

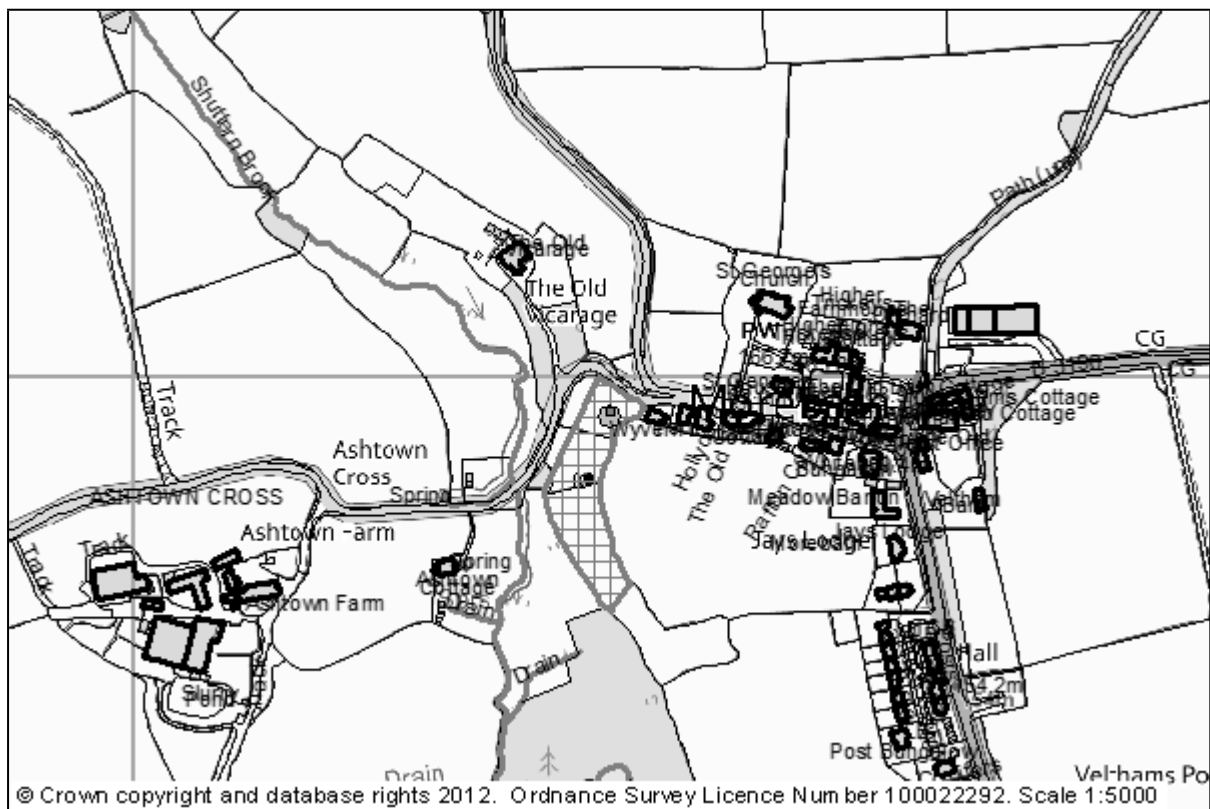
Grid Ref: 124977 : 295315

Applicant: Mr & Mrs Reynolds

Location: Land at NGR 295315
124977 (Whitehall
Farm) Morebath
Devon

Proposal: Erection of a self
supporting tree
house, replacement of
existing
summerhouse with
cabin on stilts and
change of use of
existing shed
site/adjoining garden
for the siting of one
cabin all for holiday
use

Date Valid: 12th October 2018



AGENDA ITEM

**PLANNING COMMITTEE
6 February 2019**

REPORT OF THE HEAD OF PLANNING AND REGENERATION

18/01598/FULL - ERECTION OF A SELF SUPPORTING TREE HOUSE, REPLACEMENT OF EXISTING SUMMERHOUSE WITH CABIN ON STILTS AND CHANGE OF USE OF EXISTING SHED SITE/ADJOINING GARDEN FOR THE SITING OF ONE CABIN ALL FOR HOLIDAY USE - LAND AT NGR 295315 124977 (WHITEHALL FARM) MOREBATH DEVON

Description of Development:

The applicant seeks planning permission for the erection of a self supporting tree house, replacement of existing summerhouse with cabin on stilts and change of use of existing shed site/adjoining garden for the siting of one cabin all for holiday use on land at NGR 295315 124977 (Whitehall Farm), Morebath. The proposal scheme is outlined as an alternative holiday use on site to the existing planning permission for a holiday let/workshop/therapy room (Outline permission 16/00442/OUT and reserve matters permission 17/01062/ARM).

The proposal is outlined as the construction of low scale, high quality, unique holiday accommodation development. There would be a bespoke tree house design which has been influenced by the geography of the site and surrounding woodland, designed independently of any trees and would be supported by timber stilts. The timber support posts would be secured in concrete pad foundations with the structure being constructed of timber, cedar tiles with willow made 'bird nest' style roof. The proposal to replace the existing summerhouse situated on decking would be with a cabin style structure on timber stilts, constructed from natural woods with the cabin to incorporate a small star gazing pod / snug, accessed from a mezzanine bedroom floor in the main structure of the cabin. At the southern end of the site, there would be the replacement of an existing shed with a temporary removable timber cabin/structure for holiday let use.

Reason for Report:

At the meeting on 9th January 2019, it was resolved that Members were minded to refuse the application and therefore wished to defer the application for consideration of an implications report setting out suggested reasons for refusal and the associated implications.

RECOMMENDATION(S)

Grant permission subject to conditions

Relationship to Corporate Plan:

Economy

- Business development and growth

Environment

- Protecting the natural environment

Financial Implications: An appeal may require the appointment of planning consultants to assist in the defence of the reasons for refusal. The applicant may make an application for costs on any appeal against the Council and such costs claims are made by demonstrating that there has been unreasonable behaviour. That being the case, Members must be able to clearly justify each and every reason for refusal in line with the development plan and all other material considerations.

Legal Implications: The report identifies the risks in proceeding with an appeal based on the reasons given by the Committee on 9th January 2019 – both in terms of outcome of an appeal and the risk of a costs decision. The Council will still need to prepare draft planning conditions for the appeal.

Risk Assessment:

If Committee decide to refuse the application for reasons that cannot be sustained at appeal there is a risk of a successful appeal costs claim against the Council for reasons of unreasonable behaviour.

