

PLANNING COMMITTEE AGENDA - 15th July 2020

Applications of a non-delegated nature

<u>Item No.</u>	<u>Description</u>
01.	20/00189/FULL - Conversion of agricultural building to dwelling, retention of office building with temporary use as living accommodation while barn conversion takes place, erection of garage/carport and summerhouse at Land and Buildings at NGR 279660 98291, Brookdale, Neopardy. RECOMMENDATION Grant permission subject to conditions.
02.	19/01309/FULL - Erection of a dwelling including demolition of a garage at Fair Havens, Mill Street, Crediton. RECOMMENDATION Grant permission subject to conditions.
03.	19/02013/FULL - Erection of dwelling and demolition of agricultural building at Land at NGR 306728 119836 (Wardmoor), Holcombe Rogus, Devon. RECOMMENDATION Grant permission subject to conditions.

Application No. 20/00189/FULL

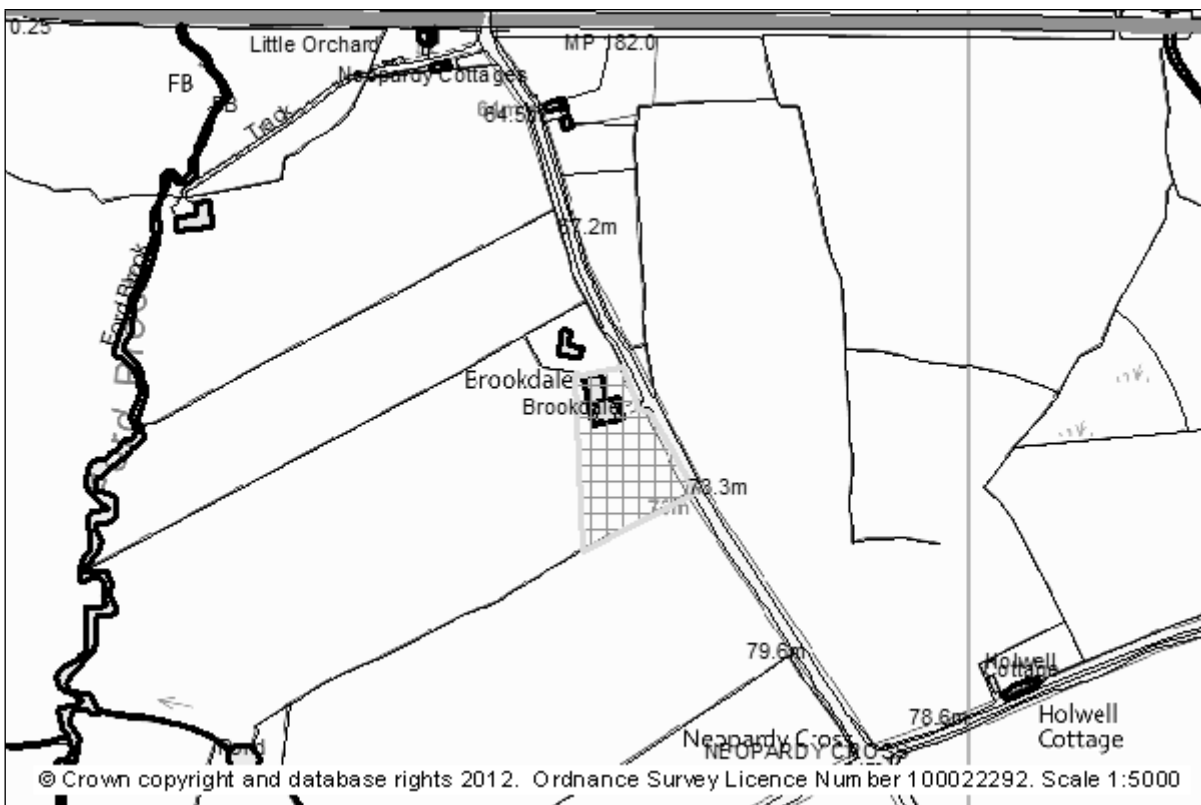
Grid Ref: 279606 : 98204

Applicant: Mr M Broster

Location: Land and Buildings at NGR 279660 98291
Brookdale
Neopardy
Devon

Proposal: Conversion of agricultural building to dwelling, retention of office building with temporary use as living accommodation while barn conversion takes place, erection of garage/carport and summerhouse

Date Valid: 14th February 2020



APPLICATION NO: 20/00189/FULL

MEMBER CALL-IN

This planning application has been called in by Councillor Penny for the following reasons:

If officers are of a mind to approve this application under delegated powers I would wish to call the application in to enable the planning committee to consider the detail of the application and its compliance with National and Local Planning Policy, both adopted and within the emerging Local Plan Review.

Specifically:

- Whether the proposal for an unrestricted dwelling in this location is acceptable
- Whether the proposal would represent a conversion of an existing building
- Consideration to whether the design of the dwelling will retain the original character of the building and its surroundings
- Consideration to the increase in curtilage area and the number of buildings proposed in this countryside location
- Whether the retention of the 'temporary' dwelling to an office would contribute positively to the character of the buildings or the area in general.'

RECOMMENDATION

Grant permission subject to conditions and the signing of a Unilateral Undertaking to secure a financial contribution towards Air Quality mitigation in Crediton.

PROPOSED DEVELOPMENT

The applicant seeks planning permission for the conversion of an agricultural building to a dwelling, retention of office building with temporary use as living accommodation while barn conversion takes place, erection of garage/carport and summerhouse on land and buildings at NGR 279660 98291, Brookdale, Neopardy.

The proposed office building (which meets the definition of a temporary structure) is initially to be used as on site accommodation whilst the development work takes place. This will provide a temporary dwelling but also act as a construction office and welfare facilities. After construction of the dwelling the applicant proposes that this building become an ancillary office and remain on site for use by the Applicant.

The materials to be used on the exterior of the dwelling are for external walls to be clad with Waney edge red cedar horizontal boards and Taylor Maxwell StonePanel cladding to the main entrance area; Kingspan KS1000 LP insulated roof sheets with PPC aluminium framed double glazed windows and doors.

This application follows the earlier approval of 19/00123/PNCOU - Prior notification for the change of use of an agricultural building to 2 dwellings under Class Q on the 22nd March 2019. As such the applicant can live in the temporary building (falling within the definition of a caravan) on site under permitted development rights and it is this temporary building on site which is proposed to be used as a home office once the conversion of the agricultural building into a dwelling has been completed.

APPLICANT'S SUPPORTING INFORMATION

Completed application form, plans, wildlife survey, surface water drainage strategy, Foul Drainage Assessment, structural survey/schedule of works, planning statement, landscape planting scheme, supporting information.

RELEVANT PLANNING HISTORY

08/02202/PNAG - PP date 9th January 2009
Prior notification for the erection of extension to agricultural building

09/00078/FULL - PERMIT date 4th March 2009
Erection of an open-sided agricultural building over existing yard

19/00123/PNCOU - APA date 22nd March 2019
Prior notification for the change of use of an agricultural building to 2 dwellings under Class Q

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities
COR2 - Local Distinctiveness
COR3 – Meeting housing needs
COR5 – Climate Change
COR9 - Access
COR12 - Development Focus
COR 18 – Countryside

Mid Devon Allocations and Infrastructure Development Plan (Local Plan 2)

AL/CRE/8 (Crediton Air Quality)

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development
DM2 - High quality design
DM3 – Sustainable design
DM5 - Renewable and low carbon energy
DM7 - Pollution
DM8 – Parking
DM11 - Conversion of rural buildings
DM14 - Design of housing
DM15 – Dwelling sizes

Local Plan Review 2013 – 2033

S1 - Sustainable development priorities
S2 - Amount and distribution of development
S3 - Meeting housing needs
S8 - Infrastructure
S9 - Environment
S14 - Countryside
S12 - Crediton
CRE11 - Crediton Infrastructure
DM1 - High quality design

DM2 - Renewable and low carbon energy
DM4 - Pollution
DM5 - Parking
DM9 - Conversion of rural buildings
DM12 - Housing Standards

National Planning Policy Framework ("the NPPF")

CONSULTATIONS

Crediton Hamlets Parish Council – 9th June 2020

At their Parish Council meeting last night Councillors discussed the emails relating to the above application which you sent to Cllr Derek Coren on 26th May and 8th June.

Councillors do not feel that the imposition of the conditions you refer to in your email of the 26th address their concerns at all. Councillors request that this application be called in to the Planning Committee so that it receives full and proper scrutiny.

Crediton Hamlets Parish Council - 5th May 2020

Having considered the additional information provided the Parish Council objects and believes the application should be called in to the Planning Committee. Bearing in mind that the plans for the existing dwelling included an office, the structure at the top of the field (the temporary office) is oversized for its temporary use and is such a distance from the dwelling, the temporary office should be the subject of a separate planning application.

Crediton Hamlets Parish Council – 12th March 2020

"The building is oversized for an office and is too far from the curtilage of the dwelling. It is inappropriately sited. The structure does not reflect the intended use a temporary accommodation for a project manager. The application should be for retrospective consent, not intentional consent."

Public Health: 25th February 2020

Contaminated Land: No objection to this proposal. (24.02.20).

Air Quality: No objection to this proposal. (24.02.20).

Environmental Permitting: No objection to this proposal. (19.02.20).

Drainage: No objection to this proposal. (24.02.20).

Noise & other nuisances: No objection to this proposal. (24.02.20).

Housing Standards: There are no plans attached to be able to comment on layout. (19.02.20).

Licensing: No comments. (19.02.20).

Food Hygiene: No comments. (19.02.20).

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.

You must also register with the Local Authority (Mid Devon District Council) any private water supply. Failure to do so may result in a Section 85 Notice, with which failure to comply is an offence.

Please contact Public Health at Mid Devon District Council on completion of proposal.

IF MAINS WATER IS TO BE USED, WOULD HAVE NO COMMENT. (19.02.20).

Health and Safety: No comments. (19.02.20).

Local Highway Authority - 2nd March 2020

Standing advice applies - <https://www.devon.gov.uk/planning/apply-for-planning-permission/get-help-with-an-application/guidance-for-applicants>

REPRESENTATIONS

No letters of representation were received

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The proposed development relates to the provision of a dwelling on the land adjacent to Brookdale, Neopardy, Crediton. As reported on, there is an approved Class Q scheme (reference 19/00123/PNCOU) for two dwellings, however the applicant wishes to convert the agricultural buildings into a single dwelling but has also applied for ancillary buildings on the plot in the form of a garage/carport, office and summer house/shed.

The main issues in the determination of this application are:

- 1. Policy and principle of development**
- 2. Highway, access and parking,**
- 3. Design and appearance of development and visual impact on landscape**
- 4. Impact on the amenity of nearby residential properties**
- 5. Planning obligations**
- 6. Other matters**
- 7. Planning balance**

1) Policy and principle of development

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 is noted as one such material consideration. The National Planning Policy Framework outlines three dependant objectives of sustainable development; economic, social and environmental.

Policy COR1 of the Mid Devon Core Strategy seeks to manage growth in a sustainable way to support the diverse needs of communities. COR2 seeks to ensure that development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets, particularly through requiring high quality sustainable design which will reinforce the character and legibility of its built environment. Policy COR3 sets a district wide target for new housing development and COR12 seeks to focus development in the most sustainable locations. The site is located in a countryside location where policy COR18 seeks to restrict development to enhance the character, appearance and biodiversity of the countryside. In terms of residential uses, COR18 provides in principle support for affordable housing to meet local needs, gypsy accommodation, replacement dwellings, housing essential to accommodate an agricultural or forestry worker and accommodation ancillary to a dwelling.

