the proposed development would largely retain the agricultural character of the building and the application site is largely screened from distant landscape views and the site would be seen in the existing context of the built form. Consequently, the proposed development would not harm the landscape character of the area and is in accordance with Policies ST04, ST14, DM04 and DM08A of the North Devon and Torridge Local Plan. Whilst there is a degree of conflict with Policy DM27 of the North Devon and Torridge Local Plan, overall, the level of alteration is a betterment in terms of design and is acceptable.

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 overspills on to areas not intended to be lit.

Policy DM04 also aims to ensure the amenities of existing and future neighbouring occupiers are safeguarded.

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. In particular, Paragraph 135 (f) states that development should *“create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”*

Paragraph 198 of the NPPF, states that *“Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.”*

Paragraph 200 of the NPPF states that *“Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.”*

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 Council Environmental Protection team were consulted during the application process and commented “Having regard for the close proximity of the farmstead to the south of the application site, the Environmental Protection Team has concerns with regards the potential amenity impact. The neighbouring farmstead appears to consist of agricultural livestock buildings which have the potential to adversely impact residential amenity from the associated noise, odour and fly nuisance. Subsequently, the Environmental Protection Team considers the proposed development to be contrary to Policy DM01.

The application contains no detailed information on the historic use and subsequent land quality of the application site. Agricultural use and activity can result in ground contamination and ground conditions that are potentially harmful to human health or unsuitable for occupation without remediation. Given the sensitive end use, it is essential that the application site is appropriately assessed for any potential contamination that may impact future occupants and, where identified, remediated accordingly. Should planning consent be granted, the Environmental Protection Team recommends the imposition of the Authority's full standard contaminated land condition.”

The closest third-party residential dwelling is located immediately to the east of the application site; however, the Council did not receive any public representations during public consultation. There is an existing high boundary wall along the eastern boundary, with vegetation above. This would provide adequate screening for the residential curtilage of the neighbouring property from Barn B. Consequently, the conversion of Barn B would not cause any significant loss of privacy to the neighbouring property, known as Southcott, from overlooking.

The extent of the curtilage for the dwelling is clearly defined on the site plan, reference: 002, with an area allocated to BNG to the south of the site. The curtilage would appear excessive in relation to the scale of the development; however, this has somewhat been accepted through the granting of the PIP.

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 or the intended occupants, in terms of overlooking; loss of privacy; dominance; overshadowing; and loss of daylight or sunlight.

Notwithstanding the above, the application site is located immediately to the north of an existing agricultural farmstead. The farmstead would appear to consist of agricultural buildings used for the accommodation of livestock; a slurry tank; and an agricultural yard. The larger agricultural building measures approximately 1,130 square metres and is located 18 metres from the boundary of site (curtilage) and 51 metres from Barn B. The smaller agricultural building measures approximately 280 square metres and is located 5 metres from the boundary of site (curtilage) and 33 metres from Barn B. The slurry tank is located approximately 20 metres from the boundary of the site and 48 metres from Barn B.

The agent, acting on behalf of the applicant, was made aware of the LPA's concerns regarding the impact on amenity and was invited to submit further information regarding the use of the agricultural buildings. One would have expected the applicant to provide technical evidence to address impacts relating to noise, odour, flies and lighting to demonstrate the effects of the adjoining agricultural use. Your Officer would have expected such evidence to be provided and for mitigation to be suggested to address any impacts there may be on living conditions. No further evidence has been provided for consideration and therefore your Officers cannot be certain that acceptable living conditions would be achieved at the application site.

