

## PLANNING COMMITTEE AGENDA - 7th October 2020

### Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	20/00900/FULL - Erection of a dwelling at Land at NGR 293520 110000 , (The Barn, Way Farm), Bickleigh. <b>RECOMMENDATION</b> Refuse permission.
02.	20/00176/FULL - Erection of dwelling following demolition of barn at Land & Buildings at NGR 301235 112854, (Orchard House), High Street. <b>RECOMMENDATION</b> Grant permission subject to conditions.

Application No. 20/00900/FULL

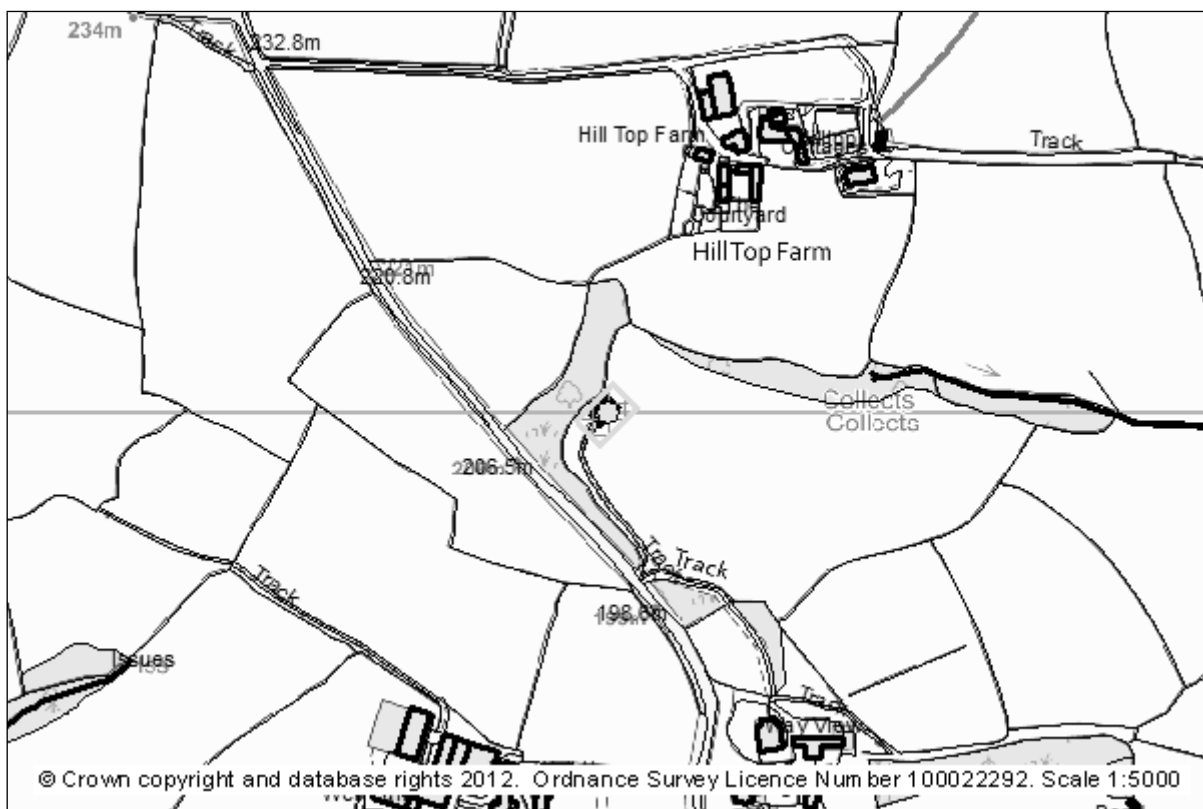
Grid Ref:

Applicant: Ms J Bratt

Location: Land at NGR 293520 110000  
The Barn, Way Farm  
Bickleigh  
Devon

Proposal: Erection of a dwelling

Date Valid: 17 June 2020



## **APPLICATION NO: 20/00900/FULL**

### **MEMBER CALL-IN**

Councillor Ron Dolley has called this into committee for the following reason:

1. For the Planning Committee to consider the appropriateness of the design of the proposed dwelling

### **RECOMMENDATION**

Refuse planning permission

### **PROPOSED DEVELOPMENT**

The applicant seeks planning permission for the erection of a dwelling on land at NGR 293520 110000, The Barn, Way Farm, Bickleigh Devon. This application follows the earlier approval of 18/02042/PNCOU - Prior notification for the change of use of an agricultural building to a dwelling under Class Q on the 22<sup>nd</sup> February 2019, with the applicant making a case for the proposed dwelling being a betterment to the approved conversion of the existing agricultural building scheme on site.