In addition to policies of the adopted Local Plan, on 26th June 2020, Mid Devon District Council published the Inspector's Report on the Mid Devon Local Plan Review. The Inspector has concluded that the Local Plan is 'sound' subject to a number of main modifications being made. The Mid Devon Local Plan Review, taking account of the Inspector's conclusions, will be recommended for adoption at a meeting of full Council

Consistent with National Planning Policy Framework paragraph 48, the publication of the Inspector's Reports increases substantially the weight that can be attributed to the Local Plan in decision making. The examination process has now concluded. The Inspector has concluded that the Local Plan is sound (subject to the main modifications which have been recommended) and, as such, there are no longer unresolved objections to the Local Plan Review. As such, substantial weight may now be attached to the policies of the Local Plan when making planning decisions.

The adopted development plan, in technical terms, remains the starting point for planning decision making. The Local Plan Review is however a material consideration to which substantial weight may now be attached. Given the state of advancement of the Local Plan Review in the process toward adoption, it is considered that, generally, in the context of a planning decision, where there is a conflict between the outcome which arises from the application of policies of the adopted development plan and those of the Local Plan Review, the Local Plan Review will generally outweigh the adopted plan and will prevail. Where there is consistency, then the policies of the Local Plan Review add substantial weight in favour of the outcome which accords with the application of policies of the adopted development plans and those of the Local Plan Review.

Therefore relevant policies within the Local Plan Review would be those of Policies S1 (Sustainable development priorities), S2 (Amount and distribution of development), S3 (Meeting housing needs), S8 (Infrastructure), S9 (Environment) and S14 (Countryside). Policy S14 has similar wording to Policy COR18 of the Local Plan which stipulates the circumstances in which development will be permitted in the open countryside, and the proposal does not meet any of the stated criteria.

It is noted that a Court of Appeal decision [Mansell v Tonbridge and Malling BC] concluded that a fall-back position could be considered whereby permitted development rights such as those under Class Q of part 3 of Schedule 2 of the Town and Country (General Permitted Development)(England) Order 2015 (as amended) could be considered as a material consideration. As prior approval has been granted for the conversion of the existing building under Class Q into two dwellings, this represents a fall-back position, which is a material consideration.

Through prior approval it has been demonstrated that the building is capable of being converted to residential use in accordance with the available permitted development rights and the submission of the Class Q notification could be considered to demonstrate a realistic prospect that residential development on the site would be pursued, by implementation of the Class Q approval, even if this planning application were refused.

Whilst the proposal now under consideration would not constitute permitted development given the amount of rebuild involved in the conversion works, it would result in a very similar form of development and one which is considered to be superior to the fall-back scheme, in terms of the fact that it would be for one dwelling rather than two, the quality of accommodation to be provided, the proposal's impact on the character of the area through the use of materials chosen and ecological impact through the planting of trees across the wider site. There is also a financial contribution towards Air Quality mitigation in Crediton.

On balance, bearing in mind the particular circumstances of this case, the proposal is considered to be acceptable in principle.

2. Highway, access and parking

The proposal utilises the existing access and a new driveway and garage/car port is to be provided. It is not considered that the provision of the driveway off the existing access would result in harm to the character or appearance of the area in accordance with policies COR2 and COR18

of the Mid Devon Core Strategy (LP1) or policy DM2 of the Local Plan part 3 (Development Management Policies), and Local Plan Review 2013 – 2033 policies S9 (Environment), S14 (Countryside) and DM1 (High quality design).

Policy DM2 of the Local Plan states that new development should be safe and accessible and Policy DM11 states that a suitable access should be in place, or able to be created without causing harm to the character of the area or highway capacity. Given the limited traffic movements associated with the access which has been utilised for agricultural activities, the use of the existing access for a single dwelling is not considered to result in any significant highway safety concerns. There is sufficient space within the site for two parking spaces in accordance with policy DM8 of the Local Plan part 3 (Development Management Policies) and DM5 (Parking) of the Local Plan Review 2013 - 2033. A condition is recommended to be imposed to secure the provision of the parking and manoeuvring area.

3. Design and appearance of development and visual impact on landscape

The initial concerns raised through this proposal were that the garden area is substantially increased for the plot compared to what was allowed under 19/00123/PNCOU, that the proposal results in an increase in the number of buildings on site with a new garage/carport, office building and summerhouse and that the position of the office building and summerhouse, are viewed as being isolated from the proposed dwelling, therefore viewed separately to the existing buildings on site and therefore introducing more buildings within this countryside location. Policy DM2 of the Local Plan states that the design of new development must be of high quality and demonstrate a number of principles, including efficient and effective use of the site, an understanding of the local context, and appropriate siting, layout, scale, and other design characteristics to ensure visually attractive and well integrated development. Policy DM14 states that new housing should be designed to deliver high quality, taking account of context, local character, density, and land use mix. Similar wording is used in policies DM1 and DM12 of the Local Plan Review.

The proposed change of use of the building to a single dwelling from the two approved dwellings is considered to be 'betterment'. The whole design is also considered as being an improvement on the approved design, which was limited in architectural terms due to the restrictive nature of the legislation. The applicant has commented that rather than consider a complete knock down and re build, their preference is to convert the barn. The original application proposed to retain the roof and side cladding whereas the proposal now is to improve the external appearance of the building by replacing these with new materials, whilst also improving the aesthetics with careful consideration of new interventions and glazing.

The existing agricultural building is located in an isolated location set back from the road so it would not necessarily need to be replaced in order to improve the relationship to other buildings on site or nearby or to be set back further from a main road. The accommodation which would be provided is considered to be an improvement on that which would be achieved through 19/00123/PNCOU and the overall design approach would be an improvement on the existing agricultural building to be converted. The design approach is considered to be supportable in accordance with policies DM2 and DM14 of the Local Plan and DM1 and DM12 of the Local Plan Review. The property would benefit from a suitable level of private amenity space reflecting the size, location, floor space and orientation of the property.

With regard to the call in reasons, as to whether the proposal would represent a conversion of an existing building is not particularly relevant as whilst there are policies allowing the conversion of agricultural buildings into dwellings (DM11 of Local Plan and DM9 of LPR), given the fact that in utilising a fall back position, the building could be demolished and a new dwelling (demonstrating a betterment) could be built. In any event, the proposal is for the conversion of the existing building

on site, utilising the existing form, scale and footprint of the existing building. Therefore in terms of the consideration as to whether the design of the dwelling will retain the original character of the building and its surroundings, the proposal is for a change of use of an existing agricultural building, which retains its volume and shape and seeks to provide an attractive, modern and environmentally friendly dwelling in the countryside.

Although it is recognised that the provision of the garage/carport, office building and summerhouse increases the scope of built development at the site, the design and siting of these buildings is considered to be acceptable and typical of ancillary structures of this nature and it is not considered that the presence of these buildings would result in harm to the character and appearance of the area in accordance with policies COR2, COR18 and DM2 of the Local Plan and Policies S9, S14 and DM1 of the Local Plan Review.

The garage has been positioned on the boundary between the two properties and sited to suit the proposed parking and turning area. The summerhouse would be additional and used ancillary to the house, but the applicant advised that this could be removed if necessary. The office building has been positioned on site temporarily in order to provide storage and welfare facilities and accommodation whilst the house is being constructed. This application seeks to retain this structure upon completion of the dwelling for use as an office for running applicant's business.

The temporary building on site is currently lawful as it is being used on the site for temporary accommodation whilst building work is being undertaken, plus providing welfare and storage facilities as required under the Construction Design and Management Regulations 2015. The applicant has outlined the business need for the office below and also wishes to use part of this building for garden storage such as a ride on mower. In terms of the position of this building and that of the summerhouse, being further away from the dwelling, the applicant has commented that a position by the roadside hedge would be too visible and equally this was thought to be the same should it put on the opposite boundary adjoining the field. The position chosen is low in the landscape and surrounded by existing vegetation thereby reducing views from public vantage points.

The applicant has advised that they are moving their office based business to Crediton. It will involve renting office space in Crediton and employing local staff as the local Hampshire staff will not be moving. As well as the Office in Crediton, working from home has become more prevalent over the last few months, to the extreme that they have approval from the Government to conduct all of their business remotely from home. The business involves monitoring, supporting, training and assessing merchant shipping to keep them safe at sea. The operation of working from home is often random hours of the day outside of the standard 0900 to 1700 at the actual business premises. The home office is run between the applicant and his fiancé only and to achieve working from home the office has to be secure, have reliable and secure internet and power, and preferably be completely out of view and remote as possible for security reasons. This is another reason for the tree planting to help further reduce any view to this building.

It is explained that the entire project is off-grid, not just for environmental reasons but reliability reasons. The wooden office has been placed with the roof south facing and houses 16 solar panels generating 5kw per hour. It also houses all the batteries and inverters for reliable and clean power and also houses a 4000 litre holding tank and its filtration equipment from the bore hole that is right next to the wooden office at the top of the garden. The applicant states that this will be sufficient enough to supply the main barn conversion into a family home. The only additional element to the project is that the applicant will be personally financing for fibre connectivity (over 100mps) to be connected to Neopardy and Crediton for the business, although this will also give good access to the local community.

It is recognised that the increased garden area will result in the loss of some agricultural land, this quantity of agricultural land is considered to be relatively minor and the boundary treatments can be conditioned to ensure that they are appropriate so as not to result in harm to the character or appearance of this part of the countryside in accordance to policy DM2 of the Local Plan and DM1 of the Local Plan Review. There is limited garden provided to the rear of the barn, whilst that immediately between the road and the barn will form the parking and turning area. Therefore this therefore leaves the area of land to the side of the barn up to the higher hedge line. The applicant has commented that they considered only using part of this area, however this would leave a section of land in their ownership which would have no beneficial use and would be too small to be used for agricultural purposes.

Whilst the proposal to create a dwelling would result in more rebuild of the existing building, the end result would have a very similar appearance to what is otherwise permitted and the proposal would enable the Council to secure additional planting. On balance, it is considered that the proposal would result in a marginal improvement compared to the fall-back position allowed by the permitted development regulations. Bearing in mind the fall-back position, and given the proposal's siting, scale, and design, it is considered that it would not result in unacceptable harm to the character of the area, subject to the use of conditions to secure the final materials referred to on the submitted plans, landscaping, boundary treatment, and the removal of permitted development rights. Providing these conditions are employed, in terms of its visual impact, the proposal is considered to be in accordance with Policies DM2 and DM14 of the Local Plan and DM1 and DM12 of the Local Plan Review.

4. Impact on the amenity of nearby residential properties

The proposed dwelling will be setback in the site from the existing country lane and there is also good degree of separation to the nearest neighbouring residential property so it is not considered to result in a significant detrimental impact on the amenity of a neighbouring property in accordance with policies DM2 and DM14 of the Local Plan and policies DM1 and DM12 of the Local Plan Review.

The increased garden area will change the nature of the use of this part of the site, which currently forms part of the agricultural field. However, having regard to the siting in relation to the neighbouring property and the intervening screening it is not considered that the use of the extended garden area would result in any significant adverse impacts to the amenities of neighbouring occupiers. The proposed boundary treatment details will need to be conditioned in order to ensure that this does not result in any detrimental impact on the landscape.

Overall, it is not considered that the proposed development, including the new ancillary buildings and extended garden area, would result in any significant adverse impacts to the amenities of neighbouring occupiers. Furthermore it is considered that the proposed scheme provides some improvements to the Class Q scheme, in terms of the design of property and accommodation achieved and measures that can be secured by condition.

5. Planning obligations

In accordance with Policy AL/CRE/8 (Credon Air Quality) and the Council's Supplementary Planning Document (SPD) 'Air Quality and Development' the proposal has been judged to lead to an increase in traffic and will lead to a worsening effect on air quality in the area of Credon. An Air Quality Contribution is required therefore to offset the impact of the development on air quality. This Contribution will be used to implement the Air Quality Action Plan. In this instance payment of

£4434.00 is required towards measures necessary to assist with the flow of traffic through the Western Gateway, St Lawrence Green and/or the High Street in Crediton. The applicant has confirmed that they are willing to enter into a Unilateral Undertaking and pay this contribution.