Given the close proximity, and scale, of the third-party agricultural livestock buildings to the proposed dwelling, your Officer and the Environmental Protection Officer have significant concerns regarding potential impacts on the residential amenities of the intended occupants arising from odour, noise,

flies and lighting. No clear and robust evidence has been provided at this time, which would allay these concerns. Given the responsibilities of the Environmental Protection Team, from a statutory nuisance perspective, they are well-placed and experienced in the issues that arise from the proximity of such uses. The corollary of this is that were adverse effects to occur there could be unreasonable restrictions placed on the existing agricultural business in order to mitigate them. As indicated above, NPPF Paragraph 200 is clear that it is for the agent of change to ensure that suitable mitigation is in place before a development is completed. In the absence of any technical supporting information, the decision-taker cannot be certain that there would not be subsequent unreasonable restrictions placed on the agricultural unit. There is no requirement in the NPPF for it to be demonstrated that unreasonable restrictions would be placed on the existing agricultural business. The provision of mitigation falls within the remit of this technical details consent stage, and it is proportionate and rational to ensure that such mitigation would be effective against the potential harms.

What constitutes acceptable residential amenity and a significant adverse impact are matters of planning judgement and, in the absence of any technical evidence, it is considered that the proposed development has the potential to conflict with Policies DM01 and DM04 of the North Devon and Torridge Local Plan and the National Planning Policy Framework.

4. Access, Parking and Highways

Paragraph 116 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 117 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.*

Policy DM27 only supports the reuse of disused and redundant rural building where there is suitable highway access and the surrounding highway network can support the proposed use.

Devon County Council Highway, as the Local Highways Authority, were consulted on the proposed development and had no objections, subject to the Councils standing advice being met. The proposed development includes utilising the existing access to the northwest of the site, which connects to the public highway via the existing driveway. The proposal includes the provision of two parking spaces per dwelling.

It is noted that the proposed access is located approximately 13 metres from the public highway and the intervening parcel of land, is not within the applicant's ownership; albeit, the applicants do have an existing right of access over this land.

The proposed development is considered to provide sufficient parking and turning space within the site, and utilising the existing access. The volume of traffic attracted to the site as a result of the development would not significantly impact on highway safety. Consequently, the proposed development is considered to be in accordance with Policies ST10, DM05 and DM27 of the North Devon and Torridge Local Plan and Paragraph 116 and 117 of the National Planning Policy Framework.

5. Foul and Surface Water Drainage

Policy ST03 of the NDTLP notes that development should 'adopt effective water management including Sustainable Drainage Systems, water quality improvements, water efficiency measures and the use of rainwater'. In addition, Policy DM04 notes development should provide effective water management including Sustainable Drainage Systems, water efficiency measures and the reuse of rainwater.

Policy DM02 of the NDTLP requires that development must not result in unacceptable impacts in relation to pollution of surface or ground water, whilst Policy DM04 of the NDTLP establishes that water management must be addressed by development.

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 proposed foul water is to be dealt with via an existing septic tank, located along the western boundary of the site. The surface water drainage is to be dealt with via a soakaway, given the rural local of the application site and the extent of the land ownership, your Officer is confident that the surface water can be dealt with appropriately within the site.

The Environmental Protection Officer was consulted on the proposed development and commented *"The proposed development is to be served by an existing septic tank discharging to a drainage field. No information has been provided to indicate that the existing foul drainage provision has sufficient capacity to accommodate the additional loading arising from the proposed development. The applicant should provide additional information that satisfies the Authority that a suitable and sufficient foul drainage provision will serve the proposed development."*

It is noted that on a previous similar scheme (1/0580/2024/TDC) the Environmental Protection Officer commented that *"the proposed development is to be served by an existing septic tank discharging to a drainage field. No information has been provided to assess whether the existing provision has sufficient capacity to accommodate the additional loading arising from the proposed development. It is the responsibility of the applicant to ensure a suitable and adequate foul drainage provision."*

It is unclear as to why the Environmental Protection Officer has changed their position when the application is only five months apart and the proposal before them is a reduction in residential units on the site. Nonetheless, whilst the applicant is encourage to demonstrate the exiting septic tank had sufficient provision to accommodate the additional load, this would ultimately be a matter for at Building Regulation stage. At this time, it is clear that the applicant has sufficient land within the application site, should the drainage field need to be extended. Alternatively, if at a later stage it is considered that further provision is required, the applicant would be required to submit a further planning application.