### **RELEVANT PLANNING HISTORY**

09/01666/PNAG - NOBJ date 4th December 2009  
Prior notification for the erection of an agricultural building

18/02042/PNCOU - PDA date 22nd February 2019  
Prior notification for the change of use of an agricultural building to a dwelling under Class Q

### **DEVELOPMENT PLAN POLICIES**

#### **Mid Devon Local Plan Review 2013-2033**

S1 – Sustainable development priorities  
S2 – Amount and distribution of development  
S8 – Infrastructure  
S9 – Environment  
S14 - Countryside  
DM1 – High Quality Design  
DM4 - Pollution  
DM5 – Parking

### **CONSULTATIONS**

**Tiverton Town Council** – 06 July 2020 – Support but question whether the addition of the garage would be permitted

**Highway Authority** – 26 June 2020 – Standing advice applies  
<https://www.devon.gov.uk/planning/apply-for-planning-permission/get-help-with-an-application/guidance-for-applicants>

**Public Health** - 01 July 2020

Contaminated Land: No objection to this proposal. (29.06.20).

Air Quality: No objection to this proposal. (29.06.20).  
 Environmental Permitting: No objection to this proposal. (23.06.20).  
 Drainage: No objection to this proposal. (29.06.20).  
 Noise & other nuisances: No objection to this proposal. (29.06.20).  
 Housing Standards: No comment. (23.06.20).  
 Licensing: No comments. (23.06.20).  
 Food Hygiene: No comments. (23.06.20).  
 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. (23.06.20).  
 Health and Safety: No comments. (23.06.20).

**Environment Agency** - Standing advice – site within flood zone 1

## **REPRESENTATIONS**

One letter of objection has been received. The comments received are summarised as follows:

1. The revised application shows major and material alterations to the dimensions, and overall look of the building including completely changing the roof line and increasing the height of both sides of the roof- if not the overall apex height.
2. The considerable proposed extra glazing, also changes the look of the building further away from that of a converted barn and with the proposed roof line changes and garage, into looking like more of an over designed new build than a converted barn. The proposal of a first floor mid side cut in patio also materially changes the original external dimensions even further. Which is in no way keeping with the existing buildings characteristics
3. The original planning has several statements by the applicant that all materials would be reused on site. The new application seems to suggest now that all external walls and roofing will not consist of any of the original walling material from the barn, and are proposed now as mainly glass, cedar cladding and rendered blockwork, again completely losing all of the existing barns external characteristics of a metal clad structure.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

- 1. Principle of development**
- 2. Design and impact on the character of the countryside**
- 3. Ecological impact**
- 4. Environmental impact**
- 5. Other matters**
- 6. Planning balance**

### **Principle of development**

The site is located in the countryside where policy S14 (Countryside) of the Local Plan 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 Paragraph 79 of the NPPF. In this case, none of the exceptions apply and therefore the erection of a dwelling would be contrary to policy.

In this case however 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 (as amended). In considering this proposal, it is noted that recent case law (Court of Appeal decision [Mansell v Tonbridge and Malling BC]) 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.

### **Design and impact on the character of the countryside**

Policy S1 (Sustainable Development Priorities) requires good sustainable design that respects local character, heritage, surroundings and materials.

Policy S9 (Environment) states that development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through amongst other things the preservation and enhancement of the distinctive qualities of Mid Devon's natural landscape, supporting opportunities identified within landscape character areas.

Policy 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.

The site is within Landscape Character Type 3A – Upper farmed and wooden valley slopes. Key characteristics of this landscape type, as identified by the Mid Devon Landscape Character Assessment 2011, are a landscape characterised by lush and fertile land giving rise to extensive tracts of medium-scale fields of permanent pasture with isolated farms, rural cottages and farm buildings located on the hillsides and tending to be visually prominent in the landscape.

The existing building benefiting from prior approval for conversion is located in a field on an elevated position on rising ground. The building is located on the edge of a copse which screens the building from public view to the south and west. There is a public footpath (Tiverton Footpath No8) which runs along the lower level of the field approximately 75m to the south-east of the building. The building is visible from the public footpath and is exposed to more distant views to the east.

The existing building is a modern metal clad structure coloured juniper green with a shallow dual pitched roof. The scheme approved under ref: 18/02042/PNCOU is for a simple conversion retaining all the existing cladding and with the insertion of metal windows and doors. All the accommodation would be at ground floor. Parking would be provided immediately adjacent to the south-western end of the building.

This scheme is for the removal of the aforementioned building and construction of a new dwelling in same position as the existing building. The proposed dwelling would have accommodation arranged over two floors and would have ground and first floor windows on all elevations which would be a combination of metal UPVC and timber. The external facing materials would be mix of render and composite board cladding with different colours. The roof would be metal profile with a two rows of six solar panels on the left side. There would be a garage attached to the south-west end of the building above which would be a first floor patio/terrace.