6. Other matters

The site (access and buildings) are not located within a flood risk area and there are therefore no concerns regarding flood risk of the site. The application form states that surface water drainage will be managed by soakaway and foul drainage will be managed via a package treatment plant. On this basis it is not considered that the proposed development is likely to result in any significant adverse impacts to neighbouring occupiers or the general amenity of the area. Solar panels are proposed on the south facing roof slope of the proposed office building which is also supported by policy DM5 of the Local Plan and policy DM2 of the Local Plan Review.

The submitted ecological information does not anticipate any harm to protected species as a result of the proposal subject to protective actions and measures during the construction phase of the development, and the installation of enhancement measures such as bat and bird boxes. There is an opportunity to secure an acceptable scheme of external lighting which minimises the proposal's impact in terms of light pollution and effects on protected species. It is considered that the proposal would result in a positive contribution to biodiversity compared to the fall-back position given the extensive tree planting across the site.

Subject to the use of conditions to secure all of the above, it is considered that the proposal's impact on nature conservation interests would be acceptable, and that the proposal would be in accordance with the guidance contained in the NPPF.

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons that could be affected by the development have been identified as sharing any protected characteristic.

7. Planning balance

In light of the policies in the Core Strategy and Development Management Policies, the key issue to be considered in respect to this proposal is that of the principle of the development taking into consideration the adopted and emerging planning policy and the weight afforded to the 'fall back' position established by case law.

In this case it is considered that the existing Class Q approval represents a realistic fall-back position for development of two dwellings (by conversion) that could be achieved at the site without any further consent from the Local Planning Authority. The fall-back position is considered to be realistic in this case having regard to considerations as set out in the Mansell case.

The additional associated works, in terms of the enlarged garden area, ancillary buildings and driveway are considered to be supportable in accordance with the relevant development plan policies as set out above. Furthermore, it is considered that this additional development would have been supported had it come forward as a planning application subsequent to the Class Q development being carried out. As such, it is not considered that there are any material planning considerations that would justify refusal of the application for these associated works.

Weighing all matters in the balance, the proposal is considered to provide a betterment over and above the Class Q conversion (19/00123/PNCOU). The design is considered to be of a higher quality and the proposal has contributed towards air quality mitigation within the nearby Town of Crediton. Subject to the conditions imposed, the works involved in the creation of a new dwelling in this instance is considered to result in betterment and the fall-back position can be given significant weight.

To sum up, the proposal is considered acceptable, having regard to the Development Plan, Local Plan Review and all other material considerations, and therefore planning permission should be granted, subject to the conditions detailed below.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Prior to their use on site, details/samples of the materials proposed to be used on the external surfaces of the buildings, shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall be so used and retained thereafter.
4. Notwithstanding the details submitted on the block plan for the proposed new tree planting to be planted across the site, prior to the use of any part of the development hereby approved, full details of the plant species to be used as part of the landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding, turfing or earth reprofiling comprised in the approved details of landscaping shall be carried out within 9 months of the substantial completion of the development or first planting season (whichever is sooner). Any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species. Once provided, the landscaping scheme shall be so retained.
5. The garage building hereby approved shall only be constructed and used for purposes ancillary to and in connection with the proposed dwelling on the site and shall at no time be used, let, sold or otherwise disposed of as a separate unit of accommodation or for commercial purposes.
6. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Classes A, B, C, D, E, of Part 1 relating the extension and alteration of the dwelling, extensions or alterations to its roof, the insertion of windows and/or rooflights, and the provision of outbuildings of Class A of Part 2 relating to enclosures, shall be undertaken within the dwelling curtilage without the Local Planning Authority first granting planning permission.

7. The development hereby approved shall be undertaken in full accordance with the recommendations contained in the submitted Ecological Appraisal for Bats and Nesting Birds dated 9th January 2020 produced by the Ecological Consultant David F Wills. The development as approved shall include the installation of bat boxes and bird boxes within the development with details of the installation of these biodiversity enhancement measures (including a plan of the location of these boxes on site) to be submitted to and improved in writing by the Local Planning Authority prior to occupation of the dwelling. Once installed, the approved measures shall be retained indefinitely.
8. Any proposed scheme of external lighting for the site shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the dwelling hereby approved. The submitted scheme shall include a lighting assessment with measures to prevent light-spill into the surrounding area and harm to protected species, from both internal and external light sources. External lighting at the site shall only be installed in accordance with the approved details, and the approved scheme shall be provided in full prior to the first occupation of the dwelling hereby approved, and shall thereafter be retained indefinitely.
9. The dwelling hereby approved shall not be occupied or brought into use until the parking and turning areas detailed on the approved plans have been provided in full. These elements shall thereafter be retained for the use of the associated dwelling for the life of the development.
10. The home office created through retention of the temporary building hereby approved shall be used for purposes ancillary to the main converted agricultural building into a dwelling on site. It shall not be used for separate self-contained residential accommodation (Use Class C3) or be let, sold or otherwise occupied independently of the dwelling created through the barn conversion hereby approved.
11. On the detached office building becoming redundant for such purposes, it shall be demolished and all resultant materials removed from the site within 3 months of them becoming redundant for their approved use.

REASONS FOR CONDITIONS

1. In accordance with 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. To ensure the materials used are of a high quality and appropriate to the rural context in accordance with Policy DM2 of Local Plan Part 3: (Development Management Policies) and Policy DM1 of the Local Plan Review 2013 – 2033.
4. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with Policy DM2 of Local Plan Part 3: (Development Management Policies) and Policy DM1 of the Local Plan Review 2013 – 2033
5. To safeguard the amenities of the area and the amenities of neighbouring dwellings in accordance with Policies DM2 and DM14 of the Local Plan Part 3 (Development Management Policies) and Policies DM1 and DM12 of the Local Plan Review 2013-2033 and given the countryside location of the site, reflecting the restricted approach to

countryside development as established by Policy COR18 of the Mid Devon Core Strategy (Local Plan Part 1) and Policy S14 of the Local Plan Review 2013-2033.

6. To safeguard the visual amenities of the area and amenities of neighbouring dwellings in accordance with Policies DM2 and DM14 of the Local Plan Part 3 (Development Management Policies) and Policies DM1 and DM12 of the Local Plan Review 2013 – 2033.
7. In the interests of nature conservation and in accordance with the guidance contained in the National Planning Policy Framework.
8. In the interests of nature conservation and to prevent unacceptable levels of light pollution, in accordance with Policy DM7 of the Mid Devon Local Plan and Policy DM4 of the Local Plan Review 2013 – 2033.
9. In the interests of highway safety and amenity and in accordance with Policies DM2 and DM8 of the Mid Devon Local Plan and Policies DM1 and DM5 of the Local Plan Review 2013 – 2033.
10. New permanent independent residential use would require formal planning permission with an assessment required over the acceptability in policy terms given the location in the countryside and relationship to surrounding properties, in accordance with Policy COR18 of Mid Devon Core Strategy (Local Plan 1), Policies S9 and S14 of the Local Plan Review 2013-2033 and guidance in the National Planning Policy Framework.
11. To ensure removal of the office unit if no longer required for use by the occupier of the site 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) and Policy S14 of Local Plan Review 2013 – 2033.

ADVISORY NOTES

1. 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.
2. The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory protection afforded to any such species. If bats are found, works must immediately cease and further advice be obtained from Natural England and / or a licensed bat consultant. Works must not resume until their advice has been followed. Nesting birds are also protected by law. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds and reptiles all of which are protected under the Wildlife & Countryside Act 1981 (as amended). Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.

REASON FOR APPROVAL OF PERMISSION

The works involved to create a new dwelling as an alternative to converting the existing building into two dwellings which benefits from Class Q permitted development rights, is considered to be acceptable in this instance. The fall-back position is considered to be realistic and is a material consideration in the planning balance. The proposed development results in a higher quality design which affords a more comfortable relationship with neighbouring properties and provides an improvement on the landscape and has provided a contribution towards the provision of air quality mitigation. The additional works that include the provision of a driveway, garage, office building and an enlarged garden area is considered to be supportable in policy terms. It is not considered that the proposed development would result in significant harm to the character and appearance of the rural area. The proposed development is not likely to result in any adverse highway impacts. On this basis it is considered that in this instance the proposed development results in a betterment to the Class Q development that could be achieved, as such the fall-back position can be given significant weight and on this basis the proposal is supported in accordance with Policies COR2 of the Mid Devon Core Strategy (Local Plan Part 1), DM2, DM8 and DM14 of the Local Plan Part 3 (Development Management Policies) and AL/CRE/8 of the Allocations and Infrastructure Development Plan Document, Local Plan Review 2013 – 2033 Policies S9, DM1, DM2, DM5 and DM12 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.

Application No. 19/01309/FULL

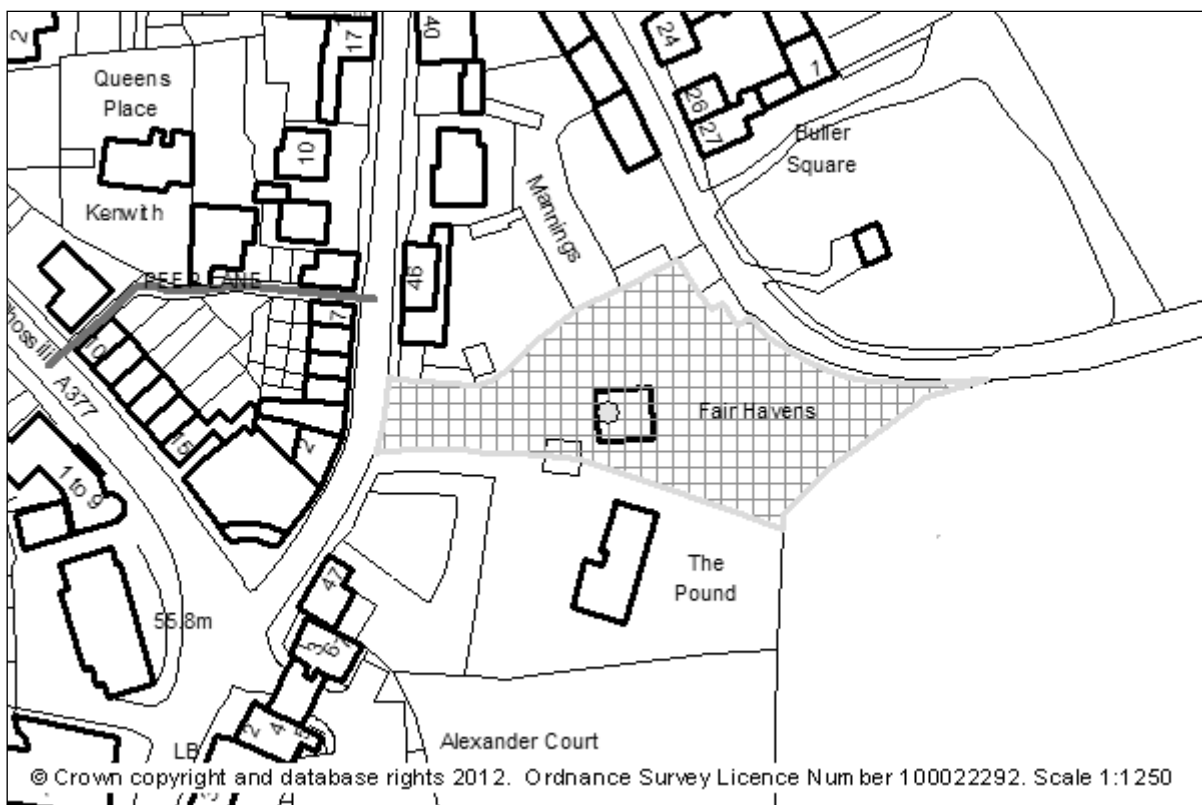
Grid Ref: 283951 : 100017

Applicant: Mr Chris Reed

Location: Fair Havens
Mill Street
Crediton
Devon

Proposal: Erection of a dwelling including demolition of a garage (Revised Scheme)

Date Valid: 15th August 2019



19/01309/FULL - ADDENDUM REPORT

Members considered this application at the meeting of 20th May 2020 and resolved that the application be deferred until detailed enforceable conditions could be defined to address Member concerns with regard to:

- The requirement for an enhanced landscaping scheme to include semi-mature tree planting to site boundaries
- The colour of the cladding
- The weathering of the roof tiles to tone down the colour
- The need for the amount of roof lights installed and the glare from those that had already been installed

The applicant has since considered these concerns and provided suggestions as to how these matters can be resolved. These are discussed in relation to each point below.