REASONS FOR REFUSAL AND IMPLICATIONS:

At the Planning Committee held on 9th January 2019, Members gave consideration to:

- The number of visitors per unit and whether a register would be kept and inspected
- The pathway to the lower units
- The views of the objector who raised issues of concern with regard to the impact of the development on nearby residents, the height of the units were not suitable for the area and they would impact on the privacy of the neighbouring properties, there would be overlooking issues, traffic and parking problems and road safety issues. Morebath did not have a shop or a pub and there was also concern with regard to the behaviour of the tourists.
- The views of the applicant with regard to the peaceful retreat that he was trying to create, there would be little impact on neighbouring properties as there would be additional screening and no light pollution, the development would be good for local employment and good for tourism in the area.
- The views of the Parish Council with regard to the proposed and additional conditions, the history of the site, the environmental impact of the development on the local community, over development of the site, whether the site could grow into an unregulated campsite, the narrow roads in the area, noise issues, how the groundwork would be retained and whether the site/business was sustainable.
- The views of the Ward Members with regard to the entrance to and the steepness of the site, the lack of business plans available, the height of the tree houses and the impact on local residents, possible noise issues, the lack of control set out in the previous applications, whether the business would work for the community in the long term and whether it was sustainable and whether the proposal fitted with the historic location.
- Whether further information was required.

Members of Planning Committee resolved that they were minded to refuse the above application contrary to officer recommendation and therefore wished to defer the application for consideration of an implications report to consider reasons for refusal to include:

- The impact of the proposal on the environment
- General traffic issues
- Design issues

- The economic impact of the development and whether it was sustainable
- Possible overdevelopment of the site
- The impact of the proposal on adjacent properties.

The suggested wording for reasons for refusal

The Committee was minded to refuse the application on the grounds listed above. Set out below are the reasons for refusal which would appear on the planning decision notice to address the six issues raised:

1. The design, scale and appearance of the proposed development would, in the opinion of the Local Planning Authority, be inappropriate to this site and out of keeping with the rural character of the area and the visual amenity of the area in general representing overdevelopment of the site. The proposal is therefore considered to be contrary to policies COR2 of the Mid Devon Core Strategy (Local Plan Part 1), DM2 and DM24 of the Mid Devon Local Plan part 3 (Development Management Policies) and the objectives of the National Planning Policy Framework.
2. In the opinion of the Local Authority, the proposed development would prejudice road safety due to the proposed widening of the access and level changes involved resulting in a steep gradient and through the increase in traffic travelling along a narrow congested lane without a public footpath. The development is therefore considered to be contrary to Policy COR9 of the Mid Devon Core Strategy and DM2 and DM24 of the Mid Devon Local Plan part 3 (Development Management Policies).
3. Insufficient information has been submitted to demonstrate a business case has been justified for holiday accommodation on this site which would provide economic benefits to the community and represent sustainable development. Therefore the development is considered to be contrary to DM24 of the Local Plan Part 3 (Development Management Policies).
4. The proposed development would result in a detrimental impact on the amenity of occupiers of neighbouring property through overlooking and increased disturbance through noise and light pollution. The development is therefore considered to be contrary to Policy DM2 of the Local Plan Part 3 (Development Management Policies).

The implications of refusing the application

Reason for refusal 1

The first ground of refusal relates to Members concerns regarding to the visual impact on the character of the area through the design, scale and appearance of the proposed development and whether the development would represent overdevelopment of the site. The impact on the visual amenity and character of the area in general is subjective and therefore this reason for refusal is robust in planning terms. However it should be noted that planning permission has already been approved for a holiday let/workshop/therapy room on the upper part of the site, that had a similar overall height to the proposed Treehouse 1 (6.5m) and a footprint greater than that of that the proposed Treehouse 1. The previous approval was also to be sited closer to the entrance and neighbouring properties. This planning approval is a material consideration when considering the impact of the holiday accommodation on the character of the area.

The site is also surrounded by vegetation along the northern and western sides with hedgerows along the eastern and southern boundaries to the site. It should also be noted

that the ground slopes down to the south away from the village with Treehouse 2 replacing an existing summerhouse and the cabin (site 3) replacing an existing shed towards the lowest part of the site. It is also a consideration that in the summer month's views would be partially screened to the development due to the existing vegetation.

With design and appearance being a concern, Policy DM2 is included in the refusal reason and as such there should be a clear understanding of the characteristic of the site, its wider context and the surrounding area. The case being made is that the development including associated works would result in a change to the rural character of this historic village through the creation of the three units of holiday accommodation, access works, parking area and the associated traffic movements.

The committee will need to be satisfied that the changes to the site through the introduction of the buildings and associated works would be sufficient to demonstrate a significant detrimental impact to the appearance or the visual amenity and character of the area. As part of this assessment consideration should be given to the location and the topography of the site and whether the existing boundary treatments would help assimilate the development into the landscape.

With regard to the concerns raised on the density of the development, the site area is 1.26 acres and the siting three units of holiday accommodation of the dimensions shown on the submitted plans would not be considered to a dense development. The Public Health Team has raised no concerns to the proposals and no objections were received from the Local Highway Authority in terms of traffic generation and parking facilities. Therefore if Members were minded to refuse on the basis of reason 1, it is advised that wording relating to overdevelopment of the site is removed.

Reason for refusal 2

In respect of the determination of planning applications, the planning Acts (section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004) state that they should be determined in accordance with the development plan unless material indications indicate otherwise. The development plan is therefore the primary consideration and the NPPF acts as non-statutory guidance which should be taken as a material consideration. In this instance, the relevant policies of the Development Plan relating to concerns of highway safety are considered to be those of COR9 (Access) of the Mid Devon Core Strategy (Local Plan 1) and DM2 (High quality design), DM8 (Parking) and DM24 (Tourism and Leisure development) of the Mid Devon Local Plan Part 3 (Development Management Policies).

On the matter of the impact on the surrounding highway network, the previous approved scheme on the site which allows for a holiday let/workshop/therapy room has an approved plan showing 5 parking spaces with works to the widen the existing access. Within the application form for this development, it is stated that there would be three allocated parking spaces for the holiday accommodation although there is room for additional parking on site if required. The proposal is in accordance with Policy DM8 and a case can be made that parking along the lane outside of the site would not be required.