The proposed dwelling would not be of a style and design found locally. It would not reflect the type of isolated farms, rural cottages and farm buildings referred to in the landscape character appraisal nor would it appear to have a design that is based on a clear understanding of the site. The proposed materials, in particular the use of render and composite boarding for the walls and oversized verge detailing, fail to respond positively to the natural setting and would appear stark in the landscape on this elevated and exposed site. The size, placement and frequency of glazing on both ground and first floor would make for a building which is significantly more apparent in the landscape in long range views from the east and from the nearby public footpath. The large and numerous openings would have the potential to increase glare during the day and introduce additional light pollution during evening hours. The addition of the attached garage with first floor terrace and glazed balustrading around it would add a further domestic detail.

Taking this into account it is not considered that the proposed development would constitute high quality sustainable design that respects the quality and character of this part of the Mid Devon countryside. It is therefore considered that the proposal would fail to accord with policies Policy DM1 (High quality design), Policy S1 (Sustainable Development Priorities) and Policy S9 (Environment) of the Mid Devon Local Plan Review 2013-2033.

### **Ecological impact**

Paragraph 170 of the NPPF states planning decisions should contribute to and enhance the local and natural environment by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

Policy S9 (Environment) states that development will support opportunities for protecting and enhancing species populations and linking habitats on both designated and undesignated sites. The application site is not within a designated site of biodiversity or geodiversity importance.

The application is supported by an ecological appraisal which states that the construction and materials present in the current structure provide negligible potential for roosting bats.

No evidence of biodiversity net gain has been submitted by the applicant.

### **Environmental impact**

Policy DM2 (Renewable and low carbon energy) supports renewable energy where it does not have a significant impact on the character and visual quality of the area. The drawings submitted with this application show a roof mounted solar array comprising 12 panels. It is not considered that the panels in the position proposed would have an adverse impact on the area while they would support government objectives to move to a low carbon economy.

Policy S9 (Environment) seeks to ensure high quality sustainable design which reinforces the character and distinctiveness of Mid Devon's built environment and mitigates and adapts to climate change and creates attractive places.

The proposed development requires the removal of a building and its replacement with a new building. It is universally accepted that construction is a high carbon industry and that the industry is a significant contributor to climate change however there is currently no policy requirement to provide carbon calculations showing a comparison between the environmental impact of the proposed new build against the approved conversion.

### **Other matters**

The proposed dwelling would have adequate levels of daylight, sunlight and privacy to private amenity spaces and principal windows, as required by Policy DM1 (g)

The proposed dwelling would have suitably sized rooms and overall floorspace which allows for adequate storage and movement within the building together as set out in the Nationally Described Space Standard with external spaces for recycling, refuse and cycle storage, in accordance with Policy DM1 (h).

There is adequate space within the proposed extended domestic curtilage to accommodate the two vehicle parking spaces required under Policy DM5 (Parking).

### **Planning balance**

Taking into account the above the key issue is whether proposed development achieves sustainable development as defined in the NPPF, 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 prior approval under Class Q of the General Permitted Development Order 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. 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 question therefore is whether the proposed development represents betterment over the original approval for the conversion.

The site is exposed in the landscape and is visible from a public footpath. The proposed dwelling would have a greater footprint and floor area to that which would be achieved through the conversion. It would also have a design and form and incorporate modern materials which would, in the opinion of officers, have a significant adverse impact on the character and appearance of the surrounding countryside. It is not therefore considered that there would be any betterment in terms of visual or landscape impact arising from the proposed development.

The proposal involves the demolition of a building which has been established through an earlier approval as capable of conversion to form a dwelling. It has not been demonstrated through this application that the removal of the existing building and embedded energy which would go into the construction of a new dwelling would offer any environmental betterment.

The application is accompanied by an environmental appraisal which confirms that the proposal would not result in the loss of any protected species or potential habitat associated with such species however it has not been demonstrated that the proposal would offer any ecological betterment through biodiversity net gain.

On balance it is not considered that the proposed development offers any betterment over the existing

approval for the conversion of the building to a single dwelling.

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 REFUSAL**

1. The proposed dwelling, having regard for its scale, design, materials and extensive use of glazing, would introduce an incongruous form of development in an exposed and isolated rural location, detrimental to the character and appearance of the area. It would therefore be contrary to Policies S1, S9, S14 and DM1 of the Mid Devon Local Plan Review 2013-2033 and advice contained in the National Planning Policy Framework 2019.

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.

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, in determining this application the Local Planning Authority has worked proactively and positively with the applicant to ensure that all relevant planning considerations have been properly resolved. This has included determining the application within an agreed time frame.