1. The requirement for an enhanced landscaping scheme to include semi-mature tree planting to site boundaries

The submitted revised landscaping scheme (drawing number JW719/07/C) demonstrates the provision of heavy standard tree planting comprising of seven semi-mature Holm Oaks. It is proposed to provide one of these to the front of the dwelling, on the grassed area adjacent to the access drive to seek to enhance the visual amenity of the site as viewed from Mill Street. The others are proposed to be planted along the north and eastern boundaries. It is understood that Holm Oaks are an evergreen species and should therefore offer screening benefits all year round. The planting scheme has been discussed with the Council's Tree Officer who has advised that extra heavy standard specimens would be expected to consist of a stem girth of 14-16cm at 1m in height, a clear stem of 1.75-2m in height and a total height in excess of 3.5m, as informed by BS8545: 2014. Furthermore it would be expected that the Holm Oaks would achieve a likely growth rate of 30cm per year, dependant on growth conditions which tend to be favourable in the South West. The applicant has confirmed they would be agreeable to the provision of extra heavy standards. The extra heavy standard tree planting is proposed in addition to the proposed hedgerow planting around the northern edge of the site which comprises a mix of native species including; Hawthorne, Crab Apple, Wild Cherry, Beech, Oak, Guelder Rose, Blackthorn, Field Maple and Holly.

In order to secure the landscaping scheme as shown on drawing number JW719/07/C revised conditions (to replace previous conditions 3 and 4) are suggested below. A timescale of 6 months from the date of this decision is proposed in order to enable the planting to take place within the optimum planting season; November to March.

Unless otherwise agreed in writing by the Local Planning Authority the existing trees on the site, as identified on drawing number JW719/07/C, shall be retained. The hedgerow and tree planting as shown on drawing number JW719/07/C shall be implemented in accordance with the approved details within 6 months of the date of this planning permission and within the next planting season (November to March). The proposed Holm Oak tree planting as shown on the approved plan shall be of extra heavy standard specimens (consisting a stem girth of at least 14-16cm at 1m in height, a clear stem of 1.75-2m in in height and a total height in excess of 3.5m as informed by BS8545: 2014). Any trees or plants which within a period of five years from the implementation of the scheme (or phase thereof), die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. Once provided, the landscaping scheme shall be so retained.

2. The colour of the cladding

Members raised concern with the colour of the cladding which has been provided below the bay windows to the rear elevation. As installed, this is a dark grey colour which matches the appearance of the window frames. The applicant has suggested two options for Members consideration, either replacement with hanging tiles or lead cladding. Officers have considered these options and are unconvinced that lead would be an appropriate solution in this instance and would add a further material to the material palette of the scheme. The use of hanging tiles could tie in with the appearance of the roof and is likely to provide a more traditional appearance than the current cladding. However given Member concerns in relation to the colour of the roof, consideration would need to be given to the visual impact of the addition of hanging tiles within the vertical plane of the building. Specific details of materials could be required by condition.

If members are minded to consider that the cladding to the box elements of the bay windows is replaced by hanging tiles, the following condition is suggested;

Within 3 months of the date of this decision or prior to occupation of the dwelling, whichever is the earliest, the grey cladding to the bay windows on the east elevation shall be removed and replaced with hanging tiles in accordance with details which shall previously have been submitted to and approved in writing by the Local Planning Authority.

3. Weathering of the roof tiles

To address the concerns previously raised in relation to the colour of the roof tiles in their new and un-weathered condition, the applicant is proposing to apply "Liquid Weather" to the roof. The effect is to instantly mimic the natural weathering process and tone down the appearance of the tiles. The product has been tested on a sample tile and photos will be provided to members within the officer presentation at the committee meeting.

If members are minded to require that the roof is treated with the liquid weather product, the following condition is suggested;

Within 3 months of the date of this decision or prior to occupation of the dwelling, whichever is the earliest, a weathering solution shall be applied to the roof of the dwelling. The product shall be as proposed in correspondence from the applicant dated 10th June and 23rd June, specified as Liquid Weather in undiluted form.

4. The need for the amount of roof lights installed and the glare from those that had already been installed

The dwelling includes a large roof light to the front (west) elevation over bedroom 3 and five smaller roof lights over the loft area. Officers have further considered the member concerns raised at the previous meeting as to whether the installation of the roof lights was permitted development. As the previously existing dwelling was substantially altered, to the extent that only the floor and one wall remained, it is considered that the dwelling would not benefit from permitted development rights until such time as the dwelling was substantially complete. This would normally be taken to be when it has the ability to afford facilities required for day to day existence. Had the 03/00835/FULL been built out to substantial completion, the subsequent installation of the roof lights would have been likely to constitute permitted development. In this case the roof lights have been installed during the construction of the dwelling at which point it did not benefit from permitted development rights.

The applicant has proposed to provide a Pilkington anti glare glass to the roof lights, or similar alternative product, with a sample to be provided for approval by the LPA prior to installation. It is understood that this would have the affect of reducing the glare from the glazing and also reducing the level of light that is allowed to pass through the glass. This would therefore help to reduce the visual prominence of the roof lights.

If members are minded to require that the existing roof lights are replaced with anti-glare glazing the following condition is suggested;

Within 3 months of the date of this decision or prior to the occupation of the dwelling, whichever is the earliest, Pilkington Anti-glare glazing, or a suitable alternative to be submitted to and approved by the LPA prior to its use on site, shall be applied to the velux roof lights to replace the existing glazing.

LOCAL PLAN REVIEW 2013- 2033 UPDATE

On 26th June 2020, Mid Devon District Council published the Inspector's Report on the Mid Devon Local Plan Review. The Inspector has concluded that the Local Plan is 'sound' subject to a number of main modifications being made. The Mid Devon Local Plan Review, taking account of the Inspector's conclusions, will be recommended for adoption at a meeting of full Council.

Consistent with National Planning Policy Framework paragraph 48, the publication of the Inspector's Reports increases substantially the weight that can be attributed to the Local Plan in decision making. The examination process has now concluded. The Inspector has concluded that the Local Plan is sound (subject to the main modifications which have been recommended) and, as such, there are no longer unresolved objections to the Local Plan Review. As such, substantial weight may now be attached to the policies of the Local Plan when making planning decisions.

The adopted development plan, in technical terms, remains the starting point for planning decision making. The Local Plan Review is however a material consideration to which substantial weight may now be attached.

Given the state of advancement of the Local Plan Review in the process toward adoption, it is considered that, generally, in the context of a planning decision, where there is a conflict between the outcome which arises from the application of policies of the adopted development plan and those of the Local Plan Review, the Local Plan Review will generally outweigh the adopted plan and will prevail. Where there is consistency, then the policies of the Local Plan Review add substantial weight in favour of the outcome which accords with the application of policies of the adopted development plans and those of the Local Plan Review.

In the case of this application, the relevant policies within the emerging plan have been reviewed and included within the original officer report below. However, in this case, the relevant policies are very similar and consistent with the corresponding policies in the adopted local plan and are not considered to materially change the assessment of the application.

PLANNING WORKING GROUP – 30 January 2020

Application 19/01309/FULL – Erection of a dwelling including demolition of a garage (revised scheme), Fair Havens, Mill Street, Crediton

There were 3 Members of Planning Working Group present.

Also present – the agent, an objector and a representative of the Town Council.

The Chairman indicated that the Planning Working Group had been requested to visit the site to consider: relevant parts of Policy DM2 as follows:

Policy DM2 requires designs of new development to be of high quality based upon and demonstrating the following principles:

- a) Clear understanding of the characteristics of the site, its wider context and the surrounding area
- c) Positive contribution to local character including any heritage or biodiversity assets and the setting of heritage assets
- e) Visually attractive places that are well integrated with surrounding buildings, streets and landscapes, and do not have an unacceptable adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses, taking account of:
 - ii) Siting, layout, scale and massing
 - iv) Materials, landscaping and green infrastructure

The Chairman welcomed everyone to the site visit and introductions took place.

The Principal Planning Officer outlined the application and the history of development on the site: the 2003 consent for an extension to the existing bungalow which had been implemented. She provided the approved plans for the scheme and plans for the current proposal which included the addition of roof lights and other elevations, also the proposed landscaping scheme and the additional tree planting.

Questions were raised with regard to:

- The difference between the permitted and extant scheme
- Whether any of the original bungalow still existed
- The positioning of the fence and what sort of screening it would provide if it was at the bottom of the slope
- The landscaping scheme and what it would consist of
- Planning permission was not required for the demolition of the garage

The objector addressed the group stating that the dwelling would have a colossal impact on the town, she had provided photographs at committee taken from different parts of the town which highlighted the size of the dwelling and that it did not fit in with the local area. There would be considerable overlooking from the rear of the house into her bedroom windows and her garden. Her home was a listed property and the new dwelling would impact on the setting of the listed

building. She felt that the roof tiles were not consistent with the original bungalow and that these did not fit into the conservation area.

The agent then addressed the group providing photographs of the original bungalow, details of the 2003 application and the consent for the extension. He provided plans of the area of the dwelling which didn't have consent and that that did. He emphasised that this was not a new dwelling but an extension to the original bungalow and provided 'building regulations' documentation. He provided samples of the original roof tiles from the bungalow and the new tiles that were present on the roof.

The representative from the Town Council provided a photograph of the original bungalow, he felt that there was nothing else in the area that compared to the current dwelling, he felt that it was very prominent and dominant in its current setting.

The Ward Member provided photographs of the dwelling in its setting surrounded by listed properties looking from the top of the hill. He outlined the history of the conservation area and the listed properties in Buller Square, he felt that the applicant had used a loophole in planning law to erect the dwelling. He reminded members of the development at Wellparks that had been built using red brick with slates tiles to fit in with the local area.

The group then walked around to the rear of the dwellings where they were able to look down onto the neighbouring listed property and the buildings within Buller Square.

Those present then walked out of the site and down into Buller Square and up the lane. The objector highlighted the impact of the dwelling on her property and explained that she had permission for an additional dwelling and the hoops that she had had to go through to get planning permission.

Walking back to the site, the group considered the planting scheme proposed on the driveway.

The Planning Officer was requested seek the following advice:

- Clarity from Building Control with regard to what part of the structure was the original bungalow
- Legal clarification with regard to what was approved and what was not.

Members agreed that they would voice their views regarding the application at the next meeting of the Planning Committee.

FURTHER OFFICER COMMENTS

With regard to the queries raised at the Planning Working Group meeting, as set out above.

The Council's Building Control officer has confirmed that the foundations and floors of the original dwelling were retained. One external wall has been kept and is now internal. Where the external walls are in the same place as before they have been taken down to DPC level and rebuilt in new brickwork to create a cavity wall/ insulated wall to match the other external walls, they now significantly exceed minimum standards for thermal insulation.