The Local Planning Authority take advice on highway safety matters from the statutory consultee, which in this case is Devon County Council as the Highway Authority. No objections have been received from the Local Highway Authority noting standing advice should be used. They have informally commented that 3 Holiday lets will generate an average of between 9 -15 movements per day which is unlikely to be a change to traffic generations from the existing use allowed through the previous permission. The advice given on the previous permission was that the access should have a width of 4.1m for a distance of 6 metres and hard surface with surface water drainage at the entrance. These details

were incorporated into the approved plans and the applicant has confirmed that these arrangements to the access would be implemented as part of their proposal.

Following the concerns raised by the Planning committee your officers have sought further clarification from DCC Highways. They have advised that in 2016 they saw the outline application and there was a requirement for the access to be detailed and approved. These details were submitted and approved in 2017 however the gradients on the access scheme approved could be further improved to enhance the access.

Therefore in light of this a further condition could be imposed to provide details of an access gradient with a more gradual slope into the site. Therefore in considering the acceptability or otherwise of the access arrangements in terms of highway safety, Members need to consider whether this access as designed or with a condition imposed to improve its design could address their highway safety concerns. In making this decision Members should be mindful that the Highway Authority has raised no objections to the proposed access arrangement to serve the development.

One implication of a reason for refusal on the ground of highway safety is that in the event of an appeal being made, the Planning Inspector even if minded to dismiss the appeal could award a partial award of costs where they believe a party has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense. There are appeal decisions whereby the Inspector has concluded that sufficient evidence has not been provided in light of adopted development plan policies other than beyond very generalised assertions and therefore did not substantiate the reason for refusal and thus put the applicant to the unnecessary expense of preparing grounds of appeal and then final comments to rebut the reason. This stance as referred to above was viewed by the Inspector as unreasonable behaviour resulting in unnecessary expense, as described in the national Planning Practice Guidance. A similar view could be taken here and for the reasons given above it is strongly advised that such a reason for refusal is not included on any refusal of planning permission for this site.

Reason for refusal 3

The third ground of concern to Members relates to the business case for the development being justified for holiday accommodation on this site which would provide economic benefits to the community and represent sustainable development. With regard to the Development Management Policies, Policy DM24 (Tourism and leisure development) states:

‘Proposals for new or expanded tourism, visitor or leisure facilities will be supported within or adjacent to defined settlements. Elsewhere, the nature of the proposed development must justify a countryside location and minimise environmental impacts, avoiding an unacceptable traffic impact on the local road network. Development proposals must:

- a) Respect the character and appearance of the location;
- b) Where possible, involve conversion or replacement of existing buildings; and
- c) Demonstrate that the need is not met by existing provision within nearby settlements.’

The supporting text to this policy outlines that the justification for the development will be provided through a marketing strategy and business plan to explain how the development will achieve a high quality tourism product that meets demand. Proposals must demonstrate that their benefits outweigh any harm and that they do not cause an unacceptable impact to traffic on the local road network. Tourism and leisure developments should benefit local businesses, the environment, communities and visitors in the long-term, so the Council will seek the right form of development in the right location, with evidence that the need is not already being met by existing provision. In demonstrating unmet need for tourism proposals outside of settlement limits, applicants should have regard to the Council’s Tourism Study.

The first point to make is that the application included a Marketing Strategy and Tourism Statement and a Business Plan. These outline that the luxury glamping project proposed would be operated by Sawday's Canopy & Stars in a growing market for this type of holiday accommodation and what the expected revenues will be. The research for the need of this development has been provided and the Council's Economic Development Section is supportive of this proposal.

It is considered that the creation of three units of holiday accommodation is supported by policy and that there is no policy requirement for a full viability report for holiday accommodation. The evidence required by Policy has been assessed using the expertise of colleagues in the Economic Development team.

In terms of benefits to the local community, the applicant has commented that the project would benefit Morebath parish, with direct and indirect employment opportunities through the creation of jobs in relation to gardening and cleaning of the units. In terms of the wider community, there are a number of services within Bampton (2 miles to the south) which could be supported by additional visitors to the area.

If the Planning Committee were minded to refuse on this issue, it is important to only do so in relation to what is required by policy. In the event of an appeal being made, the Planning Inspector could award costs where they believe the Authority has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense. There are appeal decisions where the Inspector has concluded that policies have been applied incorrectly and therefore did not substantiate the reason for refusal and thus put the applicant to the unnecessary expense of preparing grounds of appeal and then final comments to rebut the reason. A similar view could be taken here given that a business case and marketing strategy has been provided and which is supported by the Economic Development Department and for the reasons given above it is advised that such a reason for refusal is not included on any refusal of planning permission for this site.

Reason for refusal 4

The final reason for refusal relates to the impact on the amenity on the occupiers of the neighbouring property and addresses the issues raised by objectors and Members referring to whether the proposal would have an unacceptable impact on the occupiers of the neighbouring property (especially from overlooking, noise and light disturbance).

Given the distances involved from the proposed holiday units to neighbouring residential properties is 30 metres at the closest point, it is not considered that there would be a significant detrimental impact on the amenity of neighbouring residents through overlooking or overbearing impact. Concerns were raised in relation to noise and light pollution but the Public Health Team has assessed the application and has raised no objections on these issues. It is also possible to impose controls on these matters with conditions to agree a suitable lighting scheme and management plan.

The applicant outlines that the intention is to offer a quiet retreat for couples who wish to relax without being in a noisy environment. Amended plans were received which relocates the Tree House (Unit 1) slightly further west, further away from the only nearby dwelling known as 'Wyvern'. In terms of overlooking, the applicant has commented that have already planted additional new trees to screen Unit One with existing trees/hedges on site to be retained.

Conditions were recommended within the officer report to Planning Committee which included the use being restricted to holiday accommodation only and for the provision of details for external lighting.

In considering the acceptability or otherwise of the development on the impact of amenity of neighbouring properties members need to consider whether conditions could be imposed which would protect the amenity of the occupiers of a neighbouring property.

Therefore consideration needs to be given to the weight of harm this development will have on the impact of amenity and whether any harm can be mitigated against through specific planning controls.

Conclusion:

Your officers have set out their advice in relation to the suggested reasons for refusal. It is felt that a refusal reason 1, relating to the impact on the character of the area, is the most robust reason for refusal as this is a subjective assessment on the level of harm. It is considered that the other reasons for refusal, when the comments received from statutory consultees and Economic development officer are taken into consideration, would be difficult to defend at appeal.