In accordance with the National Planning Policy Framework, the Local Planning Authority has also involved the community in the consideration of this application.

Application No. 20/00176/FULL

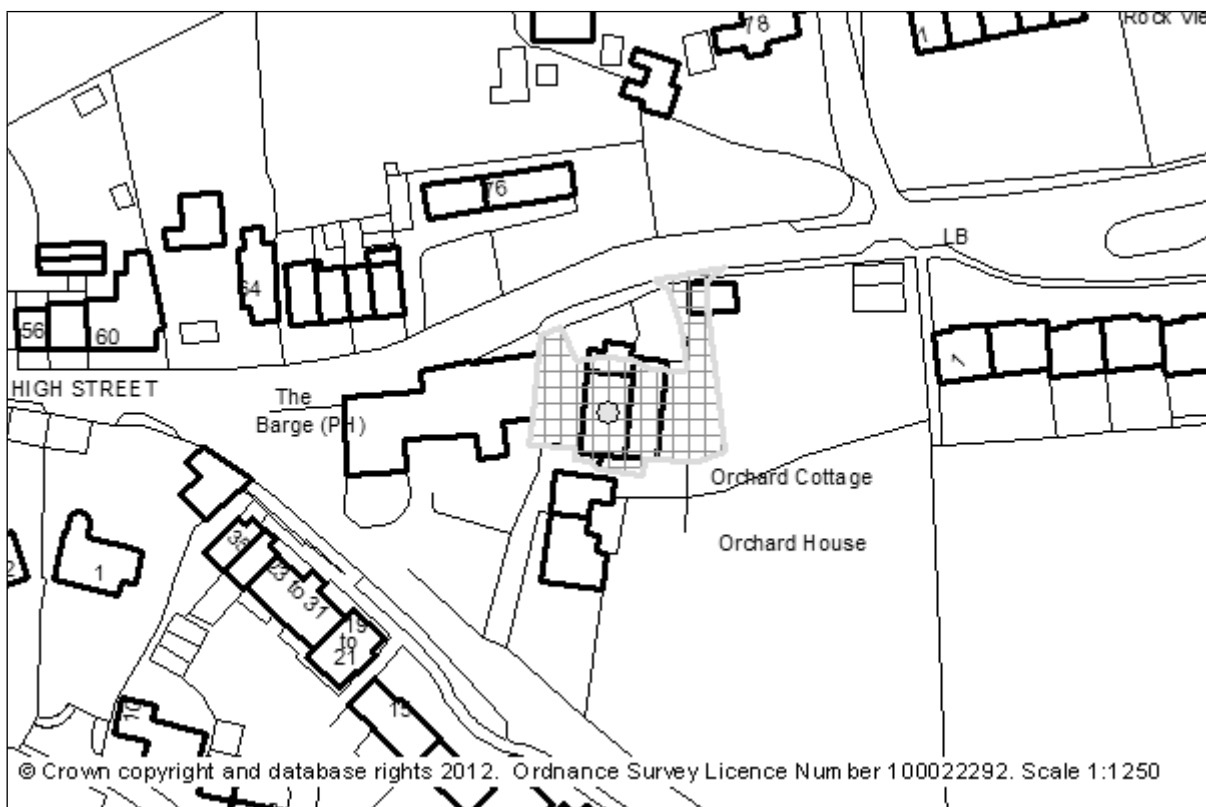
Grid Ref: 301238 : 112856

Applicant: Mr Richard Hallt, 3 Rivers Developments Ltd

Location: Land & Buildings at NGR 301235 112854  
(Orchard House)  
High Street  
Halberton

Proposal: Erection of dwelling following demolition of barn

Date Valid: 25th February 2020



## **APPLICATION NO: 20/00176/FULL**

### **UPDATE:**

At Planning Committee on 9<sup>th</sup> September 2020, members resolved to defer consideration of the application to allow for an independent survey of the barn to take place along with a viability assessment of the structure.

Following that meeting, your officers made contact with the applicant to seek authority to obtain quotes for the work. However, the applicant has advised that they wish the application to be returned to Planning Committee for consideration without such information being obtained.

The report set out below is that which was considered by members at their meeting on 9<sup>th</sup> September 2020

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

Members may recall that they considered application 18/02024/FULL in early 2019 which dealt with various amendments to an approved scheme for the erection of 4 new dwellings and the conversion of an existing cob barn to a dwelling. The scheme also included the provision of a parking facility for nearby residents. This current application relates solely to the existing barn at the site and proposes its demolition and its subsequent replacement with a detached new-build dwelling.