The Council's Head of Legal has provided a response in relation to the clarification sought as to what was previously approved. The approved plans in relation to application 03/00835/FULL

demonstrate the scope of development previously approved. The plans submitted in respect of the current application demonstrate the extent of the proposed revisions to the scheme (the proposed alterations are summarised at section 2 of the officer's report). The question that needs to be considered is whether the deviations result in harm and give rise to conflict with the development plan such that planning permission should be refused.

Concerns have been raised with regard to the appearance of the roof tiles, particularly their colour. Condition 3 of planning permission 03/00835/FULL required that;

(3) The external surfaces of the extension(s) hereby approved shall be of materials to match those of the existing building. No other materials may be used unless the prior written consent of the Local Planning Authority is given to any variation thereto.

Reason: To safeguard the visual amenities of the area, and to ensure that the proposed development does not have an adverse effect on the appearance of the buildings.

The material palette at the time of that application was listed to match the existing dwelling; brick and render walling, tiled roof and white uPVC windows. Whilst the tiles that have been used are prominent in their un-weathered state, the wording of condition does not require that the tiles match the appearance of the existing tiles, only that the external surfaces be of materials to match the existing. However, it is relevant to consider whether the use of the tiles on the dwelling in its revised form (i.e. the impact of the tiles on the additional floor of the previously approved single storey extension at the northern end of the dwelling), causes harm having regard to the development plan and other material planning considerations. As members will be aware, officers are of the view that the alterations to the 2003 scheme sought through this application do not result in significant harm that would be considered to warrant refusal of the application.

If members are of the view that planning permission should be refused, it will be necessary to consider whether it is expedient to take enforcement action and if so, what remedial steps are reasonable and necessary in order to address the harm.

APPLICATION NO: 19/01309/FULL

MEMBER CALL-IN

Cllr John Downes called the application in to consider whether the proposal would result in overdevelopment of the site and non-compliance with the original approval.

RECOMMENDATION

Grant planning permission subject to conditions

PROPOSED DEVELOPMENT

Erection of a dwelling including demolition of a garage at Fairhavens, Mill Street, Crediton. The site is located within the town of Crediton and within the Crediton Conservation Area. The site was formerly occupied by a modest, single storey dwelling, however works have been undertaken to provide a larger dwelling on the site. Access is achieved via a shared private drive which rises steeply up from Mill Street to the west of the site.

The application seeks consent for the erection of a dwelling and demolition of the existing garage. The site area extends to approximately 1805sqm. At the time of the case officer site visit the external shell of the dwelling was largely complete (with roof, windows and doors installed) and the internal fit out was being undertaken.

The proposed dwelling is a two storey, 4 bedroom dwelling constructed of brick with a tile roof and black uPVC windows and doors. The design and form of the dwelling is similar to the scheme approved for extending the original building back in 2003 under planning permission 03/00835/FULL. It is proposed that foul drainage will be disposed to the mains system and the surface water will be managed via a soakaway.

APPLICANT'S SUPPORTING INFORMATION

Application form

Plans

Planning statement

Letter regarding wildlife survey

Letter re tree protection plan and arboricultural method statement (December 2017)

RELEVANT PLANNING HISTORY

01/02006/FULL - PERMIT date 27th August 2002 Erection of workshop/study building

02/00297/FULL - PERMIT date 3rd September 2002 Erection of conservatory, a single storey and a two storey extension and a main second storey together with retention of boundary wall

03/00835/FULL - PERMIT date 9th June 2003 Erection of single and two storey extensions to north and east elevations and verandah to west elevation and retention of boundary wall

04/00839/FULL - REFUSE date 24th June 2004 Erection of 1 no. dwelling with new access

14/00388/FULL - PERMIT date 6th January 2015 Erection of 3 dwellings with shared courtyard and parking areas, following demolition of existing dwelling

17/01744/FULL - WDN date 14th December 2017 Variation of conditions (8), (9) and (13) of planning permission 14/00388/FULL to allow early commencement of development

19/00625/NMA - WDN date 23rd May 2019 Non material amendment for 03/00835/FULL to increase the roof height of single storey North extension to include a room with associated dormer to front and bay window to rear, insertion of full height brick chimney to North elevation

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR2 Local Distinctiveness
COR15 Crediton

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 Presumption in favour of sustainable development
DM2 High quality design
DM8 Parking
DM14 Design of housing
DM27 Development affecting heritage assets

LOCAL PLAN REVIEW 2013- 2033 Policies

S1 Sustainable development priorities
S12 Crediton
DM1 High quality design
DM5 Parking
DM12 Housing standards
DM25 Development affecting heritage assets

CONSULTATIONS

CREDITON TOWN COUNCIL- 22nd August 2019-

Crediton Town Council OBJECTS to this development. It appears to have been built without any permission and is not a variation of anything existing. This is illegal. It is a large 3-storey detached residence, as opposed to a garden shed, to ignore it, or accommodate it, would be a travesty of planning procedures and law. Had this come forward as a new application, the Town Council would have had the opportunity to comment on its impact on the conservation area in terms of its scale and use of materials. The Town Council would also have been able to look at its sustainability. Such a proposal would not have been supported by Crediton Town Council. To this end, the actual current development is unacceptable and should not have been built.

PUBLIC HEALTH- 22nd August 2019-

Contaminated Land: No objection to this proposal. (21.8.19).

Air Quality: No objection to this proposal. (15.8.19).

Environmental Permitting: No objection to this proposal. (15.8.19).

Drainage: No objection to this proposal. (21.8.19).

Noise & other nuisances: No work shall be carried out on the site on any Sunday, Christmas Day or Bank Holiday or other than between the hours of 0730 and 1900 hours on Monday to Fridays and 0730 and 1300 on Saturdays.

Reason: To ensure that the proposed development does not prejudice the amenities of neighbouring properties. (21.8.19).

Housing Standards: No comment. (20.8.19).

Licensing: No comment. (15.08.19).

Food Hygiene: Not applicable. (16.8.19).

Private Water Supplies: Not applicable. (16.08.19).

Health and Safety: No objection to this proposal enforced by HSE.

Informative: There is a foreseeable risk of asbestos being present in the structure. Please review the information in this link, so you are aware of the hazards, risks and your legal obligations with asbestos <http://www.hse.gov.uk/asbestos/> . If asbestos may be present a Refurbishment and Demolition Survey following HSG264 available at <http://www.hse.gov.uk/pUbns/priced/hsg264.pdf> should be carried out before work commences to identify precautions and legal requirements enforced by Health and Safety Executive. (16.8.19).

HIGHWAY AUTHORITY- 2nd September 2019- standing advice applies.

MDDC CONSERVATION OFFICER- 6th September 2019

I have visited the site which is a raised site accessed from Mill Street Crediton. The existing house replaces a former bungalow which originally gained planning permission in 2003.

The design and materials are not particularly sympathetic to the character of the Crediton Conservation Area however these have been approved previously. This application relates to raising the ridge of the north addition and it would appear that the main roof of the house has been converted with additional roof lights and gable windows which would be permitted development unless the ridge is built higher than the approved. The roof lights are visible features from views in the Conservation Area from Mill Street and Buller Square and are harmful to the character of the CA and should be removed if not permitted development.

The raising of the roof of the north side addition and added bay window are in the same style as the existing design and are still subservient. The large rooflight to the front elevation should be removed if not permitted development.

REPRESENTATIONS

At the time of writing this report 5 letters of objection have been received, the main issues raised are summarised below;

1. The site sits at a higher level than Downeshead Lane
2. The impact on the conservation area and houses in Downeshead Lane is not in keeping with current planning requirements
3. It is clearly visible from a wide surrounding area and is not in keeping with the local vernacular
4. The retrospective application makes a complete travesty of planning laws and a mockery of the planning committee
5. The 2003 permission for extension of the original bungalow lapsed
6. Our garden is now completely overlooked by the upper storey windows of the house
7. The materials are unsympathetic. The original bungalow had red tile roof but its height meant they were not very visible
8. The current bright terracotta coloured roof tiles are not the same as the original property and are out of keeping with the conservation area
9. There is no screening to the building
10. Concern that the building has not been built to building regulation approval
11. The increased height of the building is dominant in views from neighbouring properties
12. Concern as to how the garage will be demolished without impact to the neighbours garage which it attaches to
13. There is no plan to show areas of car parking and turning
14. The letter from Advanced Arboriculture is referred to despite having been submitted under a separate application (14/00388/FULL)
15. The existing access is in a poor state of repair

16. Trees and earth have been removed from the entrance to the drive to support the widening of the access, they have stated that there is no intention to change the access from Mill Street. Confirmation of their intention is required.

One letter of support has been received which states that the original bungalow had become derelict and a complete eyesore. The design is basically the same as the approved planning permission from 2003.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

- 1. Policy, planning history and principal of development**
- 2. Design, impact on heritage assets**
- 3. Impact on the amenity of neighbouring occupiers**
- 4. Highway and parking issues**
- 5. Other issues**

1. Policy, planning history and principal of development

Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Although the application has been submitted on a retrospective basis is not considered to be material to determination of the application and the application should be considered on its merits.

The site is located within the settlement of Crediton where policy COR15 seeks for the town to continue to develop as a small market town by increasing the self-sufficiency of the town and its area and reduce the need to travel to Exeter by widening and expanding employment opportunities, enhancing retail provision and improving access to housing and services. Policy S12 of the emerging local plan review also supports these general policy objectives.

The application was submitted following discussions with the Council's Enforcement Team. The submitted planning statement sets out that the application was submitted as a retrospective application for variations to approved development 03/00835/FULL. Application 03/00835/FULL related to the previous bungalow that existed on the site and granted consent in 2003 for the erection of single and two storey extensions to north and east elevations and verandah to west elevation and retention of boundary wall. The applicant's case is that the 2003 consent was implemented within the 5 year timeframe and they considered that they were continuing with the lawful implementation of that scheme. It is stated that the description of development at that time did not reflect the scope of development approved by the plans which actually show a comprehensive redevelopment to create a 4 bedrooled, two storey dwelling.

It is understood from the drawings available in relation to the 2003 application, that the bungalow that existed on the site had an almost square shape foot print apart from a modest porch projection to the front. It provided a kitchen, lounge, bathroom and two bedrooms. It is understood to have been constructed with brick and a tile roof.

The approved plans (03/00835/FULL) demonstrate that the scheme that could have been achieved under that consent resulted in an enlarged footprint and increase in height to provide accommodation over two levels, it also included the installation of dormer and bay window features. At ground floor level it would have provided an enlarged kitchen breakfast room, utility, lounge, gym, shower room and study. At first floor level it would have provided four bedrooms, an en-suite and a bathroom. The proposed material palette comprised brick and render walling, tiled roof and white uPVC windows.

In 2014, consent for three dwellings was granted on the site. It is understood that this consent has been implemented but has not been built out.

The applicant has explained that the works under the 2003 consent were partially implemented and they had intended to complete the works under that consent. In May 2019 a non-material amendment application was submitted which sought some variations to the plans approved under 03/00835/FULL, the variations were not considered to be non-material and therefore this application has been submitted to seek to regularise the development.

In principle it is considered that the provision of a new dwelling on the site, replacing the previous bungalow, would be supportable in this location.

2. Design, impact on heritage assets

In terms of the design of development, DM14 (Design of housing) and DM2 (High quality design) are applicable.

