

PLANNING COMMITTEE AGENDA - 10th March 2021

Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	20/01537/HOUSE - Retention of timber outbuilding to be used ancillary to the main house, retention of decking and proposed installation of water supply and drainage pipes underground at 19 Lower Millhayes, Hemyock, Cullompton. RECOMMENDATION Grant permission subject to conditions.
02.	20/01560/HOUSE - Retention of raised decking area and associated fence at 9 Millway Gardens, Bradninch, Exeter. RECOMMENDATION Refuse permission.
03.	18/01814/MFUL - Change of use of agricultural land for the siting of 3 holiday lodges and alterations to existing access at Land at NGR 299526 113232, Crown Hill, Halberton. RECOMMENDATION Grant permission subject to conditions.
04.	20/01874/FULL - Erection of a dwelling at Firway End, George Hill, Crediton. RECOMMENDATION Refuse permission.
05.	20/01789/FULL - Change of use of hall solely for use by holiday makers to public use at Buildings at NGR 294446 120596, Duval Priory, Bampton. RECOMMENDATION Grant permission subject to conditions.
06.	20/01983/FULL - Rendering of ground floor flats at 21, 22, 23 & 24 Siddalls Gardens, Tiverton, Devon. RECOMMENDATION Grant permission subject to conditions.

Application No. 20/01537/HOUSE

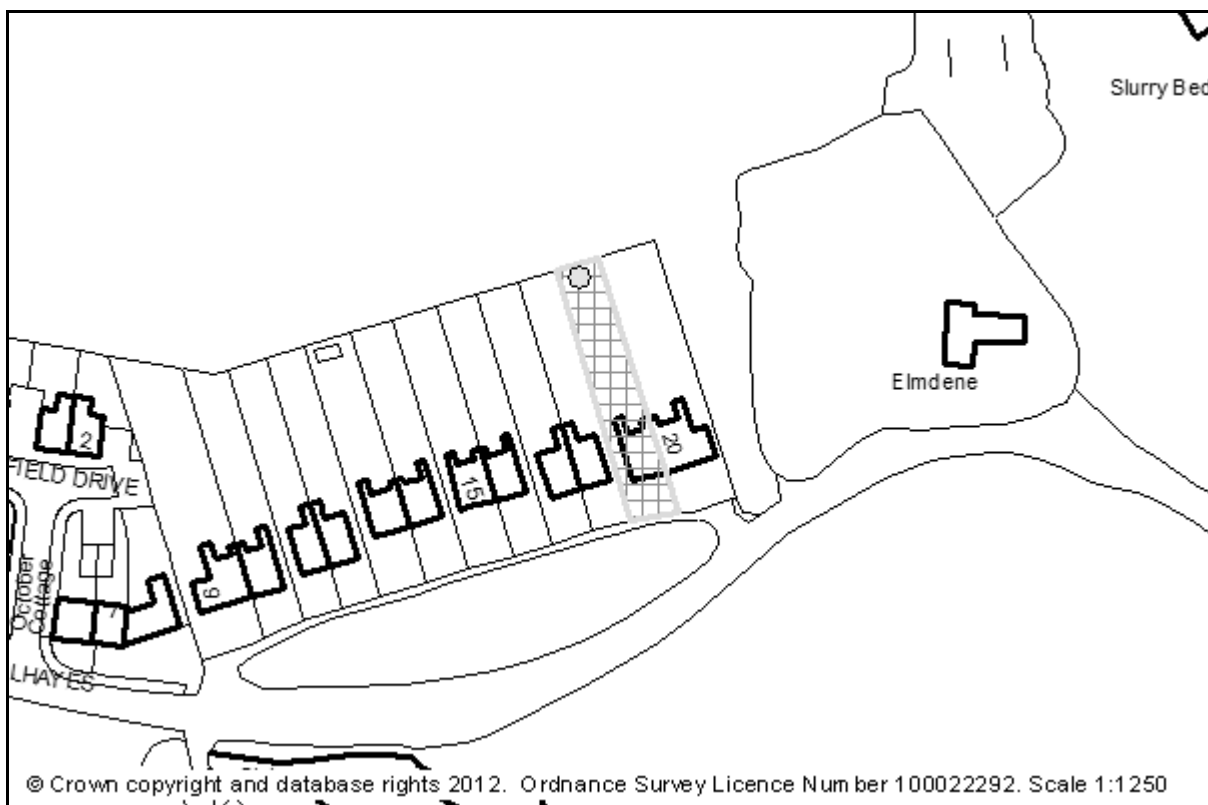
Grid Ref: 314195 : 113966

Applicant: Miss Marie Ingersoll

Location: 19 Lower Millhayes
Hemyock
Cullompton
Devon

Proposal: Retention of timber outbuilding to be used ancillary to the main house, retention of decking and proposed installation of water supply and drainage pipes underground

Date Valid: 2nd October 2020



APPLICATION NO: 20/01537/HOUSE

MEMBER CALL-IN

The application has been called in by Councillor Clist to consider whether the outbuilding is suitably scaled, designed and justified, whether the installation of water supply and drainage is justified and whether the decking has a negative impact on the amenity of neighbouring properties.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

Retention of timber outbuilding to be used ancillary to the main house, retention of decking and proposed installation of water supply and drainage pipes underground

A certificate of proposed lawful use application was refused in August 2020 (reference: 20/00887/CLP) due to the proposed installation of water supply and drainage being considered to be excavation works requiring planning permission hence this application has been submitted.

The application seeks planning consent for the retention of timber outbuilding to be used ancillary to the main house. Historically (pre-2017) there was an outbuilding on the site which is visible in aerial photographs at the end of the garden however it is unclear the dimensions of previous outbuildings as either no planning consent was required or no planning consent was obtained. The applicant has confirmed that the previous owner of the property remodelled the outbuilding around 2017 which extended the outbuilding. In 2019 the planning enforcement team were made aware of the site and the outbuilding. This application now seeks to regularise the outbuilding as built on the site with some minor changes including changing a door to an obscure glazed window to serve the shower room/toilet and one new window on the rear to serve the proposed bedroom.

The outbuilding measures 4.4m x 7.5m with an additional porch on the front measuring 3.35m x 1.8m. The maximum height of it is 2.5m. It is located 22.4m from the rear of the house. Under permitted development rights in an Area of Outstanding Natural Beauty an outbuilding of 10sqm can be erected in the garden of a dwelling as long as it is less than 20m from the rear of the dwelling. This outbuilding amounts to a total of 39.03sqm and is located 22.4m from the back of the house which is the reason planning consent is required for its retention.