In light of the above, the proposed development is considered acceptable and is in accordance with policies ST03, DM02 and DM04 of the North Devon and Torridge Local Plan. Notwithstanding this,

an informative would be attached on any permission identifying that it is the responsibility of the applicant to ensure there is suitable and adequate foul drainage provision within the existing system. Should any additional provision be required, this would need further planning permission.

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.

A Wildlife Trigger List was submitted as part of the application which indicated a further ecological impact assessment was required. A 'Final Ecological Appraisal Report' (reference: ORB_3055_OC) was carried out by Orbis Ecology and submitted to the Council for consideration, received 22nd October 2024. It is noted that the Ecology Report was prepared for a previous scheme for the conversion of the Barns to two residential dwelling and therefore makes references to works to Barn A. The scheme which is the subject of this application, is for works solely to Barn B with Barn A use being retained. For completeness and to provide context of the protected species present, the full consideration as detailed within the report is set below.

The Report sets out that the Ecologist [Oliver Chope], carried out a site walkover and concluded that the site is unlikely to provide suitable habitat for the following protected and priority species: Dormice; Otters; Great Crested Newts; Cirl Buntings; Barn Owls; Other Schedule 1 birds; Breeding birds; Reptiles; Native crayfish; Water voles; Badgers; and other protected species.

Nonetheless, the report concluded the following assessments, mitigation and enhancement measures, in relation to the following protected species:

Bats

The survey indicated that Barn A supports a summer day roost for the Common Pipistrelle bat. The loss of a summer day roost for an individual common pipistrelle bat is a site-level impact, as it is unlikely to be the only day roost used; and disturbance to bat activity from increased light levels within the site will be a site level impact, as the barns are set within open countryside with ample opportunities for undisturbed foraging close by.

For the proposed conversion of Barn A to proceed the applicant will require a European Protected Species Licence (issued by Natural England). This is because the proposed works will cause an offence under the current legislation.

Measures to avoid killing or injuring bats are required at any time of year. For Barn A work to the roof will be carried out under ecological supervision and any bats found moved out of harms way to a pre-erected bat box on a nearby tree.

Mitigation for the loss of the roost will be provided in the form of an external crevice bat box on the east gable end of Barn A. The recommended model is the Beaumaris Woodstone bat box Maxi or similar approved. A further cavity bat box is recommended on the south elevation of Barn B. The recommended model is the Vivara Pro Causa wooden maternity box or similar approved. This box is

suitable for all the species recorded on site, and given the high levels of common and soprano pipistrelle activity recorded it may attract a maternity colony of one or other of these species.

In addition to the above, Lighting design will follow the recommendations of the Institute of Lighting Professionals and the Bat Conservation Trust:

- All luminaires should lack UV elements when manufactured. Metal halide, compact fluorescent sources should not be used.
- LED luminaires should be used where possible due to their sharp cut-off, lower intensity, good colour rendition and dimming capability.
- A warm white light source (2700 Kelvin or lower) should be adopted to reduce blue light component.
- Light sources should feature peak wavelengths higher than 550nm to avoid the component of light most disturbing to bats (Stone, 2012).
- Internal luminaires can be recessed where installed in proximity to windows to reduce glare and light spill.
- Waymarking inground markers (low output with cowls or similar to minimise upward light spill) to delineate path edges.
- Column heights should be carefully considered to minimise light spill and glare visibility. This should be balanced with the potential for increased numbers of columns and upward light reflectance as with bollards.
- Only luminaires with a negligible or zero Upward Light Ratio, and with good optical control, should be considered - See ILP GN01
- Luminaires should always be mounted horizontally, with no light output above 90° and/or no upward tilt.
- Where appropriate, external security lighting should be set on motion sensors and set to as short a possible a timer as the risk assessment will allow. For most general residential purposes, a 1 or 2 minute timer is likely to be appropriate.
- Use of a Central Management System (CMS) with additional web-enabled devices to light on demand.
- The use of bollard or low-level downward-directional luminaires is strongly discouraged. This is due to a considerable range of issues, such as unacceptable glare, poor illumination efficiency, unacceptable upward light output, increased upward light scatter from surfaces and poor facial recognition which makes them unsuitable for most sites. Therefore, they should only be considered in specific cases where the lighting professional and project manager are able to resolve these issues.
- Only if all other options have been explored, accessories such as baffles, hoods or louvres can be used to reduce light spill and direct it only to where it is needed. However, due to the lensing and fine cut-off control of the beam inherent in modern LED luminaires, the effect of cowls and baffles is often far less than anticipated and so should not be relied upon solely.