Policy DM2 (and policy DM1 of the emerging Local Plan Review 2013- 2033) requires designs of new development to be of high quality based upon and demonstrating the following principles:

- a) Clear understanding of the characteristics of the site, its wider context and the surrounding area;
- b) Efficient and effective use of the site having regard to criterion (a);
- c) Positive contribution to local character including any heritage or biodiversity assets and the setting of heritage assets;
- d) Creation of safe and accessible places that also encourage sustainable modes of travel such as walking and cycling;
- e) Visually attractive places that are well integrated with surrounding buildings, streets and landscapes, and do not have an unacceptable adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses, taking account of;
 - i) Architecture
 - ii) Siting, layout, scale and massing
 - iii) Orientation and fenestration
 - iv) Materials, landscaping and green infrastructure
- f) Appropriate drainage including sustainable drainage systems (SUDS) and connection of foul drainage to a mains sewer where available.

Policy DM14 outlines that 'New housing development should be designed to deliver;

- a) High quality local places taking into account physical context, local character, density and land use mix;
- b) Adequate levels of daylight, sunlight and privacy to private amenity spaces and principal windows;
- c) Suitable sized rooms and overall floorspace which allows for adequate storage and movement within the building together with external space for recycling, refuse and cycle storage;
- d) Adaptable dwellings that can accommodate a range of occupiers and their changing needs over time which will include the provision of a stairway suitable for stair lift installation or space for the provision of a lift in homes with more than one store;
- e) Private amenity space that reflects the size, location, floorspace and orientation of the property;
- f) Sustainable forms of development that maximise the natural benefits of the site through design, materials, technology and orientation;

- g) On sites of 10 houses or more the provision of 20% of dwellings built to the lifetime homes standard;
- h) Car parking in accordance with policy DM8.

Policy DM12 of the emerging Local Plan Review 2013- 2033 makes similar requirements in relation to design of housing albeit some of the criteria have been incorporated policy DM1 as a result of the Inspector's comments.

Section 72 of the Town and Country Planning Act (1990) requires that special attention be paid in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of a conservation area. Section 66 requires local planning authorities to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Policy DM27 (LP3) and policy DM25 of the Local Plan Review (2013- 2033) require development proposals likely to affect heritage assets and their settings to consider their significance, character, setting and local distinctiveness, and the opportunities to enhance them. Where proposals would lead to less than substantial harm, that harm will be weighed against any public benefit, including securing optimum viable use. The site is located within the Crediton Conservation Area. There are listed buildings located at Buller Square, north east of the site and 3 Mill Street, opposite the access point at the west of the site.

The design as sought for approval is for a two storey (with loft space) 4 bedroom dwelling with dormer window and bay window features. The design is considered to reflect the general design approach approved within the 2003 scheme, albeit with some alterations. The main alterations include amendments to the fenestration arrangement (including the addition of two roof lights to the west elevation, replacement of two ground floor windows on north elevation with one glazed double door opening, replacement of a window to east elevation with a glazed door opening and installation of three roof lights, installation of additional windows to south elevation), alterations to the internal layout and the addition of a chimney to the north elevation. The most significant alteration from the previously approved scheme relates to the increased height of the single storey extension to the north to increase it to provide accommodation at first floor level, this includes the provision of a large roof light to the west elevation and an additional bay window to the rear (east elevation).

There are some concerns that the design and materials are not entirely sympathetic to the character of the conservation area. This concern has been raised by the Conservation Officer, the full comments being set out above. Notwithstanding this, the planning history, including the scope of the scheme approved under the 2003 consent, are considered to be a material consideration. The alterations proposed to that scheme are considered to be relatively minor and generally in keeping with the character and appearance of the previously approved scheme. Whilst it is recognised that the roof lights result in interventions to the roof scape that causes some harm to the character and appearance of the conservation area, the level of harm is considered to be low, particularly having regard to the alterations that could have been achieved under permitted development. The material palette largely reflects the structure that previously existed on the site, whilst the roof is now more prominent within the wider street scene as a result of the increased height of the dwelling and the 'new' appearance of the tiles which are likely to soften in appearance when weathered. There is a varying material palette within the immediate area including brick and render walling, slate and tile roofs and timber and uPVC windows. On this basis it is not considered that the material palette is unacceptable or incongruous in this setting. Having regard to the design of the scheme previously approved under the 2003 consent and the scope of the proposed alterations, overall it is considered that the design is acceptable and the proposed development is considered to result in less than substantial harm to the character and appearance of the conservation area and the setting of the listed buildings nearby to the site.

The application has been called in to consider whether the proposal represents over development of the site. Whilst the proposal seeks consent for the erection of a dwelling on the site which is larger than the modest bungalow that previously existed, the proposal is for a single dwelling within a relatively large site area. The site would enable a relatively generous external area, including parking and garden space, to be retained for the benefit of the dwelling and the level of amenity space is considered to be appropriate for a dwelling of this size, particularly within this urban context having regard to the density of properties surrounding the site. Furthermore, it is noted that consent has previously been granted for the erection of three dwellings on the site.

3. Impact on the amenity of neighbouring occupiers

The property is detached and sits in a relatively large plot, notwithstanding this there are neighbouring residential properties surrounding the site. There are a number of residential properties to the north and north west of the site, by virtue of the existing land levels the site sits in an elevated position in relation to those properties. As such there are some relatively open views between the site and the rear parts of those properties including their garden areas. The revised design for which consent is now sought, proposes to replace two ground floor windows with a glazed double door opening to serve the lounge. Whilst this would offer views to the north, the dwelling is set back from the boundary by approximately 12m and it is not considered that the proposal results in an unacceptable relationship with the neighbouring properties particularly having regard to the screening which would be afforded by the proposed boundary hedgerow and the tree planting proposed directly north of the dwelling. Similarly it is considered that the additional accommodation and associated roof lights within the west elevation would not result in an unacceptable relationship with the neighbouring properties. Although the dwelling sits at an elevated level it is set back from the boundary and there is sufficient separation distance such that it is not considered to be overbearing despite the increased height at the northern elevation.

The neighbouring property which shares the access road is located to the south of the site. There is a substantial intervening hedgerow which provides screening between the two properties. This scheme seeks to replace a ground floor door with a window, move a first floor bedroom window and install a window within the loft. It is not considered that the proposal would result in any significant adverse impacts to the amenities of those occupiers, particularly having regard to the previously approved scheme.

Concerns have also been raised by the occupiers of the property located to the north west of the site on the other side of Downeshead Lane. The concerns are that the development is visible from all the rooms in their house and their garden which is now overlooked. Whilst it is recognised that there are now relatively open views between the site and that property, having regard to the separation distance it is not considered that the relationship between the properties would be unacceptable.

Overall, having regard to the separation distance to the surrounding properties it is not considered that the proposed development would result in harm to the amenities of neighbouring occupiers in terms of loss of light or overshadowing. Overall, the likely impact to the amenity of neighbouring properties is considered to be acceptable having regard to the previously approved scheme on the site, the separation distances to the neighbouring properties and the design, orientation and scale of the proposed development.

4. Highway and parking issues

It is proposed that the existing concrete driveway would be retained to serve the dwelling. The block plan demonstrates that there would be a parking area provided to the front of the dwelling which would provide sufficient room for parking and turning in accordance with policy DM8 (and

policy DM5 of the emerging Local Plan Review 2013-2033) and these facilities would prevent conflict with the traffic accessing the neighbouring site. It is not considered that the proposed development would result in any significant increase in traffic that would raise concerns in terms of highway safety or capacity issues.

5. Other issues

Some trees have been removed from the site during the course of the works. The applicant has submitted a letter containing a tree protection plan and arboricultural method statement, dated 13th December 2017, and originally submitted to discharge condition 10 of the 2014 permission for the erection of three dwellings on the site. In accordance with the 2014 consent a number of trees were agreed to be removed from the site. In addition, a further plan has been provided to clarify that two trees were removed from the front of the site as they were causing damage to the neighbours outbuilding. The holly bush in the north east corner of the site was also removed as it is stated that it was in a poor condition and damaging the subterranean building on Downeshead Lane. The trees are located in the Crediton Conservation Area and therefore it is likely that a notification in accordance with section 211 of the Town and Country Planning Act 1990 would have been required. It is also understood that there was an overgrown Leylandii hedge to the northern boundary of the site which was removed. The submitted landscaping plan indicates that much of the site would be laid to lawn, with borders in wild grasses. It is proposed to provide a replacement hedgerow to the northern boundary of the site which will be of mixed native species to be retained at a height of no more than 2m. It is also proposed to provide additional/ replacement tree planting including 2 Corkscrew Hazel trees at the front of the site, two weeping cherry trees to the north west of the dwelling, 3 silver birch directly north of the dwelling and an ornamental cherry to the north east. The proposed landscaping will help to soften the impact of the development and help to mitigate for the loss of trees which has taken place. The additional planting will provide a positive contribution to the character and appearance of the conservation area and a condition is proposed to secure the proposed planting.

The proposal seeks to remove the existing garage which serves the property. The garage is part of a double garage with the adjoining part belonging to the neighbouring property. The garage is a flat roof structure of brick construction, sited forward of the dwelling. The building is of no particular architectural or historic merit and there are no concerns with its partial removal in terms of the impact to the street scene or the character or appearance of the conservation area. The owner of the adjoining garage has raised concern with regard to how part of the structure will be demolished without adverse impact to the structural capability of the adjoining part of the building which is proposed to remain. The applicant has confirmed that the internal wall will be left in place and faced in brick, the roof and eaves will be made good. The developer will need to ensure compliance with other appropriate regimes including the party wall act and it is not considered that these matters are relevant to determination of the planning application.

The applicants have not submitted an ecological appraisal in respect of the works. They consider that the garage is a contemporary structure with a solid roof structure with no access for wildlife. The Local Planning Authority has previously granted consent for the erection of the demolition of the garage without benefit of an ecological appraisal. At this time the Local Planning Authority has no evidence to confirm that the building provides a suitable habitat for protected species, and in light of the history of the site it is not considered reasonable or necessary to require an ecology appraisal at this stage, however the applicant will be reminded of their duty in respect of protected species and habitats by way of an advisory note.

The comments of Public Health are noted, however given that the works on site are largely complete and no concerns have been raised in relation to the timing of the works it is not considered reasonable or necessary to limit working hours in this instance.

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons that could be affected by the development have been identified as sharing any protected characteristic.

REASON FOR APPROVAL OF PERMISSION

The application for the erection of a dwelling including demolition of a garage is considered to be supportable in policy terms. Having regard to the development previously approved on the site and the scope of the proposed alterations, overall it is considered that the design is acceptable and the proposed development is considered to result in less than substantial harm to the character and appearance of the conservation area and the setting of the listed buildings nearby to the site. In this instance, the public benefits associated with the provision of a new build 4 bedroom dwelling replacing the previous structure on the site, is considered on balance to outweigh the harm arising to the heritage assets. The likely impact to the amenity of neighbouring properties is considered to be acceptable having regard to the separation distances to the neighbouring properties and the design, orientation and scale of the proposed development. The proposal does not raise any concerns in terms of highway safety or capacity issues and the proposed parking is compliant with policy DM8. Having regard to all material planning considerations, the application is recommended for approval in accordance with Policies COR2 and COR15 of the Mid Devon Core Strategy (Local Plan Part 1), DM1, DM2, DM8, DM14 and DM27 of the Local Plan Part 3 (Development Management Policies), policies S1, S12, DM1, DM5, DM12 and DM25 of the emerging Local Plan Review 2013- 2033 and the National Planning Policy Framework.

CONDITIONS

1. The commencement of the development shall be taken as 14th August 2019, the date the application was registered.
2. The development hereby permitted shall be carried out in accordance the approved plans listed in the schedule on the decision notice.
3. The proposed hedgerow and tree planting shall be carried out in accordance with the details shown on drawing number IW 719/07 (received by the Local Planning Authority on 3rd December 2019) within 9 months of the first occupation of the dwelling. Any species which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
4. The hedgerow as shown on drawing number IW 719/07 (received by the Local Planning Authority on 3rd December 2019), once established, shall be retained at a minimum height of 1m above the adjoining ground level and no higher than 2m.
5. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)(or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Classes A, B, C, D or E of Part 1 of Schedule 2, relating to extensions, additions and alterations to the roof, porches and outbuildings, shall be undertaken without the Local Planning Authority first granting planning permission.