The second element of the application seeks planning consent for the proposed installation of water supply and drainage to the outbuilding used ancillary to the main house (19 Lower Millhayes). The use of the building as a separate dwelling would require planning permission; as would a change of use to allow the building to be rented out and/or advertised as a separate entity such as a holiday let. This is not what the application is proposing and therefore no further consideration of this will be given.

The third element of the application seeks to regularise some decking which has been erected on the site as it is slightly more than permitted development will allow. Under permitted development legislation an area of decking up to 30cm can be installed in a garden. Due to the slope of the garden part of the decking is between 30cm and 45cm in height and therefore this application also seeks permission to retain the decking as built on site.

APPLICANT'S SUPPORTING INFORMATION

Site location plan, existing and proposed plans.

RELEVANT PLANNING HISTORY

05/01183/FULL - REFUSE date 8th August 2005 Erection of two storey extension to rear of property

20/00887/CLP - REFUSE date 19th August 2020 Certificate of lawfulness for the proposed installation of water and drainage to an existing outbuilding in rear garden

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan Review 2013 – 2033

S13 - Villages

DM1 – High quality design

DM11 – Residential extensions and ancillary development

DM27 – Protected landscapes

CONSULTATIONS

Hemyock Parish Council: 5th November 2020 - The parish council is not content with the application. The facilities are inappropriate for a garden shed, the potential usage is overdevelopment and due to its elevated position overlooks directly into the neighbouring properties resulting in a loss of privacy. This development could encourage more than ancillary accommodation and create a rental opportunity.

8th February 2021 - The parish council is NOT content with the application and concurs with the issues raised in Major Jenkins letter to MDDC dated 14th January, namely: the application contravenes policy with regard to height, location, raised platform and privacy.

Highway Authority: 21.10.20 - No Comments.

Environment Agency: Householder development and alterations within Flood Zone 1 - No EA consultation required.

REPRESENTATIONS

A total of six letters of objection have been received at the time of writing this report. The main material considerations mentioned are summarised below:

- Use of the shed as a separate dwelling;
- Parking provision;
- Queries over need of ancillary accommodation;
- Privacy issues;
- Potential renting out of the shed;
- Decking area.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

- 1) Principle of development
- 2) Use of the outbuilding
- 3) Visual impact
- 4) Impact on neighbouring properties amenity
- 5) Impact on Blackdown Hills AONB designation

1) Principle of development

The site is located within the settlement limit of Hemyock which is one of the districts defined settlements set out in the Mid Devon Local Plan 2013-33. Development in village locations is covered by policy S13.

The development proposed is ancillary to the existing residential dwelling and therefore the proposal must be considered against policy DM11 of the Mid Devon Local Plan 2013-3 (residential extensions and ancillary development). Policy DM11 provides in principle policy support for residential extensions and ancillary development where the following set of criteria are met:

- a) Respect the character, scale, setting and design of existing dwellings;
- b) Will not result in over-development of the dwelling curtilage; and
- c) Will not have a significantly adverse impact on the living conditions of occupants of neighbouring properties.

A summary assessment of the application scheme against these criteria is set out below or within sections of the report later identified:

A) See section 3 of the report below.

B) The outbuilding and decking which are in situ and are not proposed to be extended further do not result in the overdevelopment of the dwelling curtilage. The outbuilding measures 4.4m in depth x 7.5m wide (across the garden) amounting to 39.03sqm. The decking measures 6.4m wide (across the garden) x 3.9m deep (extending out from the front of the outbuilding into the garden towards the house) amounting to an area of less than 25sqm. The property benefits from a long garden which is more than sufficient to accommodate the outbuilding and decking. The proposed water supply and drainage will not result in an overdevelopment of the dwelling curtilage as the works will be hidden below ground.

C) See section 4 of the report below.

2) Use of the outbuilding

The outbuilding is to be used ancillary to the main house. If the outbuilding is to be used as a separate dwelling house then a full planning application would be required for that use. The applicant has confirmed that the outbuilding is used for ancillary living accommodation. The water supply and drainage pipes are proposed so that a small shower room can be installed to serve the outbuilding. A condition to control the use of the outbuilding is proposed to be imposed to stop the outbuilding from being used, let, sold or otherwise disposed of as a separate unit of living accommodation.

3) Visual impact

The outbuilding which is existing on the site is constructed of timber with a dark stain/paint on it. The building appears as an outbuilding in the rear garden of the property and does not look out of keeping in its scale or appearance with other garden sheds and structures found in gardens in the immediate area. The outbuilding measures 7.5m wide which is approximately the width of the garden and is 4.4m deep. The overall height of the monopitched building is 2.5m. There is a small porch like structure on the front of the outbuilding which measures an additional 3.35m x 1.8m.

Under permitted development rights in an AONB the applicant could erect an outbuilding which amounts to up to 10sqm within 20m of the rear of the house. The height allowable would be 2.5m if within 2m of the boundary or 4m if more than 2m from the boundary and has a dual pitched roof. Officers have therefore considered what could be done under permitted development rights and would consider that if a 4m high structure in the middle of the garden is allowable, the retention of the outbuilding as has been built is no more harmful than what could be erected on the site.

The decking which is existing on the site is constructed of timber decking found in many other residential gardens. The decking measures 6.4m wide (across the garden) x 3.9m deep (extending out from the front of the outbuilding into the garden towards the house). The section of decking measuring over 30cm in height is approximately 1.5m and so it is only that 1.5m x 6.4m that is being considered as the rest would be permitted development. The appearance of the decking in the residential garden is not out of keeping with the general area and has weathered to blend in well. The decking is low level and therefore can only be seen because of the slope of the gardens which slopes upwards from the houses to the tops of the gardens. The visual appearance of the decking is considered to be acceptable in this garden location and has no wider visual impact beyond the row of houses along Lower Millhayes.

The proposed water supply and drainage would be installed below ground level in the garden and therefore it is not considered that there would be any adverse impact in allowing the proposed pipes.

4) Impact on neighbouring properties amenity.

Officers have visited this site and it was clear that there are no significant adverse impacts resulting from the outbuilding or decking. There is intervisibility between gardens due to the slope of the site and the additional area of garden is not considered to increase the intervisibility to such an extent that the privacy of neighbouring properties is compromised. The general arrangement of having a row of terraced properties with gardens which elevate towards the ends by their very nature means that there is already increased intervisibility between properties. The outbuilding and decking area is not considered to be overbearing on neighbouring properties and due to the distance between the decking at the back of the properties, it is not considered that there is any significantly adverse overlooking or loss of privacy. The decking is a maximum height of 45cm in areas due to the slope of the land but it is not considered that this is an overbearing height when people are stood on it. The height of the outbuilding is 2.5m which again is not considered to be an overbearing height.