Nesting Birds

There was evidence of nesting birds (a wren) in a crevice in the stonework of Barn B. There are potential impacts to nesting birds if building work commences during the nesting season.

For the avoidance of impacts, works to Barn A should be programmed to commence outside of the bird nesting season 1st March to 31st August inclusive, or when the last young have fledged should that be later. No works should commence during the bird nesting season unless a competent ecologist has undertaken a careful, detailed check of the building for active birds' nests immediately before works commence and provided written confirmation that no birds will be harmed or that there are appropriate measures in place to protect nesting bird interest on site.

Replacement nesting opportunities are to be provided by locating nest boxes on the exterior of the barns including;

- 1 x Wren box on the north elevation of Barn A;
- 2 x sparrow terraces on the north elevation of Barn A; and
- 2 x sparrow terraces on the north elevation of Barn B.

For wrens a suitable box is the Vivara Pro Barcelona open nest and for sparrows the Vivara Pro Woodstone Sparrow Terrace.

European Protection Species Licence

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 requirements to have regard to protected species.

Case law has established that Local Planning Authorities must take into account the requirements, or 'three tests' for granting an EPSL, as required by the Habitat Regulations when determining a planning application which would otherwise result in an offence, in this case, the destruction of an identified individual common pipistrelle bat summer day roost.

The three tests are:

1. It is in:
 - a) the interests of public health and public safety,
 - b) or for other imperative reasons of overriding public interest, including those of a social or economic nature.
2. That there is no satisfactory alternative.
3. It will not be detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range.

It is noted that, the previous application was subject to the 'three tests'; however, given the proposed works are in relation to Barn B with Barn A being retained as existing, it is evident that the common Pipistrelle Bar summer day roost will be retained and an EPSL would not be required.

On this basis, the application for consideration is not required to be assessed against the three tests.

Conclusion

In light of the above, the proposed development, subject to the recommended planning conditions, would result in no significant adverse effect towards any protected habitats or species present. As such the proposed development is considered to be in accordance with policies ST14 and DM08 of the NDTLP.

b. Biodiversity Net Gain

As of the 02nd 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%.

A revised DEFRA Biodiversity Metric Calculator was carried out Orbis Ecology, received 23rd December 2024. The Case Officer would concur with the findings of the baseline assessment. The proposed Habitat Creation includes the provision of 11 rural trees and an additional 70 metres of species rich native hedgerow planting. There are no watercourses impacted by the proposed development.

It is noted that the proposed development is now in accordance with the BNG Hierarchy compared to that of the original scheme. The BNG Hierarchy is as follows:

1. Avoid Adverse Effects - The first priority is to minimise negative impacts on existing habitats within the development site. This is particularly important for areas with medium, high, or very high distinctiveness
2. Mitigate Unavoidable Effects - If adverse impacts cannot be entirely avoided, the next step involves minimising and mitigating these impacts as much as possible.
3. Enhance On-site Habitats - Once impacts have been minimised, the focus shifts to enhancing the quality of existing habitats within the development site.
4. Create New On-Site Habitats - If further improvements are needed to achieve the 10% net gain requirement, developers should explore creating new habitats within the development area.

5. Secure Off-Site Credits - If achieving the required net gain on-site proves insufficient, developers can secure off-site biodiversity units.
6. Purchase Biodiversity Credits - As a last resort, if all previous options have been exhausted, developers can purchase statutory biodiversity credits.