REASONS FOR CONDITIONS

1. To provide a legal commencement date for the development.
2. For the avoidance of doubt and in the interests of proper planning.
3. In the interests of the visual amenity of the area and to safeguard the character and appearance of the Crediton Conservation Area in accordance with policies DM2 and DM27 of the Local Plan part 3 (Development Management Policies).
4. In the interests of the visual amenity of the area and to safeguard the character and appearance of the Crediton Conservation Area and the amenity of neighbouring occupiers in accordance with policies DM2 and DM27 of the Local Plan part 3 (Development Management Policies).
5. To safeguard the character and appearance of the Crediton Conservation Area in accordance with policies DM2 and DM27 of the Mid Devon Local Plan part 3 (Development Management Policies).

INFORMATIVES

None

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.

Application No. 19/02013/FULL

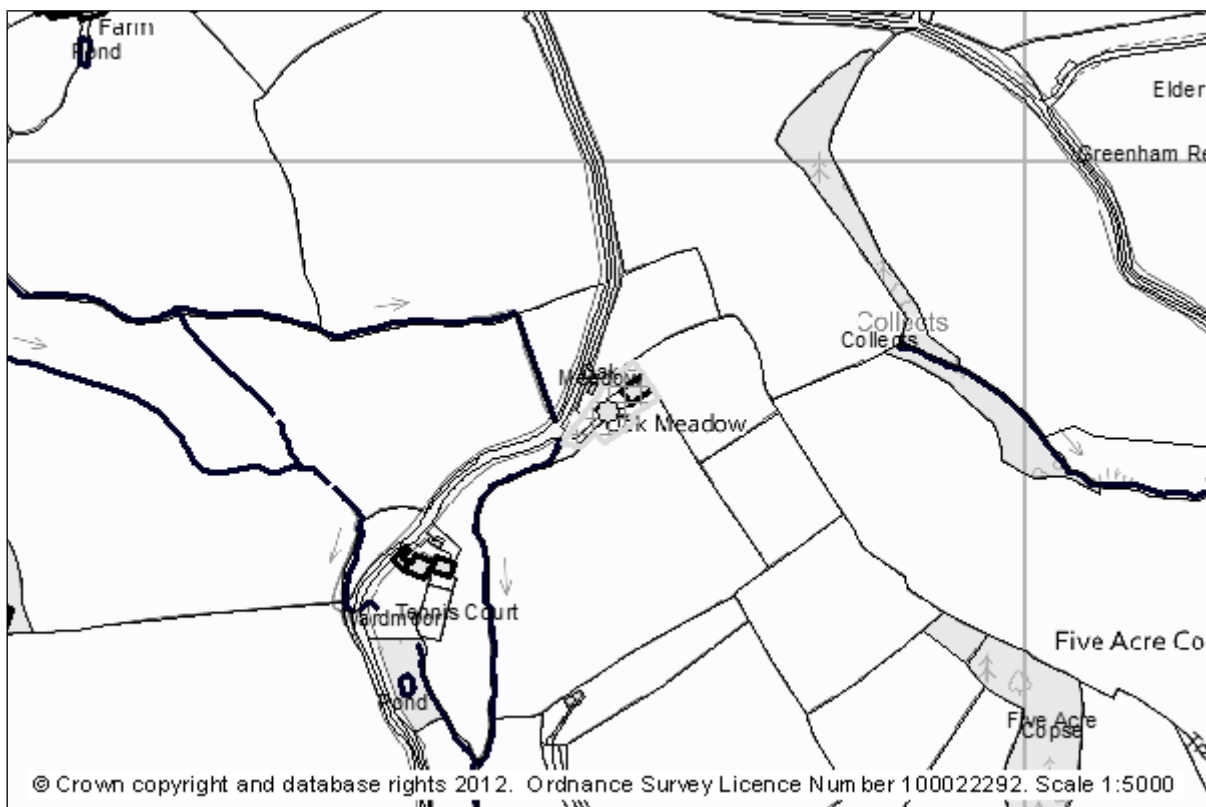
Grid Ref: 306760 : 119767

Applicant: F Gibbins

Location: Land at NGR 306728 119836 (Wardmoor)
Holcombe Rogus
Devon

Proposal: Erection of dwelling and demolition of agricultural building

Date Valid: 29th November 2019



APPLICATION NO: 19/02013/FULL

MEMBER CALL-IN

Councillor Jo Norton has requested this application be called in for the following reason:

To consider if the proposed replacement dwelling for the class Q conversion of the agricultural building is appropriate in this location bearing in mind the intended height and location of the building and it's appearance in the landscape.

RECOMMENDATION

Subject to the prior signing of a s106 agreement, grant permission subject to conditions

PROPOSED DEVELOPMENT

Erection of dwelling and demolition of agricultural building

The applicant seeks planning permission for the erection of a dwelling following the demolition of an agricultural building utilising the Class Q fall-back position.

The site includes an area of garden around the proposed dwelling and is located to the North East of Holcombe Rogus.

The site comprises of a single agricultural building most recently in use for agricultural storage. The site itself is outside any recognised settlement limit and not within any designated landscape or identified flood zone.

APPLICANT'S SUPPORTING INFORMATION

Existing and proposed plans, design and access statement

RELEVANT PLANNING HISTORY

09/01028/FULL - PERMIT date 28th August 2009

Erection of an agricultural building

16/00061/PNCOU - RPA date 4th March 2016

Prior notification for the change of use of an agricultural building to a dwelling under Class Q -

APPEAL DISMISSED 04/11/2016

17/01279/FULL - REFUSE date 27th September 2017

Removal of condition 2 of planning permission 09/01028/FULL pertaining to removal of agricultural building within 3 years of cessation of use - APPEAL ALLOWED - PLANNING PERMISSION

GRANTED 20.04.18

18/00891/PNCOU - PDA date 8th August 2018

Prior notification for the change of use of an agricultural building to dwelling under Class Q

19/02013/FULL - PCO date

Erection of dwelling and demolition of agricultural building

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan Part 1)

COR1 – Sustainable Communities
COR2 – Local Distinctiveness
COR8 – Infrastructure Provision
COR9 – Access
COR11 – Flooding
COR18 – Countryside

Mid Devon Local Plan Part 2 (Allocations and Infrastructure DPD)

AL/IN/3 - Public Open Space

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 – Presumption in favour of sustainable development
DM2 – High quality design
DM7 – Pollution
DM8 – Parking
DM14 – Design of housing
DM15 – Dwelling sizes

Local Plan Review 2013-2033

S1 Sustainable development priorities
S9 Environment
S8 Infrastructure
S14 Countryside
DM1 High Quality Design,
DM4 Pollution,
DM5 Parking

CONSULTATIONS

Highway Authority - 13.12.19

Standing advice applies please see Devon County Council document
<https://www.devon.gov.uk/planning/apply-for-planning-permission/get-help-with-an-application/guidance-for-applicants>

HOLCOMBE ROGUS PARISH COUNCIL - 10 January 2020

The planning committee of Holcombe Rogus Parish Council (HRPC) considered the above application at its meeting yesterday evening. HRPC's comments on this application are as follows:

1. First HRPC has been informed that local residents, who would be most likely to be concerned about this application, received no notice of the application from MDDC. Moreover, the location of the development site is mis-described as 'Wardmoor'. The proposed development site is not part of the house and grounds known as 'Wardmoor'. In the circumstances HRPC suggest that MDDC give written notice to all local residents and give extra time for consideration of the proposals and to seek professional advice, if required.
2. HRPC has had sight of the objections submitted to MDDC and fully support the views expressed in those objections.

3 The applicant's Planning Design and Access Statement submitted with this application relies upon the so-called 'Class Q fallback position' based upon the Mansell v Tonbridge and Malling BC case in 2017. This case indicates that Class Q permitted development rights may be taken into account as a fallback position on the basis that it is a material planning consideration.

4. This case is not, in HRPC's opinion, authority for permitting a new dwelling in the open countryside which is, in terms of siting, scale, design and appearance generally, wholly inappropriate to this very special rural setting.

5. The proposed development does not accord with MDDC's Development Plan (in particular Policy DM2) or the Local Plan Review proposals. See in particular further details given in the submitted objections to the proposed development. Moreover, Chapter 12 of the revised NPPF (paragraph 127) referred to in the applicant's Planning Design and Access Statement says that planning decisions should ensure that developments will add to the overall quality of the area and are sympathetic to the local character and history including surrounding built environment and landscape setting. In HRPC's opinion the proposed development does not meet these criteria.

6. HRPC does not agree that the proposed development is an appropriate form of development in this location. The Mansell case does not sanction non-compliance with both national and local planning policy which are the primary material considerations in this case.

7 if the relevant planning officer of MDDC is minded to approve this application, HRPC ask that the application is called in for consideration by the Planning Committee.

8. Without prejudice to the submissions made in this letter if ultimately MDDC determine to grant planning permission, conditions should be imposed or a Section 106 agreement entered into relating to the following matters:

- oThe removal of the existing barn upon completion of the new development.
- oThe imposition of restrictions on lighting- see the objection letter received.
- oReservation for subsequent approval external materials.
- oImposition of a restriction on the height of the building to an acceptable level.
- oTo the extent permissible impose a restriction on the construction of further barns under permitted development rights on any part of the applicant's landholding.
- oAdditionally, there would need to be a section 106 Agreement securing a contribution to the Holcombe Rogus play area refurbishment.

NATURAL ENGLAND - 17 December 2019

Natural England has no comments to make on this application.

Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

Natural England and the Forestry Commission have also published standing advice on ancient woodland and veteran trees which you can use to assess any impacts on ancient woodland.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice

on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development

PUBLIC HEALTH - Contaminated Land: No objection to this proposal. (03.12.19).

Air Quality: No objection to this proposal. (03.12.19).

Environmental Permitting: No objection to this proposal. (03.12.19).

Drainage: No objection to this proposal. (03.12.19).

Noise & other nuisances: No objection to this proposal. (03.12.19).

Housing Standards: No comments. (05.12.19).

Licensing: No comments. (03.12.19).

Food Hygiene: Not applicable. (05.12.19).

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.

You must also register with the Local Authority (Mid Devon District Council) any private water supply. Failure to do so may result in a Section 85 Notice, with which failure to comply is an offence.

Please contact Public Health at Mid Devon District Council on completion of proposal.

IF MAINS WATER IS TO BE USED, WOULD HAVE NO COMMENT. (09.11.19).

Health and Safety: No objection to this proposal enforced by HSE.

Informative: There is a foreseeable risk of asbestos being present in the structure. Please review the information in this link, so you are aware of the hazards, risks and your legal obligations with asbestos <http://www.hse.gov.uk/asbestos/> . If asbestos may be present a Refurbishment and Demolition Survey following HSG264 available at <http://www.hse.gov.uk/pUbns/priced/hsg264.pdf> should be carried out before work commences to identify precautions and legal requirements enforced by Health and Safety Executive. (05.12.19).

REPRESENTATIONS

There have been 5 letters of objection to the proposal which are summarised below.

1. This is development via the back door
2. The proposal is not considered to be betterment
3. The building is much higher and will be seen from our property

4. The solar panels will cause reflection
5. Modern appearance which is abominable.
6. Contrary to development plan
7. Limited weight to fall back position
8. Not a replacement dwelling
9. Will set precedent

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The application is for the demolition of an existing agricultural building, for which prior approval has been granted for conversion into a dwellinghouse. This application seeks to demolish the building in question instead and replace with a new build single dwellinghouse.