5) Impact on Blackdown Hills AONB designation

The site is located within the Blackdown Hills Area of Outstanding Natural Beauty. The site is within the village of Hemyock and the impact of the proposal on the AONB is considered to be limited to the site and terrace of houses rather than the further village or AONB setting. The appearance of the outbuilding and decking are typical of many domestic outbuildings and do not appear out of keeping. As such the proposal is considered to comply with policy DM27 of the Mid Devon Local Plan 2013-33.

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. The accommodation hereby permitted shall be used solely for purposes ancillary to 19 Lower Millhayes only and shall at no time be used, let, sold or otherwise be disposed of as a separate unit of living accommodation.

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. The applicant has been assessed on this basis only and would require planning permission for a separate unit.

REASON FOR/ APPROVAL OF PERMISSION/GRANT OF CONSENT/ REFUSAL

The retention of timber outbuilding to be used ancillary to the main house, retention of decking and proposed installation of water supply and drainage pipes is considered to respect the character, scale, setting and design of the existing dwelling. The application scheme does not result in an overdevelopment of the dwelling curtilage and the proposal will not lead to any significantly adverse impacts on the living conditions of neighbouring residential properties. The application scheme is not considered to have a negative or wider impact on the Blackdown Hills AONB designation. On this basis the application scheme is considered to be in accordance with policies S13, DM1, DM11 and DM27 of the Mid Devon Local Plan 2013-33 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. 20/01560/HOUSE

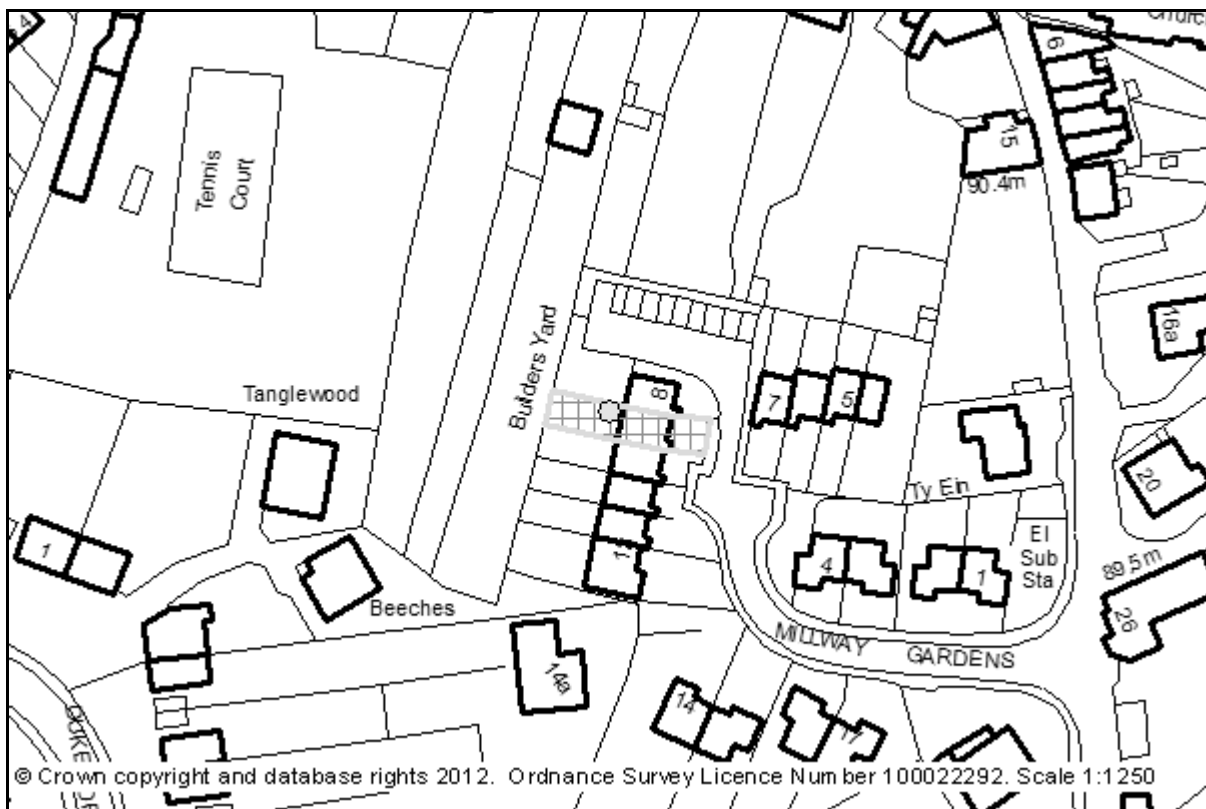
Grid Ref: 299927 : 103876

Applicant: Mr John Myhill

Location: 9 Millway Gardens
Bradninch
Exeter
EX5 4RE

Proposal: Retention of raised decking area and associated fence

Date Valid: 28th September 2020



APPLICATION NO: 20/01560/HOUSE

Site Visit: Yes **Date of Site Visit:** 22 October 2020

MEMBER CALL-IN

Cllr Taylor has called this application to planning committee due to concerns over privacy and visual impact of the decking structure.

RECOMMENDATION

Refuse planning permission

PROPOSED DEVELOPMENT

Retention of raised decking area and associated fence

RELEVANT PLANNING HISTORY

14/00804/CAT - NOBJ date 25th June 2014 Notification of intention to fell 1 cherry tree within a conservation area

14/01913/FULL - PERMIT date 10th February 2015 Erection of timber summerhouse and installation of swimming pool

17/00551/CAT - NOBJ date 10th May 2017 Notification of intention to remove 1 Sycamore tree and a group of Sycamores within the Conservation Area

21/00032/CLP - PCO date Certificate of lawfulness for the proposed erection of single storey rear extension

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan Review 2013 – 2033

S1 – Sustainable development priorities

S9 – Environment

S13 – Villages

DM1 – High Quality Design

DM11 – Residential extensions and ancillary development

DM25 – Development affecting heritage assets

CONSULTATIONS

Bradninch Town Council

21 October 2020

Comments have been received from neighbours who report that the new fence is over 4 metres above ground level. (It is understood that planning permission is required for fencing above 2 metres in height along shared boundaries).