The Trading Summaries of the proposed development demonstrates that the total net (%) change is as follows:

- Habitat Units: +0.12 units (22.02%)
- Hedgerow Units: +0.80 (892.97%)
- Watercourse Units: N/A

The supporting Biodiversity Net Gain Assessment report (reference; ORB_SOUTHCOTT_OC received: 23.12.2024) states that *“An implementation plan such as a LEMP will be required to take the measures proposed through to a position to be deliverable on the ground. The plan will need to include detailed drawings (e.g. detailed landscape planting schedules), management proposals and a timetable for implementation. The plan will also need to specify those responsible for the various activities.”*

Taking account the above, the proposed development subject to a detailed LEMP condition, would meet the provisions of Schedule 7a of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021), in that a 10% net gain would be achieved for the development. Were consent to be granted, it would be necessary to include conditions to ensure mitigation measures are secured and that the biodiversity net gain is delivered and managed / monitored over the required timescale.

7. Conclusion

For the avoidance of doubt, your Officer concludes that the principle of the conversion of the redundant barn to a single residential dwelling is considered acceptable in accordance with the Permission in Principle application.

Nonetheless, in the opinion of your Officer in accordance with the representation received from the Environmental Protection Officer, by virtue of the proximity and scale of the existing agricultural livestock buildings to the south of the site, there is a significant concern regarding the impacts to the residential amenities of future occupiers arising from odour, noise, smell and flies associated with livestock. Consequently, the proposed development conflicts with Policies DM01 and DM04 of the North Devon and Torridge Local Plan and Paragraph 198 and 200 of the National Planning Policy Framework.

For the reasons set out above, the proposed conversion of existing barn to 1no. dwelling and associated works is considered to be contrary to Policies DM01 and DM04 of the North Devon and Torridge Local Plan and the National Planning Policy Framework. Consequently, your Officer recommends refusal of the application.

Human rights

Consideration has been given to the Human Rights Act 1998.

Recommendation

REFUSE, for the following reason(s):

- 1 In the absence of technical evidence to assess impacts arising from noise, odour, flies and lighting at the agricultural unit to the south of the application site, the Local Planning Authority cannot be certain that there would not be an unacceptable amenity impact upon future occupants of the proposed development, given the close proximity to, and the scale of, these existing third-party agricultural buildings. It is therefore not possible to confirm that the proposed development complies with Policies DM01 (Amenity Considerations) and DM04

(Design Principles) of the North Devon and Torridge Local Plan and Paragraphs 135, 198 and 200 of the National Planning Policy Framework.

Plans Schedule

<u>Reference</u>	<u>Received</u>
003_02	12.12.2024
001_02	12.12.2024
002	12.12.2024
007	12.12.2024
008	12.12.2024
001	22.10.2024

Informatives

01. Biodiversity Net Gain Condition

Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 states that planning permission is deemed to have been granted subject to the "biodiversity gain condition" which means development granted by this notice must not begin unless:

- a. a Biodiversity Gain Plan has been submitted to the planning authority, and
- b. the planning authority has approved the plan.

This permission will require the submission and approval of a Biodiversity Gain Plan before development is begun.

For guidance on the contents of the Biodiversity Gain Plan that must be submitted and agreed by the Council prior to the commencement of the consented development please see the link: Submit a biodiversity gain plan - GOV.UK (www.gov.uk)

Statutory exemptions and transitional arrangements

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These can be found at Paragraph: 003 Reference ID: 74-003-20240214 of the Planning Practice Guidance, which can be found at <https://www.gov.uk/guidance/biodiversity-net-gain>.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

Effect of Section 73(2D) of the 1990 Act

Under Section 73(2D) of the Town and Country Planning Act 1990 (as amended) where -

- a. a biodiversity gain plan was approved in relation to the previous planning permission ("the earlier biodiversity gain plan"), and
- b. the conditions subject to which the planning permission is granted:
 - (i) do not affect the post-development value of the onsite habitat as specified in the earlier biodiversity gain plan, and
 - (ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat within the meaning of regulations made under paragraph 18 of Schedule 7A, do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier biodiversity gain plan.

The earlier biodiversity gain plan is regarded as approved for the purposes of paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) in relation to the planning permission.

Statement of Engagement

In accordance with Paragraph 39 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.