If Members are minded to refuse the application, it is recommended that Members refuse the application on the ground of the suggested reason for refusal 1 as set out earlier within this report. However approval remains the recommendation of officers for the reasons set out in the earlier Officer report to Planning Committee attached.

Contact for any more information

Mr Adrian Devereaux, Area Team Leader
01884 234267

Background Papers

Committee report

File Reference

18/01598/FULL

Circulation of the Report

Cllrs Richard Chesterton
Members of Planning Committee

Application No. 18/01598/FULL

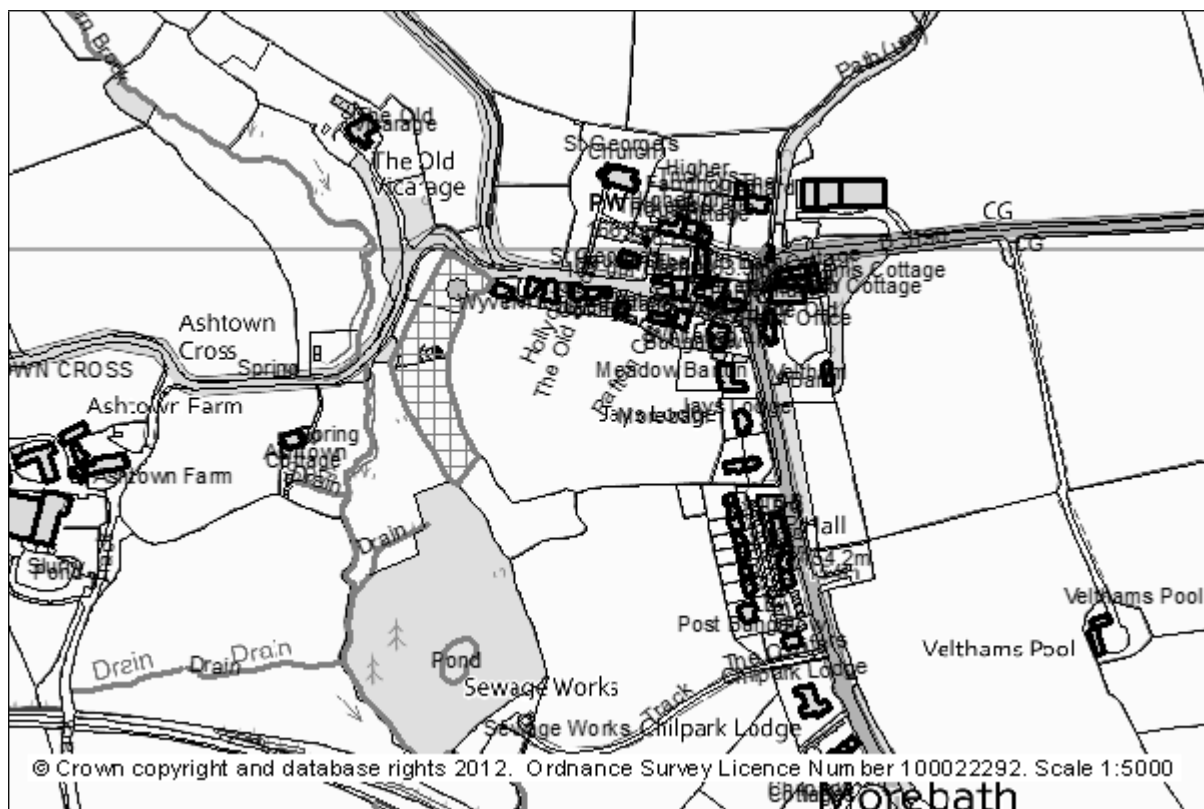
Grid Ref: 295315 : 124977

Applicant: Mr & Mrs Reynolds

Location: Land at NGR 295315 124977 (Whitehall Farm)
Morebath
Devon

Proposal: Erection of a self supporting tree house, replacement of existing summerhouse with cabin on stilts and change of use of existing shed site/adjoining garden for the siting of one cabin all for holiday use

Date Valid: 12th October 2018



APPLICATION NO: 18/01598/FULL

MEMBER CALL-IN

COUNCILLOR STANLEY HAS REQUESTED THAT THIS APPLICATION BE DETERMINED BY THE PLANNING TO CONSIDER WHETHER:

- a) the development will have environmental and amenity impact given its scale and adjacency to the village
- b) access and traffic concerns have been properly assessed
- c) the proposal is economically sustainable, and the likely benefits to the local community.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

The applicant seeks planning permission for the erection of a self supporting tree house, replacement of existing summerhouse with cabin on stilts and change of use of existing shed site/adjoining garden for the siting of one cabin all for holiday use on land at NGR 295315 124977 (Whitehall Farm), Morebath. The proposal scheme is outlined as an alternative holiday use on site to the existing planning permission for a holiday let/workshop/therapy room (Outline permission 16/00422/OUT and reserve matters permission 17/01062/ARM).

The proposal is outlined as the construction of low scale, high quality, unique holiday accommodation development. There would be a bespoke tree house design which has been influenced by the geography of the site and surrounding woodland, designed independently of any trees and would be supported by timber stilts. The timber support posts would be secured in concrete pad foundations with the structure being constructed of timber, cedar tiles with willow made 'bird nest' style roof. The proposal to replace the existing summerhouse situated on decking would be with a cabin style structure on timber stilts, constructed from natural woods with the cabin to incorporate a small star gazing pod / snug, accessed from a mezzanine bedroom floor in the main structure of the cabin. At the southern end of the site, there would be the replacement of an existing shed with a temporary removable timber cabin/structure for holiday let use.

APPLICANT'S SUPPORTING INFORMATION

Application Form and Plans
Marketing Strategy and Tourism Statement
Business Plan

RELEVANT PLANNING HISTORY

04/02414/FULL - WD date 17th December 2004
Retention of a sectional timber shed

05/00845/CLU - PERMIT date 13th July 2005
Certificate of Lawfulness for continued use of land as garden

15/01588/OUT - WDN date 30th November 2015
Outline for the erection of a holiday let/therapy workshop

16/00442/OUT - PERMIT date 12th May 2016
Outline for the erection of a holiday let/workshop/therapy room

17/01062/ARM - PERMIT date 2nd October 2017
Reserved Matters for the erection of a holiday let/workshop/therapy room following Outline approval 16/00442/OUT

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR2 (Local Distinctiveness)
COR18 (Countryside)

Mid Devon Local Plan Part 3 (Development Management Policies)

DM2 (High quality design)
DM3 (Sustainable design)
DM5 (Renewable and low carbon energy)
DM8 (Parking)
DM20 (Rural employment development)
DM24 (Tourism and leisure development)
DM27 (Development affecting Heritage Assets)

NPPF

CONSULTATIONS

Morebath Parish Council – 23rd November 2018

This application came before a public meeting of the (Morebath) PC on the 20th November and it was unanimously agreed that based on a number of critical issues (supported by parishioners) the PC opposes approval.