19 November 2020

Following discussion and consideration of this application, Bradninch Town Council object to the application due to loss of light, loss of privacy, increased shading, overlooking and the visual impact on adjacent properties.

Bradninch Town Council has previously (21/10/2020) objected to this application on the grounds of loss of light, loss of privacy, overlooking, increased shading and visual impact on adjacent properties. The council have considered the revised drawings, which appear to show that the width and length of the decked area have increased, although it was felt that the revised drawings were not easy to understand. The council appreciate that revisions have been made, but the concerns previously highlighted do not appear to have been significantly addressed. The council therefore maintain their previous comments (although are prepared to re-consider should additional information be provided).

Highway Authority – 07 October 2020 – No comments

Environment Agency - Standing advice – flood zone 1

REPRESENTATIONS

A site notice was displayed and the neighbouring properties consulted.

Letters of objection have been received from three individuals. Their comments are summarised as follows:

1. The decking is large and obtrusive and is overbearing
2. It results in loss of light, view and privacy
3. Reduce height of decking to the same level as the neighbouring property.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

- 1. Impact on neighbours**
- 2. Impact on character and appearance of the area**

1. Impact on neighbours

The application seeks approval for the adjustment and retention of raised decking and fencing to the rear of 11 Millway Close, Bradninch.

No11 forms part of a terrace of the two storey houses at the western end of the Close. The gardens of these properties are lower than the internal ground floor levels and slope down to the west.

The decking has been constructed on a metal frame. The decking surface and fencing are timber.

The current raised decking is located immediately adjacent to the rear wall of the property and extends into the garden the full width of the house. The dimensions of the existing raised decking are 6.5m long by 5.4m wide with a small projection at the end where there are steps down to the

garden. There is a 1.8m fence around the northern and southern sides of the decking. The height of the decking is approximately 1m above the existing patio beneath the decking.

This proposal is for retention of the existing decking and fencing at the existing height and width but at a reduced length of 2.4m from the rear wall of the house. A 1m high timber balustrade would enclose the western end of the decking where there would be steps down to a lower area of decking.

Paragraph 127(f) of the NPPF states that developments should create a high standard of amenity for existing and future users. This is reflected in Policy DM1 of the Local Plan 2013-2033 which states that proposals should not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses.

Policy DM11 states that extensions and other ancillary development will be permitted provided they will not have a significantly adverse impact on the living conditions of occupants of neighbouring properties.

The height of the raised decking is approximately 1m above ground level. Ground level in this case is defined by the raised patio as opposed to natural ground level which judging by the gardens of some of the other properties in the row would have been lower and sloping.

Concerns have been raised by some the owners/occupiers of nearby properties that the raised decking and fencing would be overbearing and result in overshadowing of gardens and neighbouring properties. Also that the due to the height of the decking it would result in loss of privacy.

As the surface level of the decking would be at the same height as the internal ground floor level within the house, the impact of the decking and fencing on the internal living conditions on the occupiers of the neighbouring properties would be no greater than a standard 1.8m garden boundary fence extending into a level garden. The structure is not therefore considered overbearing or resulting in a significant loss of light to windows.

Nevertheless, due to the sloping nature of the rear gardens, the proposal would have a greater impact on the private amenity spaces associated with the neighbouring properties than would be the case if the gardens were level. There are variations in the ground levels of the gardens at the neighbouring properties; some of the gardens have a raised decking/terraces while some have not been altered. In the case of the immediate neighbouring properties, No8 to the north has a raised terrace which is approximately 1m below the height of the proposed decking; No10 to the south does not and the garden slopes down naturally from the rear wall where the ground level is approximately some 2m below the height of the proposed decking.

While the 1.8m fence on top of the proposed decking would prevent immediate overlooking of neighbouring gardens to the north and south, it is considered that the overall structure would, due to its scale and proximity to the boundaries of the site, be overbearing on the occupiers of Nos 8 and 10. It is also considered that the proposal would also lead to a significant loss of light to the garden of No8 due to its position to the north of the site. This would result in an unacceptable impact on the enjoyment of the private gardens of these properties, contrary to policies DM1 and DM11 of the Local Plan 2013-2033.

2. Impact on character and appearance of the area:

Policy S1 deals with Sustainable Development Priorities, which includes consideration to be given to the character and appearance of the surrounding area. DM11 permits extensions to existing

dwelling and other ancillary development, provided that they respect the character, scale, setting and design of existing dwellings and do not result in over-development of the dwelling curtilage.

The raised decking is located in the rear garden of the property as detailed above. There are a number of mature trees growing on the hillside at the western end of the gardens which screen the development from the conservation area which extends to the north and west beyond the garden boundaries; as such it is not considered that the proposal would have an adverse impact on the setting of conservation area. The visual impact from the decking and fencing is therefore very localised and limited to the occupiers of the row of properties. Having regard for the reduced length being proposed it is not considered that the proposal would have a demonstrable negative visual impact on the area.

The proposed development is not considered to conflict with policy DM11 in this regard but is not considered to meet the requirements of Policy S1 from a localised point of view.

Summary

The proposed development is considered to have a significant impact on the amenity of the immediate neighbouring properties due to its construction and overall bearing in terms of its height and bulk. Consequently, it is considered that the proposed development should be refused on grounds of its overbearing impact on the amenity currently enjoyed by residents of the neighbouring properties.

REASON FOR REFUSAL

1. The proposed raised decking, by reason of its scale, design and form, would have a significant adverse impact on the living conditions of the occupiers of the immediate neighbouring properties, specifically the enjoyment of the rear gardens. It would be contrary to Policies S1, DM1 and DM11 of the Mid Devon Local Plan 2013-2033 and the advice contained within the National Planning Policy Framework, in particular paragraph 127.

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.

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.

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has looked for solutions to enable the grant of planning permission. However the proposal remains contrary to the planning policies set out in the reasons for refusal and was not therefore considered to be sustainable development.