The application site is located within the settlement limit of Halberton (to the east of the public house with access from High Street) and also within its Conservation Area. Work is currently underway on site and the 4 new dwellings have been erected.

The proposed dwelling would largely replicate the existing barn in terms of size and appearance and would accommodate 3 bedrooms.

### **APPLICANT'S SUPPORTING INFORMATION**

Ecological survey, additional information and letter from an ecologist

Design and Access Statement (including heritage assessment and FRA)

Letter from Structural Engineer plus additional supporting information including photos of the barn

### **RELEVANT PLANNING HISTORY**

17/00711/FULL - PERCON date 4th July 2017

Erection of 4 dwellings, conversion of barn to dwelling, parking and formation of new vehicular access

18/02024/FULL - PERCON date 13th June 2019

Variation of conditions 2, 5, 7, 8, 9, 10 and 15 of planning permission 17/00711/FULL. Non Material Amendment (19/01916/NMA) granted 02.12.19 - Non Material Amendment granted 11.03.20 (20/00237/NMA).

19/01916/NMA - PERMIT date 2nd December 2019

Non Material Amendment for 18/02024/FULL to allow for the rebuilding of North gable elevation to the barn

20/00176/FULL - PCO date

Erection of dwelling following demolition of barn

20/00237/NMA - PERMIT date 12th March 2020

Non-Material Amendment for 18/02024/FULL to allow change of cill materials from sandstone to slate

20/01111/NMA - PCO date

Non Material Amendment for 18/02024/FULL to change the rear garden boundary wall of the 4 houses to timber fencing

## **DEVELOPMENT PLAN POLICIES**

### **Local Plan Review 2013-2033**

S1 Sustainable development

S9 Environment

S13 Villages

DM1 High Quality Design

DM5 Parking

DM25 development affecting heritage assets

## **CONSULTATIONS**

### **HALBERTON PARISH COUNCIL - 16.03.20**

Halberton Parish Council objects to this application on the grounds that it will result in the loss of a barn of notable historic interest and be detrimental to the character of the conservation area. Concerns were raised as to why the building was not listed as it is in the curtilage of a listed building.

Further, given that the barn was in sufficiently good condition to be converted in the application 17/00711/FULL the Council would also enquire what steps 3 Rivers took to ensure that the existing barn did not degrade while it has been in their ownership.

The Council states that sufficient repairs should be carried out to the current structure so that the existing approved planning application (17/00711/FULL) can be acted upon.

The Council requests that this application be called-in on the grounds of loss of a barn of notable historic interest within a conservation area, should officers be minded to recommend approval.

### **HALBERTON PARISH COUNCIL - 27th May 2020**

Halberton Parish Council's objections to this application remain in place:

Halberton Parish Council objects to this application on the grounds that it will result in the loss of a barn of notable historic interest and be detrimental to the character of the conservation area. Concerns were raised as to why the building was not listed as it is in the curtilage of a listed building.

Further, given that the barn was in sufficiently good condition to be converted in the application 17/00711/FULL the Council would also enquire what steps 3 Rivers took to ensure that the existing barn did not degrade while it has been in their ownership.

The Council states that sufficient repairs should be carried out to the current structure so that the existing approved planning application (17/00711/FULL) can be acted upon.

The Council requests that this application be called-in on the grounds of loss of a barn of notable historic interest within a conservation area, should officers be minded to recommend approval.

Highway Authority - 2nd March 2020 - Standing advise applies

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

Highway Authority - 13th May 2020

The County Highway Authority recommends that the Standing Advice issued to Mid Devon District Council is used to assess the highway impacts, on the above application.

**PUBLIC HEALTH** - Contaminated Land: No objection to this proposal. (27.02.20).

Air Quality: No objection to this proposal. (27.02.20).

Environmental Permitting: No objection to this proposal. (26.02.20).

Drainage: No objection to this proposal. (27.02.20).

Noise & other nuisances: No objection to this proposal. (27.02.20).

Housing Standards: No floorplans to comment on. (06.03.20).

Licensing: No comments. (26.02.20).

Food Hygiene: Not applicable. (26.02.20).

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. (26.02.20).

Health and Safety: Not applicable. (26.02.20).

**HISTORIC ENVIRONMENT TEAM** - 27th February 2020 - The Historic Environment Team has no comments to make on this planning application.

**NATURAL ENGLAND** - 09.03.20

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.

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 proposals is available on gov.uk at <https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>

#### **NATURAL ENGLAND - 15 May 2020**

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 06 March 2020

The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal.

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

#### **REPRESENTATIONS**

2 letters of comment have been received from the occupier of the adjacent dwelling which is a listed building, summarised as follows:

Disappointed at loss of barn

Loss of barn could have been avoidable if more protection of it had taken place

All new stonework should be in keeping with adjacent listed building

Brick is not an appropriate material for the boundary wall between the site and the adjacent stone listed building.