Background. Whist approval has been granted for a specific scheme on part of the site with a detailed section 106 agreement the objections to this new proposal and change of use can be summarized as follows:

1. The application proposes a change of use resulting in considerable expansion and over development of the small site, disproportionate in its location in the ancient and historically important settlement of Morebath, with many listed buildings, potentially to create an unregulated campsite.
2. The environmental impact on the local community is considered disproportionate in terms of the projected activity, the resulting noise (relative to structures, traffic) and light/ fuel emissions affecting privacy and residents enjoyment of their domicile, the lack of onsite management exacerbates the issue.
3. The formulation of the business case does not satisfy either the benefit to the local economy or the projected employment claimed.
4. Considerable concerns have been expressed, supported by the PC, as to the safety of access to the site and the volumes of proposed activity, both in construction traffic and its later use, suggesting the need for an onsite review of this aspect, considering the change of use proposed.

Highway Authority – 26th October 2018

Standing advice applies please see Devon County Council document
<http://www.devon.gov.uk/highways-standingadvice.pdf>

The following informal response was received after additional comments were sought:

3 Holiday lets will generate an average of between 9 -15 movements per day, I would anticipate the existing consent would be a similar number. Access should comply to Manual for streets for visibility, I would suggest a minimum width of 4.1 for 1st 6.0m and hard surfaced but if it is a replacement to the existing permission there is unlikely to be any change to traffic generations and it would be unreasonable to expect further junction improvements over those required by the original consent.

Economic Development - 29th November 2018

MDDC's Economic Development service supports the application for the erection of 3 tourism units at Whitehall Farm, Morebath. The Economic Development Officer has worked extensively with the applicant to develop their business idea and to apply for grant funding to support the development of the structures.

The grant application has been scrutinised by DEFRA's RDPE team, who assessed the business proposal as eligible for grant funding. As part of this process the Economic Development Officer scrutinised the business before agreeing to support the project, including in its grant application, and agreed that it would provide benefits to the wider local economy (not just to be considered as Morebath, but to the wider district) and would add to the tourism offer within the district. It is worth noting that if the project is refused planning, the business will lose out on the possibility of obtaining Government grant funding which is available to support developing tourism businesses.

The Heart of the South West LEP identifies tourism as a strategically significant part of the South West Economy, and is a sector which should be nurtured and supported across the region. There is potential for growth within the sector, particularly in relation to those offering unique and different experiences to visitors.

Locally, Mid Devon has identified tourism as an area with growth potential, as the district currently attracts a lower than expected proportion of the visitor economy to the South West. It also attracts a low proportion of overnight visitors to the area in relation to the other local authority areas in Devon and Somerset. By supporting businesses in the tourism sector, particularly those which are trying to attract more affluent visitors to the district (with greater spending power), the whole of the economy should benefit, including the retail sector and the food and drink industry.

The USP for the business is that it will provide rural retreats for people wishing to get away from the hustle and bustle of daily life, providing them with a high quality, tranquil setting in which to relax and rejuvenate. It would be counterproductive for the business to attempt to attract parties and large volumes of guests into their premises, as this would undermine the USP. Mid Devon's tourism offer differs to the offers provided by the rest of the county. Other areas promote their coastline, or offer weekend city breaks and a thriving night time economy. Mid Devon's offer is much more focused on getting in touch with nature, a peaceful, relaxing experience with opportunities to explore the countryside. This proposal is entirely complimentary to this experience, and would be more likely to fail if it tried to create a "remote party" atmosphere, which people don't search for when considering Mid Devon as a destination.

The business is going to be marketing itself to potential visitors from a number of Acorn Marketing categories (these are categories of people who marketing companies use when

determining who their target audience will be). These marketing groups are more likely to seek out a high quality experience and countryside breaks:

Affluent Greys
Wealthy Executives
Prosperous Professionals
Educated Urbanites
Aspiring Singles

The structures will be situated so that they are not facing towards the nearby residential premises, and have been designed instead be pointed towards the idyllic countryside views that Morebath provides. The one unit with the potential to look out towards the existing residential properties is proposed to be facing perpendicular to them, and would be located approximately 30m down a hill from them.

Concerns have been raised about the number of visitors (and car movements) to the village on an annual basis. While the total number of visitors over the course of a year could be as high as 600, according to the business plan it is more likely that there would be up to 6 extra people in the village at any one time, a gross increase of 3%.

Public Health – 2nd November 2018

Contaminated Land - No objection to the proposal
Air Quality – No objection to the proposal
Environmental Permitting – No objection to the proposal
Drainage – No objection to the proposal
Noise & other nuisances – No objection to the proposal
Housing Standards – No comment
Licensing – No Comments
Food Hygiene – No objection to this proposal.

Informative: If food or drink is provided, stored, processed this is considered a food business. All new food businesses are required to register with their Local Authority 28 days prior to opening. The appropriate form can be found in this link.
<https://www.middevon.gov.uk/media/114739/foodregistrationform.pdf>
Free advice on requirements can be given by Environmental Health. For structural requirements this is ideally sought before works start. The Food Standards Agency's website is also a useful source of information <https://www.food.gov.uk/>.

Private Water Supplies – If a private supply is to be used by more than one property or has a commercial function, The Private Water Supply (England) Regulations 2016 as amended will apply. A risk assessment and sampling regime will be necessary. The supply must not be used until the Local Authority (Mid Devon District Council) is satisfied that the supply does not constitute a potential danger to human health, including single domestic use. Please contact Public Health at Mid Devon District Council on completion of proposal. If mains water is to be used, would have no comment.

Health and Safety – No objection to this proposal.