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. 18/01814/MFUL

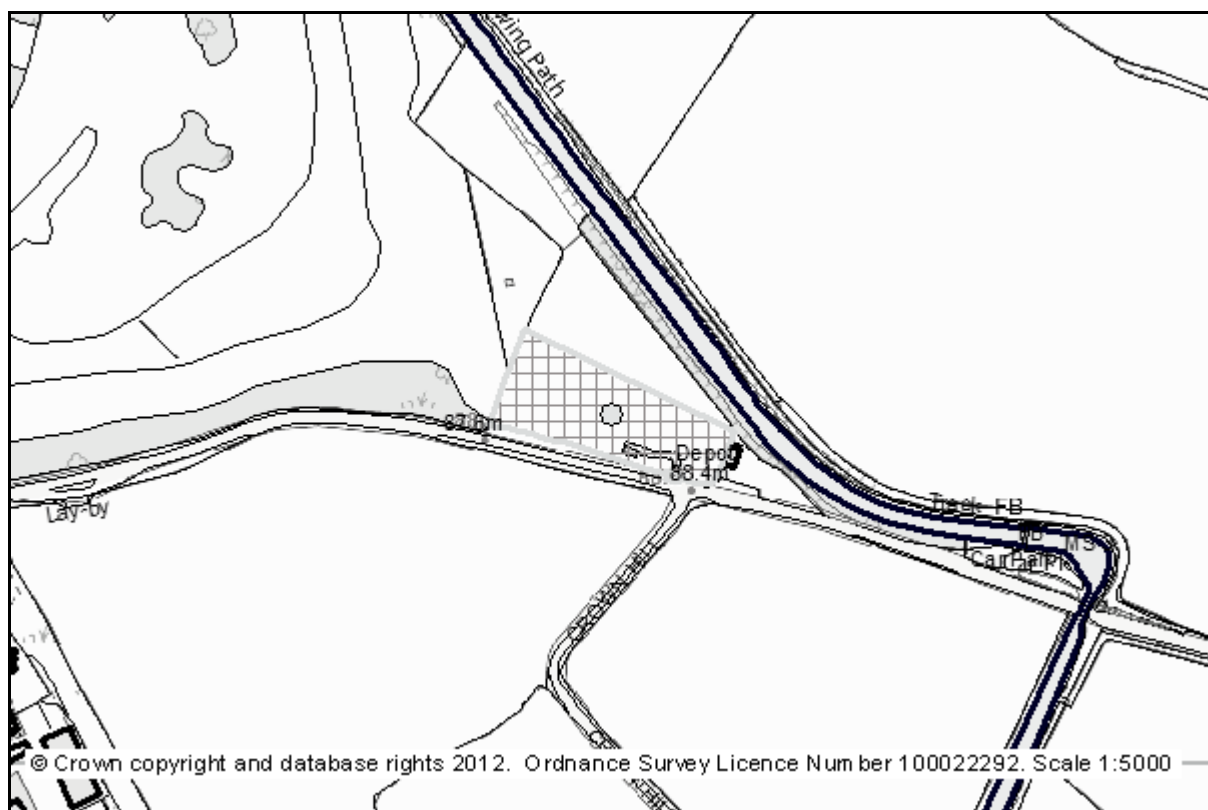
Grid Ref: 299541 : 113262

Applicant: Mr Alan Brine

Location: Land at NGR 299526 113232
Crown Hill
Halberton
Tiverton

Proposal: Change of use of agricultural land for the siting of 3 holiday lodges and alterations to existing access

Date Valid: 21st November 2018



APPLICATION NO: 18/01814/MFUL

MEMBER CALL-IN

Cllr Ray Radford has requested that the application comes before Planning Committee in order that the committee may consider whether:

- a) This would set a precedent for non-agricultural development on the green space between Halberton and Tiverton outside of settlement limits
- b) The development would be within the curtilage of the canal and thereby result in a negative impact on the views from the canal
- c) The lack of facilities accessible by footpaths would result in an increase in traffic on Post Hill
- d) The proposed access will have poor visibility from Tiverton bound traffic due to the humpback bridge by the canal car park
- e) There would be danger from stray golf balls due to proximity to the golf course
- f) There would be flooding if the canal is breached.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

This application seeks the change of use of a parcel of agricultural land located on land to the north of the main road between Tiverton and Halberton for the siting of 3 holiday lodges and alterations to improve an existing access on to the class 2 highway at Crown Hill.

The site is bounded by the Grand Western canal conservation area to the north, the golf course to the west and the B3131 to the south. To the east of the site is the DCC depot site and beyond that, the car park for the canal at Tiverton Road bridge.

The site is a relatively flat agricultural field, enclosed by native hedges and trees on all 4 sides. On the southern side is an existing stable block.

When the application was originally submitted, it proposed 6 holiday lodges over a much larger area of land (2 hectares), with some of the units sited close to, and visible from public vantage points within the Conservation Area. Due to the site area, the application was registered as a major application. In recognition of the concerns raised during the consultation process, the application before members now, relates to just 3 holiday units on an area of land furthest from the canal and well away from the golf course.

APPLICANT'S SUPPORTING INFORMATION

Design and access statement
FDA1 form relating to foul drainage disposal
Wildlife trigger sheet
Canal breach flood investigation assessment
Drainage strategy

RELEVANT PLANNING HISTORY

00/00373/FULL - PERMIT date 25th October 2000 Erection of stables consisting of two loose boxes and tack room

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan Review 2013 – 2033

S1 Sustainable development priorities

S9 Environment

S14 Countryside

DM1 High Quality Design

DM5 Parking

DM22 Tourism and leisure development

DM25 Development affecting heritage assets

CONSULTATIONS

Relevant latest responses:

HALBERTON PARISH COUNCIL - 28th November 2019 - Halberton Parish Council's objections to this application remain in place, the reasons are as per my email to you on 13 November 2019.

HALBERTON PARISH COUNCIL - 13th November 2019 - Halberton Parish Council's objections to this application remain in place - namely:

A) non-agricultural development on the green space between Halberton and Tiverton outside of settlement limits setting a precedent for non-agricultural development in this area

B) development within curtilage of the canal

C) negative impact on the views from the canal - the Council notes screening is proposed, but this would block current views of open countryside

D) lack of facilities accessible by footpaths therefore increased traffic on Post Hill

E) the proposed access will have poor visibility from Tiverton bound traffic due to the humpback bridge by the canal car park

F) other concerns raised were danger from stray golf balls due to proximity to the golf course and flooding if the canal is breached. It was also reported that the stable currently on the site was approved by MDDC in error and no buildings should be on site

DEVON, CORNWALL & DORSET POLICE - Re Holiday lodges at Crown Hill Tiverton - 11th November 2019

Thank you for this application (revised drawings).

Police have no further comments.

Highway Authority - 10.12.18

The highway authority has visited the site and has no objections to the proposal. The improved access and visibilities should be maintained in perpetuity and the drawing PAB2/LACH/2018 should be conditional of any consent

ENVIRONMENT AGENCY - 5th November 2020

We have no objection to the proposal.