Local Plan Review

On 26th June 2020, Mid Devon District Council published the Inspector's Report on the Mid Devon Local Plan Review. The Inspector has concluded that the Local Plan is 'sound' subject to a number of main modifications being made. The Mid Devon Local Plan Review, taking account of the Inspector's conclusions, will be recommended for adoption at a meeting of full Council. Consistent with National Planning Policy Framework paragraph 48, the publication of the Inspector's Reports increases substantially the weight that can be attributed to the Local Plan in decision making. The examination process has now concluded. The Inspector has concluded that the Local Plan is sound (subject to the main modifications which have been recommended) and, as such, there are no longer unresolved objections to the Local Plan Review. As such, substantial weight may now be attached to the policies of the Local Plan when making planning decisions. The adopted development plan, in technical terms, remains the starting point for planning decision making. The Local Plan Review is however a material consideration to which substantial weight may now be attached.

Given the state of advancement of the Local Plan Review in the process toward adoption, it is considered that, generally, in the context of a planning decision, where there is a conflict between the outcome which arises from the application of policies of the adopted development plan and those of the Local Plan Review, the Local Plan Review will generally outweigh the adopted plan and will prevail. Where there is consistency, then the policies of the Local Plan Review add substantial weight in favour of the outcome which accords with the application of policies of the adopted development plans and those of the Local Plan Review.

This report reflects and considers the Local Plan Review and where appropriate are referenced in the report within brackets next to the existing policies.

The main material considerations in respect of this proposal are:

- 1) Principle of development in this location**
- 2) Design and impact on the character and appearance of the surrounding area**
- 3) Parking and access**
- 4) Impact on residential amenity**
- 5) Other**
- 6) Planning balance**

1) Principle for development in this location

The site is located in the countryside where policy COR18 (S14 Countryside) seeks to control development to enhance the character, appearance and biodiversity of the countryside whilst promoting sustainable diversification of the rural economy. The erection of an open market

dwelling in the open countryside is normally restricted to those specific circumstances set out in para 79 of the NPPF. In this case, none of the exceptions apply and therefore the erection of a dwelling would be contrary to policy.

However, in this case the application seeks to demolish an existing building, which has consent in place for conversion into a dwellinghouse, under Class Q of the GPDO 2015.

In considering this proposal, it is noted that recent case law and appeals establish that permission for a residential conversion gained through Class Q can establish a 'fall-back' position for a replacement dwelling in general terms i.e that a dwelling has been permitted in this location already. The case law does not make it clear how much weight should be applied, as it is clearly a matter for the decision maker to interpret on a case-by-case basis. The case law merely establishes the general principle that such a fall-back position can be given weight. On this basis, consideration will be given to the overall impact of the proposed development, with appropriate weight given to the fall-back position. Generally, it is expected that the proposed replacement development should represent a real and positive enhancement, or betterment, to the original scheme allowed under Class Q. As such, the principle of the development is considered to be broadly acceptable subject to consideration of the details in line with other relevant local and national policy.

2) Design and impact on the character and appearance of the surrounding area

Policy DM2 (DM1 High Quality Design) seeks high quality design upon a number of principles including a clear understanding of the site, efficient use of the site, making a positive contribution to local character, and creating visually attractive places that are well integrated with surrounding buildings, streets and landscapes, taking account of factors including architecture, siting, layout, scale, massing, orientation, fenestration, materials and landscaping.

Policy DM14 (DM1 High Quality Design) states that new housing development should be designed to deliver;

high quality local places taking into account physical context, local character, density and land use; Adequate levels of daylight, and privacy; suitably sized rooms and overall floor space which allows for adequate storage and movement within the building together with external space for recycling, refuse and cycle storage; and car parking etc.

The existing scheme benefiting from prior approval is for the conversion of the existing building located close to the highway and existing hedges, providing one dwelling. The dwelling now proposed is in the form of a two storey dwelling. It is of a slightly larger scale than the permitted dwellinghouse, however, it is still relatively low key in terms of overall scale, being of a more standard housing design. It is proposed to locate further away from the road, which would allow for reduced visibility within the wider area, and also for improved landscaping works.

In terms of design and materials, the proposal is considered to be acceptable. The proposed dwelling would be constructed using Cedral cladding to the upper part of the building and render and stone finish to the lower half with a slate roof covering. However although there have been some discussions with regard to materials this will still need to be conditioned to ensure the appropriate materials in this case are used. The building is well related to the site, and would be seen generally only from the highway through the existing trees and hedging. There may be views from other properties to the site although these will be relatively distant. The nearest property is a mobile home set in the field adjacent to the property but suitably screened by the native hedging. In addition windows to this side have been kept to a minimum to reduce any potential overlooking possibilities.

Taking this into account and noting the screening around the site, it is considered that the proposed development would appropriately respect the character of the surrounding area, without adversely impacting upon its rural context. Taking this into consideration, it is felt that the proposal satisfactorily accords with policies DM2 and DM14 (DM1 High Quality design) of the Development Management Policies (Local Plan 2013-2033).

3) Parking and Access

Policies COR 9 of the Core Strategy (S8 Infrastructure) and DM8 (DM5 Parking) and DM14 (DM1 (h) High Quality design) of the Development Management Policies (Local Plan 2013-2033) are relevant in respect to considering the impact of the development in respect to highway safety, specifically detailing the requirement of new development in respect to access and parking.

The proposed development would be accessed via the existing main site. This access is appropriate, properly surfaced and has reasonable visibility, more than sufficient for the proposed use in addition to the existing use. On the basis that the proposal would be a one for one replacement of an existing consent, there would be no change in the nature or volume of vehicle movements associated with the proposed dwellinghouse. In addition, the site provides adequate space for the provision of an appropriate level of parking.

Overall, the proposed development is deemed to be acceptable from a highway safety point of view, according with policy COR 9 of the Core Strategy (S8 Infrastructure) and policies DM8 and DM14 (DM5 and DM1) of the Development Management Policies (Local Plan 2013-2033).

4) Residential Amenity

The new building would be moved slightly further into the site, away from the nearest neighbour to provide some degree of separation and to be able to fully maintain the hedge and ditch which separate the sites.

Although possibly visible from other vantage points and dwellings these are set sufficiently distant not to be unduly impacted, and views are likely to be of the roof area only.

5) Other Issues

The application is supported by a Bat and Bird Report, providing details of internal and external inspection.

No evidence of use by bats was found, with the buildings identified as having negligible potential for roosting bats. Similarly, no evidence of nesting birds was found. As such, there is no identified harm to local ecology and the scheme appropriately accords with policies COR 2 and DM2 (S9 and DM1).

Policy AL/IN/3 of the AIDPD (S5 Public Open Space) concerns requirements for the provision of public open space and play areas that apply to all new residential development. The supplementary planning document entitled "The Provision and funding of Open Space through Development" sets out the level of contribution required to meet this increased demand on public services.

The applicant has submitted a signed Unilateral Undertaking Agreement in this regard and make a financial contributions £1442 toward the offsite provision of public open space toward the refurbishment of Holcombe Rogus Play area.

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED".

In this regard the LPA are aware of the approval of a gypsy and traveller site adjacent. There has been no formal objection and it is understood the applicants have been in discussions with them and the LPA are not aware of any adverse impacts this proposal would have on the use of and enjoyment of the adjacent site.

6) Planning balance

In light of the policies in the adopted Development Plan and the Local Plan Review the key issue to be considered in respect to this proposal is the principle of the development, taking into

consideration adopted planning policy and the weight afforded to the 'fall back' position established by case law.

In this case it is considered that the existing Class Q approval represents a realistic fall-back position for development of a single dwelling (by conversion) that could be achieved at the site without any further consent from the Local Planning Authority. The fall-back position is considered to be realistic in this case having regard to considerations as set out in the Mansell case.

Although a new dwelling in this location would not be policy compliant, the fall-back position is a material consideration that can be afforded significant weight in determining the application. The design and layout proposed in this application represent a betterment in layout and design over the Class Q proposal. The increased separation distance from the proposed dwelling and the adjacent mature hedgerow and neighbouring property is also considered to be an improvement on the Class Q proposal. The application also makes a contribution towards the provision of public open space in the area.

On balance, the proposal is considered to provide a betterment over the Class Q conversion that could be achieved through the reuse of an existing modern agricultural building, and, subject to conditions, the planning balance is considered to weigh in favour of approval of the development as set out in this application.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Prior to the use of any above ground materials first being used on site details or samples of the materials (including but not limited to colour and type of render, cladding, Slate, Brick, Stone, Mortar, windows and external doors paintwork and colourwash) to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details or samples and be so retained.
4. Prior to the first occupation of the property details/plans shall be submitted to, and approved in writing by, the Local Planning Authority indicating the height, positions, design, materials and type of boundary treatment to be erected on the site and a timescale for its implementation. The boundary treatment so approved shall be completed in accordance with the approved details and shall be so retained.
5. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Classes A, B, C, D and E of Part 1, or Class A of Part 2 of Schedule 2 relating to the enlargement, improvement or other alteration of a dwellinghouse, addition or alteration to the roof, provision of a porch, provision within the curtilage of the dwellinghouse of any building or enclosure, swimming or other pool, container for domestic heating purposes for storage of oil or liquid petroleum gas or the erection of a gate, fence wall or other means of enclosure, shall be undertaken within the application site without the Local Planning Authority first granting planning permission.

REASONS FOR CONDITIONS

1. In accordance with 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. To ensure the use of materials appropriate to the development in order to safeguard the visual amenities of the area in accordance with Policies DM2 and DM14 of the Local Plan Part 3 (Development Management Policies), and the aims and objectives of the National Planning Policy Framework.
4. To safeguard the visual amenities of the area in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies), and the aims and objectives of the National Planning Policy Framework.
5. To safeguard the visual amenities of the area in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies), and the aims and objectives of the National Planning Policy Framework.

INFORMATIVES

1. 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. You must also register with the Local Authority (Mid Devon District Council) any private water supply.

Failure to do so may result in a Section 85 Notice, with which failure to comply is an offence. Please contact Public Health at Mid Devon District Council on completion of proposal.

2. Health and Safety: No objection to this proposal enforced by HSE. Informative: There is a foreseeable risk of asbestos being present in the structure. Please review the information in this link, so you are aware of the hazards, risks and your legal obligations with asbestos <http://www.hse.gov.uk/asbestos/>. If asbestos may be present a Refurbishment and Demolition Survey following HSG264 available at <http://www.hse.gov.uk/pUbns/priced/hsg264.pdf> should be carried out before work commences to identify precautions and legal requirements enforced by Health and Safety Executive.

REASON FOR APPROVAL OF PERMISSION

The erection of a new dwelling as an alternative to converting the existing building that benefits from Class Q permitted development rights, is considered to be acceptable in this instance. The fall-back position is considered to be realistic and is a material consideration in the planning balance. The proposed development results in a higher quality layout and design that would be achieved through conversion of the existing modern agricultural building. The additional development that includes the enlarged garden area for the dwelling, is considered to be acceptable and to improve the overall quality of the development. It is not considered that the proposed development would result in significant harm to the character and appearance of the rural area or result in any adverse highway impacts. On this basis it is considered that in this instance the proposed development results in a betterment to the Class Q development that would

be achieved, and the fall-back position can be given significant weight. The proposal conflicts with national and local planning policy relating to the principle of new dwellings in the countryside, however, the proposal is considered to be in accordance with Policies COR2 and COR9 of the Mid Devon Core Strategy (Local Plan Part 1), DM2, DM8, DM14 and DM15 of the Local Plan Part 3 (Development Management Policies) and Policies S8, S9, DM1, DM4 and DM5 of the Local Plan Review 2013-33

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.