REPRESENTATIONS

At the time of writing this report, 13 letters of objection (with 2 letters being received in response to additional information submitted) have been received with the grounds of objection summarised as follows:

- There is no mention of secure fencing separating the properties on adjoining land as there is only a low sheep fence which is not sufficient.
- The proposed siting of the septic tank appears to be very close to the boundary of neighbouring land which is not well draining. Has the Environment Agency being consulted?
- The proposed development is inappropriate for this small rural hamlet on the grounds of environmental impact noise and disturbance to local residents, road safety aspect of traffic and access to site from narrow country lane, size of proposed development in relation to nearby properties and inappropriate character of proposed buildings.
- There is a real risk of creating a precedent with this development.
- The application suggests a blanket use of the area as a campsite thus placing no restriction on its growth and occupancy.
- There are examples of holiday accommodation been refused consent in the local vicinity.
- The prior approval for use of the site is based on Section 106 Agreements suggesting special consideration of an individual case, there is a risk that this carried forward to a subsequent application compromises the planning process.
- The proposed site sits within close proximity to existing residences and will result in noise considerations and loss of privacy from the single point of access.
- The suggested use is in conflict with the existing settlement and proposes over development of the area with Morebath being a tiny rural hamlet.
- The number of units suggests considerable traffic activity with intrusive parking in an area of AONB.
- The site is distant from services and facilities, and public transport services are infrequent. Occupiers of the development are likely to be dependent on private vehicles. There is limited off road parking or public amenity to the site.
- The Ancient settlement of Morebath consists of a large number of listed properties not least the parish church of St George which is in close proximity to the site.
- The site exit has a poor sight line to the east and suggests traffic will have to enter the narrow lane to obtain vision, questioning the safety aspect of the access proposed.
- The design of units proposed will have limited sound insulation and use suggests external activity /wood fires thus carrying noise and smoke with the prevailing wind into The Valley View area of the village.
- The proposal outlines that each unit will accommodate 2 people, with typical stays of around 2-3 days, and projects high levels of occupancy; assuming 80% occupancy, this would see circa 600 tourists (transported in 300 cars) drawn to the tiny community.
- The impact on local residents and their peaceful way of life will surely be considerable.
- The village network of tiny single lane roads cannot support the proposal with the site being located off a dangerous bend on top of a steep hill.
- The design of accommodation is incongruous with the local architecture.
- There are currently few glamping sites in mid-Devon with there already being a vast number of holiday-lets of other natures in the area, so question the claims made for need.
- Whilst it is noted that some economic benefit may be derived for nearby settlements like Bampton and Dulverton it must be noted that Morebath has no shops, pubs or local amenities, nor is it a good place from which to walk, with very limited access to footpaths.
- There would be the prospect of loud music and other antisocial behaviour late at night which would be clearly audible to the whole village.
- Unit 1 & 2 can each comfortably accommodate 4 people maybe even more. Lodge no. 3 is advertised on the website as being able to accommodate up to 30 people for 'lively parties' and can sleep more than 4 people comfortably.

- Three parking spaces are identified on plans which will not be sufficient resulting in parking on the public highway.
- Safety issues as emergency vehicles need to get past the narrow street where houses have no off-road parking spaces. Visibility in the junction is already limited also.
- Morebath is a small village which is built in an L shape, surrounded by green fields with the listed church at the top of the Hill overlooking the village. The new buildings will take this charm away as they are not fitting in with the wider landscape.
- Prior plans were for only a single building, of single story, and with a grass roof to as much as possible blend in with the landscape.
- Cabins 1 and 2 are for two story buildings which will have a significant visible impact to the wider landscape, viewed above the existing hedgerow and will overlook neighbouring gardens.
- There will be light pollution associated with the development from parking areas, access ways and from the accommodation.
- Concerns the development could block existing water services running across field.
- The proposal could lead to further accommodation in the future.
- Low level lighting on site would not work in this location still resulting in light pollution.
- The development would be overdevelopment compared to the existing permission for one unit.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The application seeks planning permission for the erection of a self supporting tree house, replacement of existing summerhouse with cabin on stilts and change of use of existing shed site/adjoining garden for the siting of one cabin all for holiday use on land known as Whitehall Garden in Morebath to establish a holiday business which would operate all year round. Following concerns raised to the cabin structure proposed to the lower part of the site which was shown as a Reindeer Lodge (given the numbers of people who could occupy it), this has been amended to a Koto Cabin which contains only a double bed and shower room.

The application site is situated on the western edge of the village of Morebath, which lies about 2 miles north of Bampton. The site extends to approximately 1.26 acres and contains some existing development in the form of sheds with the site being well screened by established hedgerow and trees. The land slopes downhill from the north eastern corner to the south and west. The site is not located within any landscape designation. It should be noted that the site already has planning permission for holiday accommodation approved as part of 16/00442/OUT and 17/01062/ARM.

The main issues in the determination of this application are:

1. Policy and procedure
 2. Need for the development
 3. Highway matters
 4. Design of holiday accommodation
 5. Impact on the character of the area
 6. Impact on amenity of occupiers of residential property
 7. Other planning matters
-
1. Policy and procedure

S.38[6] of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The National Planning Policy Framework,

published by the Government in March 2012 and revised in 2018, is noted as one such material consideration.

In addition to the NPPF, the Local Authority needs to determine this proposal on the basis of a number of policies contained within the Development Plan. In this instance, the relevant policies are considered to include COR2 (Local Distinctiveness), COR16 (Bampton), COR18 (Countryside) of the Core Strategy and DM2 (High quality design), DM3 (Sustainable design), DM5 (Renewable and low carbon energy), DM8 (Parking), DM20 (Rural employment development) and DM24 (Tourism and leisure development). Policy COR2 requires development to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through high quality sustainable design which reinforces the character and legibility of Mid Devon's built environment and creates attractive places. Policy COR18 seeks to control development outside defined settlement limits to appropriate rural uses.

Within the NPPF, paragraph 83 with respect to supporting a prosperous rural economy outlines that:

'Planning policies and decisions should enable:

- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
- b) the development and diversification of agricultural and other land-based rural businesses;
- c) sustainable rural tourism and leisure developments which respect the character of the countryside; and
- d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.'

It is considered that there is no objection in principle to the creation of a tourist facility in this location as outlined within the supporting documentation submitted subject to meeting other adopted policy criteria which is considered below. The Local Authority has approved a number of planning applications for various types of holiday accommodation within the District. The forms of holiday accommodation have included numerous barn conversions, log cabins, shepherds huts, yurts, safari tents, a treehouse (13/00003/FULL – Fox & Hounds Country Hotel, Eggesford) and a tree tent (17/00317/FULL - Dunscombe Farm, Cheriton Fitzpaine).