Reason

The submitted Flood Risk Assessment (dated October 2020) and drawing Layout plan and Sections 1003 P02, have addressed our flood risk concerns.

Devon County Council have improved their 'warning' and control mechanisms, and with the raised floor level (88m or higher) and the Defence Bund, flood risk has been mitigated. We advise that the LPA should ensure by some mechanism that the Defence Bund's ownership (& future maintenance) is linked to the three holiday lodges, and cannot be split.

HISTORIC ENVIRONMENT TEAM - 11 November 2019

I refer to your recent consultation regarding the revised drawings and reduced number of holiday lodges. The Historic Environment Team have no additional comments to those already made, namely:

The proposed development lies in an area of archaeological potential within a landscape that contains evidence of prehistoric funerary activity. As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with these heritage assets. The impact of development upon the archaeological resource here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets and archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2018) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013), that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason

To ensure, in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development'

THE GRAND WESTERN CANAL JOINT ADVISORY COMMITTEE - 09.01.2019

Comments: The Grand Western Canal Joint Advisory Committee objects to this Application but asks that the following Conditions should be attached to the development, should it be Approved;

- 1 The Developer shall contribute to the canal's extra tree management costs associated with the increased hazards to people and their property on site as a result of the presence of the lodges.
- 2 If the revised tree management reduces the existing tree screening of the site, the Developer shall undertake additional suitable screening planting approved by the Planning Officers at his own expense.

3 The canal's offside ground shall not be entered by the owner, his agents nor users of the holiday lodges without Devon County Council's permission in order to protect its integrity as part of the canal's established offside wildlife habitat.

4 The Developer shall provide and maintain effective fencing to prevent users of the site entering the canal's Maintenance Depot where they could be at risk of harm.

NATURAL ENGLAND - 13.12.18

Natural England has no comments to make on this application.

PUBLIC HEALTH - 06.12.18

Contaminated Land	No objection to these proposals
Air Quality	No objection to this proposal
Environmental Permitting	No objection to this proposal
Drainage	No objection to these proposals
Noise & other nuisances	No objection to these proposals
Housing Standards	No comment
Licensing	No comments
Food Hygiene	No objection to this proposal.

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

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

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

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

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

If mains water is to be used, would have no comment.

Health and Safety No objections to this proposal.

Earlier consultation responses:

FLOOD and COASTAL RISK MANAGEMENT TEAM - 08.11.19

As details regarding the soakaway have yet to be submitted as per our previous response we will not be making further comment at this stage. We await further details regarding the proposed soakaway.

HISTORIC ENVIRONMENT TEAM - 10.12.18

I refer to the above application and your recent consultation. The proposed development lies in an area of archaeological potential within a landscape that contains evidence of prehistoric funerary activity. As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with these heritage assets. The impact of development upon the archaeological resource here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets and archaeological interest. The

WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2018) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013), that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason

To ensure, in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

I would envisage a suitable programme of work as taking the form of the archaeological supervision of all groundworks associated with the construction of the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>

FLOOD and COASTAL RISK MANAGEMENT TEAM - 18.01814.MFUL

DEVON, CORNWALL & DORSET POLICE - Re Change of use of agricultural land for siting of 6 holiday lodges, Crown Hill, Halberton - 5th December 2018

Thank you for this application

The Police have no comments at this time, and unless the local authority has any specific concern in relation to crime and disorder will have no future comment to make.

ENVIRONMENT AGENCY - 24 April 2020

Thank you for your consultation of 30 March 2020 following submission of additional information in respect of the above change of use application.

Environment Agency position

We maintain our objection to the proposal on the grounds that further detail is required in respect of the bund to ensure that the proposed accommodation units would not be vulnerable to a breach of the adjacent canal embankment.

Reason - Further information required (bund detail)

We are unable to recommend that the detail design of the bund be conditioned. The full detailed design needs to be agreed before prior to any decision being made on the application. This is to ensure that it is demonstrated that the bund will be an acceptable mitigation measure both in principle and detail.

It needs to be demonstrated that the size (height, width, foundations) of any bund, the required access area, maintenance regime and cost can be accommodated with the proposed design. This will also allow your Authority to be able to properly assess the visual impacts.

ENVIRONMENT AGENCY - 20 December 2019

Environment Agency position

We note the revised position of the proposed holiday lodges which are further away from the canal embankment than originally proposed. Despite this, our position remains unchanged from that detailed in our response dated the 21 March 2019. The wording from that previous letter is provided below:

"From the development and flood risk perspective we object to the proposal and inform your authority that the proposed accommodation units would be vulnerable to the consequences of a breach of the adjacent canal embankment.

Reason

The National Planning Policy Framework (NPPF) is explicit in that 'According to the information available, other forms of flooding should be treated consistently with river flooding in mapping probability and assessing vulnerability to apply the sequential approach across all flood zones.'

Whilst Devon County Council have carried out extensive risk reduction measures to control water levels in the canal since a collapse of the nearby embankment in November 2012, an undetermined risk of collapse of embankments along the length of the canal still exists.

Although the site lies within Flood Zone 1, (i.e. it is at a 'low' probability of flooding from rivers or streams), there is risk, to site from the above scenario. Considering the close proximity of the units to the canal it could be considered that they would be situated within a 'rapid inundation zone' should a breach occur which risks harm to people.

Advice to the LPA

We will maintain our objection unless the applicant can supply information to demonstrate that the flood risks posed by the development can be satisfactorily addressed.

If you are minded to approve the application at this stage contrary to this advice, we request that you contact us to allow further discussion and/or representations from us.

ENVIRONMENT AGENCY - 22.03.19

Thank you for consulting us on this application.

Environment Agency position

From the development and flood risk perspective we object to the proposal and inform your authority that the proposed accommodation units would be vulnerable to the consequences of a breach of the adjacent canal embankment.

Reason

The National Planning Policy Framework (NPPF) is explicit in that 'According to the information available, other forms of flooding should be treated consistently with river flooding in mapping probability and assessing vulnerability to apply the sequential approach across all flood zones.'

Whilst Devon County Council have carried out extensive risk reduction measures to control water levels in the canal since a collapse of the nearby embankment in November 2012, an undetermined risk of collapse of embankments along the length of the canal still exists.

Although the site lies within Flood Zone 1, (i.e. it is at a 'low' probability of flooding from rivers or streams), there is risk, to site from the above scenario. Considering the close proximity of the units to the canal it could be considered that they would be situated within a 'rapid inundation zone' should a breach occur which risks harm to people.