#### **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

**The main issues in the determination of this application are:**

- 1. Principle of development**
- 2. Demolition of barn**
- 3. Heritage asset issues and the design of the new building**
- 4. Other materials considerations**

##### **1) Principle of development**

The site is located within the settlement limit of Halberton and permission has previously been granted for a dwelling on the site by way of the conversion of the existing barn which is of traditional construction and appearance. The conversion of the barn under the approved scheme would result in a 2 bedroom dwelling. Given the sites location in the settlement limit, the principle of a dwelling on the site is acceptable. However, given that the building is located within the Conservation Area and is proposed for demolition, the impact of the development on the heritage asset and the character and appearance of the Conservation Area are material to the determination of this application

## 2) Demolition of barn

When the original application was determined in 2017, the structural survey advised that the building was capable of conversion with the most notable work being to ensure the north gable and west gable (which had separated) were tied with stainless steel ties and that exposed cob on the walls should be rendered with a lime render. A condition was applied to the consent requiring the submission of a scheme to stabilise and convert the building. This condition (13) was also applied to the 2018 revised application. These details (by way of a letter from a structural engineer) were subsequently submitted to discharge the condition.

In December 2019 a non-material amendment was approved to allow for the rebuilding of the north gable wall. The submitted structural information advised that:

*'Now that the dilapidated lean-to roof structures have been removed, we have been able to assess the suitability of the masonry and cob structure for retention. Several large cracks are present in the wall resulting in a significant loss of structural integrity. The wall is considered to be unstable and relies heavily on the propping action provided by a temporary buttress wall and the existing electricity pole at either end. It is highly likely that sections of the end elevation wall would collapse if these existing features weren't present. We consider that the north elevation wall has reached the end of its serviceable life and, as such full reconstruction is required.'*

The structural information submitted with the current application advises:

*'The recent collapse of the end (north) elevation wall is cause for serious concern and demonstrates the unpredictable behaviour of the barn walls in their current condition. Now that we are able to inspect sections of the collapsed cob remains, we are particularly concerned over the significant moisture content contained within the overall make-up. It is now very apparent that sustained water ingress through the head of the cob and masonry elevation walls has had a far greater detrimental effect on the integrity of the structure than originally thought'*

A letter submitted with the application from the applicants Health and Safety consultants advises:

*'We believe that the building has the potential to cause fatality should it collapse and people are in close proximity at the time, we would therefore recommend that the structure is taken down in a controlled manner so the risk has been eliminated'*

NMD Building Control have been consulted on the application. The Senior Building Control Surveyor has read the submitted information. He has confirmed that the report sets out a robust argument for the removal of the building, given its current state. He confirms that their case is well put together and well-reasoned and that on balance, his view would be that on balance, the building is now beyond economic repair and should be demolished now that it is in the state it is.

The Parish Council have expressed concern about the need for the demolition of the barn. They are concerned that the barn was in sufficiently good condition to be converted in the application 17/00711/FULL and have asked what steps the applicant took to ensure that the existing barn did not degrade while it has been in their ownership.

This issue is the crux of this application – has there been a wilful lack of maintenance which has led to the need to demolish the barn? The applicants have provided the following written information:

*'Planning permission for this development was granted on 13.06.19. As part of this application... we included annotated drawings from our structural engineers, showing the extent of the recommended structural works to the barn, which included retaining a 2m section of the existing buttress wall to the NE corner of the barn, to provide ongoing support to that area prior to a final structural solution being proposed.'*

*The dilapidated lean-to structures to the North and East elevations were carefully removed by 12th July 2019 as part of the enabling works for the overall development, as both of these hindered the construction of the entrance, the access road, drainage as well as the formation of the welfare/compound area at the beginning of the project. The section of buttress wall was indeed left in place during this period and indeed still stands as of today's date.*

*Further works to the barn along with the other building works were then not advanced in order to comply with Condition 12 of the Permission, which states the entrance road, drainage etc needs to be completed prior to the other works commencing.*

*The main works inc those to comply with Condition 12 were commenced on 23.07.19, with the Condition 12 works being completed for discharge on 29.10.19.*

*We then continued on with the new build works for the 4no new houses, and also continued looking at the works to the barn.*

*We felt it necessary to involve our structural engineer for an additional inspection of the barn in general, but particularly the North gable, as this had always been the area most in need of repair.*

*Following this additional visit on 13.11.19, our engineers provided their initial verbal recommendations to us which was to proposed that the North Elevation was carefully taken down and re-constructed in a rendered wall to provide stability to rest of the barn. The proposal included the careful support and propping of the remainder of the structure whilst these works were being undertaken. We therefore submitted our NMA on that same day (13.11.19) with the full written report being received on 25.11.19.*

*We then received the approval of the NMA on Monday 02.12.19, ironically the day after a large section of the North gable had collapsed.*

*As stated above, the only works carried out to the barn was the removal of the dilapidated lean-to structures that were providing no structural support or weatherproofing to the main barn structure.'*

On balance, it is considered that there isn't sufficient evidence to suggest that there has been a wilful neglect of the building such as to now necessitate the demolition of the barn. Examination and consideration of the supporting information submitted suggests that the building is now beyond reasonable repair and that demolition is now the pragmatic option.