2. Need for the development

In rural areas of the district, the strategy as outlined within the Core Strategy is that whilst there is to be strict control over development, the emphasis will be on promoting environmental enhancement including landscape and biodiversity and encouraging appropriate economic diversification with eco-tourism highlighted. Therefore subject to the development being justified through a sound business case and any impact on the landscape kept to a minimum with appropriate mitigation provided where required; a case to support this proposal could be made.

As far as policies within the Core Strategy are concerned, COR 18 (Countryside) states that 'development outside the settlements defined by COR13 -COR17 will be strictly controlled, enhancing the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy.' Criteria 'B' outlines that any development needs to be of an appropriate scale. Whilst the site is located outside of the Market Town of Bampton, it is noted that COR 16 comments that Bampton will provide a focal point for housing and employment development and local services and facilities to serve the nearby rural area, encouraging greater local self-sufficiency, social provision and economic

regeneration. Criteria 'E' of this policy states that there is a requirement of development to enhance the tourism role of the town and area at the gateway to Exmoor.

With regard to the Development Management Policies, Policy DM24 (Tourism and leisure development) states:

'Proposals for new or expanded tourism, visitor or leisure facilities will be supported within or adjacent to defined settlements. Elsewhere, the nature of the proposed development must justify a countryside location and minimise environmental impacts, avoiding an unacceptable traffic impact on the local road network. Development proposals must:

- a) Respect the character and appearance of the location;
- b) Where possible, involve conversion or replacement of existing buildings; and
- c) Demonstrate that the need is not met by existing provision within nearby settlements.'

The supporting text to this policy outlines that the justification for the development will be provided through a marketing strategy and business plan to explain how the development will achieve a high quality tourism product that meets demand. Proposals must demonstrate that their benefits outweigh any harm and that they do not cause an unacceptable impact to traffic on the local road network. Tourism and leisure developments should benefit local businesses, the environment, communities and visitors in the long-term, so the Council will seek the right form of development in the right location, with evidence that the need is not already being met by existing provision. In demonstrating unmet need for tourism proposals outside of settlement limits, applicants should have regard to the Council's Tourism Study.

The first point to make is that there is an existing permission for a holiday let on site which includes a workshop and therapy rooms and this would be replaced by a smaller holiday unit. As part of the application submission, a Marketing Strategy and Tourism Statement and a Business Plan have been provided which outlines that the luxury glamping project proposed would be operated by Sawday's Canopy & Stars, outlining the growing market for this type of holiday accommodation and the expected revenues. The research for the need of this development has been provided and the Council's Economic Development Section has noted that they are generally supportive of this proposal.

The Economic Development Team support these proposals noting that they have discussed the business proposal with the applicant and the amount of money they were looking to invest in the project, and advised them of the Rural Payments Agency (RDPE) grant option which could offer grants of between £35k - £175k to businesses starting up in rural locations within the tourism sector. The Economic Development Officer has worked with the applicant on their grant application to ensure that it met strategic alignment criteria with the LEP and with the Government's tourism agenda (guidance was provided on the LEP website and on the Gov website highlighting priorities etc.). This includes looking at the viability of the business idea and whether or not it is felt to be realistic that it could receive funding. The Economic Development Officer comments that this is not a case of promoting the business, but rather supporting legitimate business growth. It is noted that confirmation has been provided from the applicant of the application having made for this grant funding and that subject to a planning approval it could be applicable for this funding.

The applicant has commented that they have undertaken extensive research into this sector of the holiday accommodation letting market over a considerable period of time, including speaking with several specialist letting agents and building contractors / suppliers to gain a good understanding of likely income and cost levels. In addition to this, they have commented that they have adopted realistic occupancy rates of 50%, whereas the reality is that these types of holidays achieve much higher occupancy rates. The business is structured around a Partnership Agreement and they have financial backing in place for the

project. Therefore in light of the above, it is considered that a business case for this application can be supported.

In terms of benefits to the local community, the applicant comments that the project would benefit Morebath parish, with direct and indirect employment opportunities with the creation of jobs, as they will be requiring assistance with the gardening and cleaning of the units.

3. Highway matters

On the matter of the impact on the surrounding highway network, the previous approved scheme on the site which allows for a holiday let/workshop/therapy room has an approved plan showing 5 parking spaces. Within the application form it is stated that there would be three allocated parking spaces for the holiday accommodation although the plans show a space for two additional spaces. It is considered that a scheme which could provide up to five parking spaces to serve three units of holiday accommodation would be in accordance with Policy DM8.

No objections have been received from the Local Highway Authority noting standing advice should be used, although they have informally commented that 3 Holiday lets will generate an average of between 9 -15 movements per day which is unlikely to be a change to traffic generations from the existing use allowed through permission. Whilst they would prefer the access to have a width of 4.1m for a distance of 6 metres and hard surface, given the existing permission they note it would be unreasonable to expect further junction improvements over those required by the original consent.

The applicant has confirmed that with regards to the car parking their scheme requires less car parking than the existing consented development and they have sought to position two of the parking spaces further away from the neighbouring property of 'Wyvern' which they believe would have less disturbance on the neighbours. The proposal is for 3 small scale holiday let units, each to sleep 2 people (couples only), as is indicated on the layout plans and the applicant has suggest that they would be prepared to consider a reasonable planning condition restricting occupation to 2 people per unit i.e. 6 guests in total on the site at any one time, and also a restriction on any additional holiday let units on the application site. It is considered that a condition restricting the number of people to six would fail the required tests being difficult to enforce and potentially unreasonable. The layout plans would be conditioned to the three units of accommodation.

In regard to the access arrangements, the applicant has confirmed that they intend to improve, widen and alter this as per the detailed plan submitted with the previously approved reserved matters planning application.

4. Design of holiday accommodation

In terms of this planning application, the proposal is for the creation of three units of holiday accommodation whereby the land use is supported by adopted policy and it would represent a small scale tourism proposal across the site. As referred to earlier, a number of different types of holiday accommodation have been approved within the district and tree houses being one, although not at significant numbers.

The proposal is for a bespoke tree house designed unit of holiday accommodation in the area of the existing planning permission having a reduced scale than that approved, a cabin style structure on timber stilts in the area of the existing summerhouse and a temporary log cabin type structure further down the site in an area of existing sheds. It is considered that a case can be made that the development would comply with policies DM2 (High quality design), DM3 (Sustainable design) and DM5 (Renewable and low carbon energy). The scale

of development for a total of 3 holiday units is considered to be in accordance with Policy DM20 (Rural employment development).