Advice to the LPA

We will maintain our objection unless the applicant can supply information to demonstrate that the flood risks posed by the development can be satisfactorily addressed.

If you are minded to approve the application at this stage contrary to this advice, we request that you contact us to allow further discussion and/or representations from us.

REPRESENTATIONS

6 objections were submitted in respect of the initial proposal for 6 units of holiday accommodation. 2 objections were received in respect of the current scheme under consideration, advising that their objections remain. The objections received are summarised as follows:

1. Submission is lacking in detail in terms of site and finished floor levels
2. No agriculture takes place on site so cannot be described as agricultural diversification
3. Intrusion into open countryside, loss of green 'wedge' between Tiverton and Halberton and setting a precedent for development to 'close the gap'
4. Impact on and visual intrusion into conservation area
5. Traffic generation, including for serving of cabins from applicants home together with traffic speeds outside site and type of traffic attracted to bio-digester nearby
6. Occupants unable to walk to canal or golf course as no footways
7. Drainage provision inadequate and unproven
8. Impact on 2nd tee, fairway and green in adjacent golf course
9. Trespass onto golf course from occupiers of holiday units – including foraging for golf balls and stray dogs
10. Suitable fencing should be provided between the site and golf course
11. Requirement for further works to canal-side trees to ensure no health and safety risk to occupiers
12. Canals offside ground should not be entered
13. Further fencing should be provided to protect council depot adjacent to the site
14. Any breach of canal would flood the site

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

- 1) Policy
- 2) Visual impact
- 3) Impact on conservation area and heritage assets
- 4) Impact on surrounding land uses
- 5) Flood risk and drainage
- 6) Highway safety
- 7) Protected species

1) Policy

The site is located outside the settlement limits of both Tiverton and Halberton and is therefore located in the open countryside. Policy S14 seeks to preserve (and where possible) enhance the character, appearance and biodiversity of the countryside whilst promoting sustainable diversification of the rural economy. Policy S14 specifically permits 'appropriately scaled ... tourism and leisure related development'. Therefore the principle of 3 units of holiday accommodation on this site is acceptable subject to other policies in the adopted development plan.

Policy DM22 sets out specific criteria for determining planning applications for tourism developments in the open countryside. It permits proposals within or adjacent to defined settlements and states that elsewhere a countryside location must be justified along with minimising environmental impacts and avoiding an unacceptable traffic impact on the local road network. Specifically, development must respect the character and appearance of the location and demonstrate that the need is not met by existing provision within nearby settlements. Whilst the site is close to Tiverton, it cannot be said to be within or adjacent to the defined settlement and therefore its location in open countryside must be justified. The applicant states that this is proposed to be a high quality development within easy reach (on foot or bike along the canal or by bus) to Tiverton. Occupiers of the units will be drawn by the close proximity of the canal and golf course and the recreation opportunities these present. Your officers are satisfied that its location has been justified and further discussion over the impacts of the proposal are set out below.

Concern has been expressed that approval of these 3 holiday units will set a precedent for development in this area of open countryside between Tiverton and Halberton. However, all applications are assessed on their own merits and against the policies set out in the development plan.

2) Visual impact

Policies S1, S9 and DM1 seek high quality developments which are visually attractive and well integrated with their surroundings. The initial site was larger than the one before members for consideration here. The land in question sloped up towards and was highly visible from, the Grand Western Canal towpath. The subsequent reduction in site area, relating to the single field set well down from the canal, means that the visual impact of the proposal is now very limited from the canal towpath. However, the site is visible from the main road. The frontage boundary consists of native planting but is sparse in some areas so there will be views into the site from the road. However, the existing planting could be thickened by way of a condition on the consent requiring a landscaping plan. Given that the site is located between the Devon County Council depot and the golf course, it is not considered that the visual impact would be so wide ranging as to result in a harmful impact. The proposal is therefore considered to comply with policies S1, S9 and DM1 in that it is acceptable on visual impact grounds, with the addition of a landscaping condition.

3) Impact on conservation area and heritage assets

Policy S9 and DM25 relate to the protection and enhancement of heritage assets. The application site is located adjacent to but set well down from the Grand Western Canal and its Conservation Area. The initial scheme involved locating some holiday units close to the canal on the highest part of the application site. Officers expressed concerns to the applicant about the impact this would have on the duty placed on Local Planning Authorities to preserve or enhance the character and appearance of the Conservation Area. In response to this, the application was reduced to 3 units and these are set in the lower field, adjacent to the road and grouped together, with a reduced area for communal amenity. As such, it is not considered that the scale or siting of the proposed 3 no. holiday units would have any impact on the character and appearance of the Conservation Area and as such, any impact would be considered to be neutral, thereby preserving the character and appearance of the Grand Western Canal which at this location, sits well above the application site.

With regards to the comments of DCC Historic Environment Service relating to the possible historic assets below ground, their recommended condition has been imposed. The proposal is therefore considered to comply with policy S9 and DM25.

4) Impact on surrounding land uses

As well as bordering the canal, representations have been received from the 2 other immediately adjoining land uses – Tiverton Golf Club and the GWC Devon County Council Depot. The case officer met with a representative of the golf club in respect of the initial application for 6 holiday units, and understood their concerns to relate to the 2nd tee, fairway and green and in particular the impact of stray balls from the golf course, landing in close proximity to the proposed holiday units in the adjacent field. It was understood that the impact currently from stray balls was limited due to current agricultural use of the land but that expensive fencing or re-positioning of the tee may be required to prevent stray golf balls injuring occupiers of the holiday units and that the costs of these works should not fall to the golf club. Amending the scheme to remove any of the units from the adjoining field was understood to overcome their concerns but their subsequent letter of objection relating to the revised scheme, raised the issue of the possibility of holiday makers (or their dogs) trespassing onto the golf course and foraging for stray balls. This would be a civil or criminal matter should this arise and is not a matter which the LPA could control or prevent.

A letter of objection was also received from the GWC Joint advisory committee in relation to the application for 6 units. Their main concern related to the extra costs which would fall to the GWC in relation to additional tree management, where holiday units were to be located in close proximity to the existing trees aligning the canal. Their concerns also related to the need to prevent unauthorised access to the canal 'offside' and the DCC depot. Again, the scheme was amended to site the 3 holiday units in the far corner of the site, furthest away from the canal so that issues regarding additional maintenance do not arise. Unauthorised access to land not in the control of the applicant, is addressed above – trespass is a separate civil or criminal matter and is not a matter which the LPA could control or prevent.