### **3) Heritage asset issues and the design of the new dwelling**

The application site is within the Halberton conservation area and within the setting of a grade 2 listed building. This barn is noted as being an 'important unlisted building' which makes a positive contribution to the character and appearance of the conservation area in the Conservation Area Assessment and has clear associations with, and significance with regard to, the stone listed building it is adjacent to. The Parish Council have asked why the building was not listed in its own right as it is in the curtilage of a listed building. The Halberton Conservation Area Appraisal is dated March 2006 and an assessment would have been carried out at that time to determine its status. There are various factors which need to be considered when determining whether a building is 'curtilage listed' including whether it is truly in the curtilage of the main building and its ownership status at the time of listing. It would appear that a decision was taken at that time that the barn did not fall within the curtilage of Orchard House and therefore is not deemed to be listed.

However, as set out above, the barn clearly has an association with the adjacent listed building. The starting point for the considering of applications which affects a listed building or its setting is the statutory requirement on 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' (section 66).

Section 72 of the Act requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of a conservation area.

The Court of Appeal has made it absolutely clear that the statutory duties in relation to sections 66 and 72 do not allow a local planning authority to treat the desirability of preserving the settings of listed building and the character and appearance of conservation areas as mere material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a development would harm the setting of a listed building or character or appearance of a conservation area, it must give that harm considerable importance and weight. Finding of harm gives rise to a strong presumption against planning permission being granted. This presumption is a powerful one, but not irrefutable. It can only be outweighed by material considerations powerful enough to do so.

Applicants for consent that affects a heritage asset must be able to justify their proposals. The NPPF says that the LPA should require an applicant to describe the significance of any heritage asset affected including any contribution made to their setting. This should be sufficient to understand the potential impact of the proposal on its significance.

When considering the impact of development, great weight should be given to the asset's conservation. Any harm or loss should require clear and convincing justification from the applicant. Any harm should be judged against the public benefit. This approach is reinforced by policy DM25 and it requires development proposals likely to affect heritage assets and their settings, including new buildings, alterations, extensions, changes of use and (most relevant to this application) demolitions to consider their significance, character, setting and local distinctiveness, and the opportunities to enhance them. It also goes on to state that where a development proposal would lead to less than substantial harm, that harm will be weighed against any public benefit.

There are two issues here relating to heritage assets: The demolition of an unlisted (but important ) building in the Conservation Area, and the design of the new building.

The Conservation Officer has expressed concern that the building was visited by a structural engineer in 2017 and again as recently as November 2019 when the NMA was submitted to rebuild the north wall and that neither of these surveys identified any defects in the rest of the building, and he questions how the building has deteriorated so quickly in the two months since the SE report in November 2019 and the lodging of this application at the end of January 2020 so as to justify its total demolition. This issue is discussed above.

In terms of the design of the new building, the existing barn is on two levels, with a split level to the ground floor and the approved conversion formed a 2 no. bedroom dwelling. The current application proposes a level ground floor and adds additional accommodation in the roof for the entire length of the building creating a 3 bedroom dwelling.

The Conservation Officer had significant concerns in respect of the initial design of the proposed dwelling, commenting that *'the 2017 approval...was noted as respecting the simplicity and historic qualities of the barn, and this current proposal shows no opening in the barn unchanged. Only one, the large opening on the west elevation is broadly similar, otherwise there are a large number of non-barn like openings (in terms of their size and*

*position). Extra roof lights are required due to additional accommodation on the first floor. Indeed all the changes are justified to suit the internal layout of the building ... This suggests a building which is designed from the inside out, and largely not to respond to the particular constraints of the site. '*

Negotiations have taken place with the applicant to amend many aspects of the proposal including the external materials, the location, size and detail of window and door openings, details of the boundary treatment with the listed building and the location of rooflights.

The Conservation Officer has advised that with the revisions which have been negotiated, with include the provision of a stone boundary wall between the site and the curtilage of the listed building, he is satisfied that the proposed dwelling itself would not detract from the character and appearance of the Halberton Conservation Area. He has advised that this is on the basis that the case has been adequately made for the demolition of the barn and Members are referred back to the officer view on this in the section above.