5. Impact on the character of the area

Impact on the character of the area and surrounding countryside is one key consideration. In terms of the impact on the landscape, the Landscape Character Assessment 2011 outlines the Landscape Character Type as 3E Lowland plains. The assessment concludes that a future force for change in these locations would be from an 'increase in domestic tourism with associated demands for new facilities and infrastructure, as well as an increase in traffic levels, farm conversions and the siting of caravan/camping sites'. Given the topography of the site and the existing boundary treatments and adjoining woodland area, it is considered that large areas of the site would be screened from public vantage points.

The site is not within a Conservation Area and whilst it has been noted that there are a number of listed buildings within Morebath such as St George's Church, these are located further way to the east and northeast on higher land with existing residential development in between. Therefore it is considered that the holiday accommodation does not result in harm to the character of the heritage asset, being in accordance with DM27 of the Mid Devon Local Plan Part 3 (Development Management Policies).

6. Impact on amenity of occupiers of residential property

Given the distances involved from the proposed holiday units to neighbouring residential properties, it is not considered that there would be a significant detrimental impact on the amenity of neighbouring residents. Concerns were raised to noise and light pollution but the applicant notes that the accommodation is only to be for couples, with low level illumination for health and safety reasons only operating on sensors as Exmoor Dark Sky Status with Unit 2 marketed for star gazing. A condition is recommended for any low level lighting scheme to be submitted and approved. The Public Health Team has assessed the application and has raised no objections to the proposals.

The applicant outlines that the intention is to offer a quiet retreat for couples who wish to relax without being in a noisy environment. Amended plans were received which relocates the Tree House (Unit 1) slightly further west, further away from the only nearby dwelling known as 'Wyvern'. In terms of overlooking, the applicant comments that have already planted additional new trees to screen Unit One with existing trees/hedges on site to be retained. With regard to outside cooking, the applicant states that there would be a gas BBQ but no other outside cooking facilities for Unit 1.

7. Other planning matters

In respect to other planning matters, concerns have been received with respect to foul and surface water drainage with objectors enquiring whether a septic tank in this location would be suitable giving existing ground conditions and that given the topography water currently runs downhill. The applicant has confirmed that a package treatment plant is proposed and it is noted that the site is located within flood zone 1 where this type of development is acceptable and surface water disposed of by a soakaway. The development therefore complies with Policy COR11 of the Core Strategy and DM2 of the Mid Devon Development Management Policies (Local Plan Part 3).

An Ecological Impact Assessment has been submitted which outlines that no protected species would be impacted but mitigation measures have been outlined which can be conditioned such as bat boxes.

CONDITIONS

1. CD1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. CD7 Approved Plans
3. (i) The holiday accommodation units shall be occupied for holiday purposes only.
(ii) The holiday accommodation units shall not be occupied as a person's sole, or main, place of residence.
(iii) The owners/operators shall maintain an up-to-date register of the names of all occupiers of the holiday accommodation unit on the site and of their main home addresses and shall make this information available at all reasonable times to the Local Planning Authority.
4. The development hereby approved shall only be occupied for holiday purposes only, limited to three units of holiday accommodation on site. When the holiday units become redundant for such purposes, they shall be demolished and all resultant materials removed from the site within 6 months of them becoming redundant for their approved use.
5. The development of the three holiday units hereby approved shall not be occupied until such time as the vehicular access, parking and turning areas indicated on the approved location plan have been provided on site, surfaced and drained. Following their provision, these facilities shall be so retained.
6. Prior to the first occupation of the holiday accommodation hereby approved, details of any external lighting within the application site shall be submitted to and agreed in writing by the Local Planning Authority. Any external lighting installed shall be in accordance with the agreed details.
7. The improvements to the access from the highway as shown on the site entrance alteration plan received from the applicant on the 17th December 2018 shall be completed prior to the occupation of the first holiday unit hereby approved and shall be so retained thereafter.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt in the interests of proper planning.
3. The use of the holiday let accommodation as a separate dwelling would require planning permission whereby the location, relationship to surrounding dwellings, parking facilities and areas of amenity would need to be considered further. However the application for holiday let accommodation is considered to be in accordance with Policy DM24 of the Local Plan Part 3 (Development Management Policies).
4. To ensure removal of the holiday units if no longer required for holiday occupation in order to protect the character, appearance and general amenity of the area of countryside in accordance with Policy COR18 of the Mid Devon Core Strategy (Local Plan Part 1).
5. In the interest of highway safety and to ensure that adequate on-site facilities are available for traffic attracted to the site in accordance with DM8 (Parking) of the Local Plan Part 3 Development Management Policies with the National Planning Policy Framework.
6. In the interests of preserving the character and visual amenity of the rural area in accordance with policy DM2 Local Plan Part 3 (Development Management Policies);
7. To ensure a safe and suitable vehicular access to serve the development in accordance with policy COR 9 Local Plan Part 1 and DM24 of the Mid Devon Local Plan Part 3 (Development Management Policies).

INFORMATIVES

1. If food or drink is provided, stored, processed this is considered a food business. All new food businesses are required to register with their Local Authority 28 days prior to opening. The appropriate form can be found in this link.

<https://www.middevon.gov.uk/media/114739/foodregistrationform.pdf>

Free advice on requirements can be given by Environmental Health. For structural requirements this is ideally sought before works start. The Food Standards Agency's website is also a useful source of information <https://www.food.gov.uk/>.

2. If a private supply is to be used by more than one property or has a commercial function, The Private Water Supply (England) Regulations 2016 as amended will apply. A risk assessment and sampling regime will be necessary. The supply must not be used until the Local Authority (Mid Devon District Council) is satisfied that the supply does not constitute a potential danger to human health, including single domestic use. Please contact Public Health at Mid Devon District Council on completion of proposal.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The proposals for the holiday let accommodation is considered to be acceptable with the tourism use being acceptable not resulting in a detrimental impact to the rural character of the area. It is not considered that the proposal would have an unacceptable impact on the environment or nearby heritage assets and the proposal is considered to be suitably designed and any impact on amenity of neighbouring occupiers is not considered significant given the existing boundary treatment and degree of separation involved. The development complies with the requirements of relevant policies: COR2 and COR18 of the Mid Devon Core Strategy (LP1), DM2, DM8, DM20, DM24 and DM27 of the LP3 DMP and the National Planning Policy Framework.

The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. This report has been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.