#### **4) Other material considerations**

The submitted Ecological Assessment is considered to be out of date. However the applicant has confirmed that it has been engaging with Natural England in respect of gaining a license from them and they have confirmed that said licence was received in Feb 2020.

The letter of objection received related to (in the main) the materials for the boundary between the site and the adjacent listed building. The letter set out that a stone wall would be the most appropriate material and members are advised that the scheme has been revised so that a stone wall is indeed proposed.

The scheme is unchanged in terms of its overall layout and parking provision from the previous consent.

There are not considered to be any impacts in terms of amenity of neighbouring properties.

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.

#### **Summary:**

The site is located within the settlement limit of Halberton where new build residential development is acceptable in principle. In this instance the site is also within the Halberton Conservation Area and the existing building is considered to be an 'important unlisted building' in the Halberton Conservation Area Appraisal. Examination and consideration of the supporting information submitted suggests that the building is now beyond reasonable economic repair and that demolition is now the pragmatic option. In terms of the replacement building, this has been the subject of negotiations to ensure that the building more closely resembles the existing and has materials and detailing which is appropriate to its location in the Conservation area and adjacent to a grade 2 listed building. On this basis, and in the absence of any adverse impacts in terms of amenity, ecology or parking the proposal is considered to comply with policies S1, S9, S13, DM1, DM5 and DM25 of the Local Plan 2013-2033

## **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) No above ground works shall begin until a sample panel of between 1 and 2 square metres in size of the proposed stone, (indicating colour, texture, pointing, mortar and coursing), to be used for the external walls of the buildings and the boundary between the site and Orchard House hereby permitted has been provided on site for inspection and agreed in writing by the Local Planning Authority. Stonework shall be laid on its natural bed and constructed in accordance with the approved sample panel. Such approved materials shall be so used and retained.
- 4) No above ground works shall begin until samples of the materials to be used for all the external surfaces of the building(s) have been submitted to and approved in writing by the Local Planning Authority. Such approved materials shall be so used and retained.
- 5) The approved boundary treatment (referred to in condition 3 above) shall be completed prior to the first occupation of the dwelling and thereafter shall be so retained.
- 6) 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, E and F 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, erection of a porch outside any external door, 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, provision of a hard surface 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.
- 7) All telephone, electricity and mains gas services to the building shall be placed underground.

## **REASONS FOR CONDITIONS**

1. In accordance with the provisions of S51 of the Planning and Compulsory Act 2004
2. For the avoidance of doubt and in the interests of proper planning.
3. To ensure the use of stone, mortar, coursing and pointing appropriate to the development in order to safeguard the character and appearance of the conservation area in accordance with Policy DM25 of the Mid Devon Local Plan Review 2013-2033.
4. To ensure the use of materials appropriate to the development in order to safeguard the character and appearance of the conservation area in accordance with Policy DM25 of the Mid Devon Local Plan Review 2013-2033
5. In order to safeguard the amenities of the adjoining occupier in accordance with Policy DM1 of the Mid Devon Local Plan Review 2013-2033
6. The proposed dwelling has been designed to closely reflect the existing barn on the site which is considered to be an important unlisted building in the Conservation Area. Uncontrolled additions or extensions to the building could detract from the character and appearance of the building and the wider conservation area and as such it is considered appropriate to remove permitted development rights in this instance, in accordance with Policy DM25 of the Mid Devon Local Plan Review 2013-2033

7. In order to safeguard the historic visual amenity of area in accordance with Policy DM25 of the Mid Devon Local Plan Review 2013-2033

### **INFORMATIVES**

No restriction on working hours has been applied to this consent, given the current Government advice surrounding Covid-19 restrictions. However, the developer is advised to be mindful of the close proximity of neighbouring properties when carrying out work at the site.

### **REASON FOR APPROVAL OF PERMISSION**

The site is located within the settlement limit of Halberton where new build residential development is acceptable in principle. In this instance the site is also within the Halberton Conservation Area and the existing building is considered to be an 'important unlisted building' in the Halberton Conservation Area Appraisal. Examination and consideration of the supporting information submitted suggests that the building is now beyond reasonable economic repair and that demolition is now the pragmatic option. In terms of the replacement building, this has been the subject of negotiations to ensure that the building more closely resembles the existing and has materials and detailing which is appropriate to its location in the Conservation area and adjacent to a grade 2 listed building. On this basis, and in the absence of any adverse impacts in terms of amenity, ecology or parking the proposal is considered to comply with Policies S1, S9, S13, DM1, DM5 and DM25 of the Mid Devon Local Plan Review 2013-2033

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.