5) Flood risk and drainage

Policy S1, S9 and DM1 relate to providing suitable drainage facilities and reducing the impact or risk of flooding. The initial responses from the Environment Agency indicated their concerns about the risk to occupiers of the site, from a possible breach of the canal. The site lies below the embankment of the canal and therefore at risk of inundation should the canal banks breach, as was the case elsewhere along the canal in November 2012.

A reduction in the number of holiday units and their relocation did not alleviate their concerns and as a result the applicant has included the provision of a bund within the application. The Environment Agency have subsequently advised that as Devon County Council have improved their 'warning' and control mechanisms, and with the raised floor level (88m or higher) and the

proposed Defence Bund, in their view the flood risk has been mitigated. The bunds provision prior to first occupation, ownership and future maintenance can be controlled by a condition on the consent. To this end, the Environment Agency's concerns have been addressed and the proposal complies with policies S1, S9 and DM1.

The application is accompanied by a detailed report and drainage strategy for dealing with foul drainage. The site is not located close enough for practical connection to a mains drain and the proposal to deal with foul drainage via a septic tank rather than a package treatment plant has been justified, due to the fluctuations in use throughout the year.

6) Highway safety

Policy S1 states that applications which support sustainable forms of travel such as walking and cycling and a reduction in the need to travel by car (recognising the rural locality of Mid Devon) are to be supported. Objections have been raised about the location of the site in terms of its accessibility to facilities and services on foot and also relating to the access to the site itself. The application states that occupiers of the holiday units may wish to use the golf course and canal during their stay. The site is located close to the canal and the golf club but there is no segregated access on foot to either. Both involve walking along a busy road without pedestrian footways. Whilst this is not ideal, there are pedestrian refuge areas for the most part and the canal is so close that occupiers of the site are considered most likely to walk rather than drive to the car park. Accessing the golf club by car would be likely, albeit a short journey. The site is also located on a main bus route, so there is easy access to shops, facilities and services in Tiverton. The Highway Authority, as statutory consultee, advise that they have visited the site and have no objections to the proposal subject to the works set out to improve visibility at the access, being suitably conditioned. They have not advised that the proposal gives rise to any harmful highway safety impact and accordingly the proposal complies with policy S1 as your officers consider that the sites close proximity to the canal would encourage occupiers of the units to leave their cars on site and explore the canal on foot or bicycle.

7) Protected species

Given that the site is currently a maintained agricultural field and there is no native planting that needs to be removed to accommodate the proposal, there is no identified impact on protected species in this instance.

Public Sector Equality Duty

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 in the open countryside where new tourism developments, including accommodation are acceptable in principle subject to ensuring that the proposal can be justified and does not adversely affect its surrounding or highway safety. This revised scheme is considered to have a neutral impact on the Grand Western Canal Conservation Area and all other issues can be successfully mitigated via condition. On this basis the proposal is considered to comply with policies S1, S9, S14, DM1, DM5, DM22 and DM25 of the adopted Local Plan.

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 development shall begin until there has been submitted to, and approved in writing by the Local Planning Authority, a landscaping scheme, to include landscaping of the proposed flood defence bund and along the site boundary with the road. All planting, seeding, or turfing comprised in the approved details of landscaping shall be carried out within 9 months of the substantial completion of the development, (or phase thereof), and 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.
- 4) (i) the holiday units hereby permitted shall be occupied for holiday purposes only.
(ii) the holiday units shall not be occupied as a person's sole or main place of residence
(iii) the owners or operators shall maintain an up-to-date register of the names of all occupiers of the individual units on the site, their arrival and departure dates and their main home addresses, and shall make this information available at all reasonable times to the Local Planning Authority
- 5) No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.
- 6) No unit shall first be occupied until the improved highway access and visibility splays as shown on drawing number PAB2/LACH/2018 have been provided, and once provided shall thereafter be retained.
- 7) The flood defence bund as shown on drawing number 182 1003 included in Appendix A of the Canal Breach Flood Impact Assessment by Sands Engineers shall be constructed in accordance with those approved details prior to the first occupation of any unit on site. Thereafter, the bund shall be retained and maintained in accordance with a management plan which shall be submitted to and approved in writing by the LPA prior to the first occupation of any unit.
- 8) The use of land in connection with the approved holiday units shall be limited to the area outlined in red on drawing number BPT2/LACH/2018 rev 4 received by the LPA on 8th Nov 2019. Details of the means of enclosing this area, shall be submitted to and approved in writing by the LPA. The agreed details shall thereafter be provided on site prior to the first occupation of any unit and thereafter retained.

REASONS FOR CONDITIONS

- 1) In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2) For the avoidance of doubt and in the interests of proper planning
- 3) To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with policies S1, S9 and DM1 of the Mid Devon Local Plan 2013-2033
- 4) The site is outside defined settlement limits in the open countryside, where permanent dwellings with unrestricted occupation would be contrary to adopted planning policy,

however the application is considered to be in accordance with policy DM22 of the Mid Devon Local Plan 2013-2033 relating to tourism proposals in the open countryside.

- 5) To ensure, in accordance with Policy DM25 of the Mid Devon Local Plan 2013-2033 and the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development
 - 6) To ensure that the access and visibility splays are provided to enable safe access for all users of the site in accordance with policy DM1 of the Mid Devon Local Plan 2013-2033
 - 7) To ensure that occupiers of the site are protected in perpetuity from inundation, should the canal bank be breached in accordance with policy S9 of the Mid Devon Local Plan 2013-2033
 - 8) The area of land associated with the approved use must be defined and limited to that shown on the plan to limit the impact of the development on adjacent land uses and to protect the occupiers of the site from those adjoining uses (e.g. stray golf balls) and to limit the impact on the open countryside in accordance with policy S14 of the Mid Devon Local Plan 2013-2033.
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INFORMATIVE NOTE

The details required by condition 8 shall include the provision of a post and rail or post and wire fence and planting and shall not provide access for residents of the site but may include access for maintenance purposes only.

REASON FOR/ APPROVAL OF PERMISSION/GRANT OF CONSENT/ REFUSAL

The site is located in the open countryside where new tourism developments, including accommodation are acceptable in principle subject to ensuring that the proposal can be justified and does not adversely affect its surrounding or highway safety. This revised scheme is considered to have a neutral impact on the Grand Western Canal Conservation Area and all other issues can be successfully mitigated via condition. On this basis the proposal is considered to comply with policies S1, S9, S14, DM1, DM5, DM22 and DM25 of the adopted Local Plan.

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. 20/01874/FULL

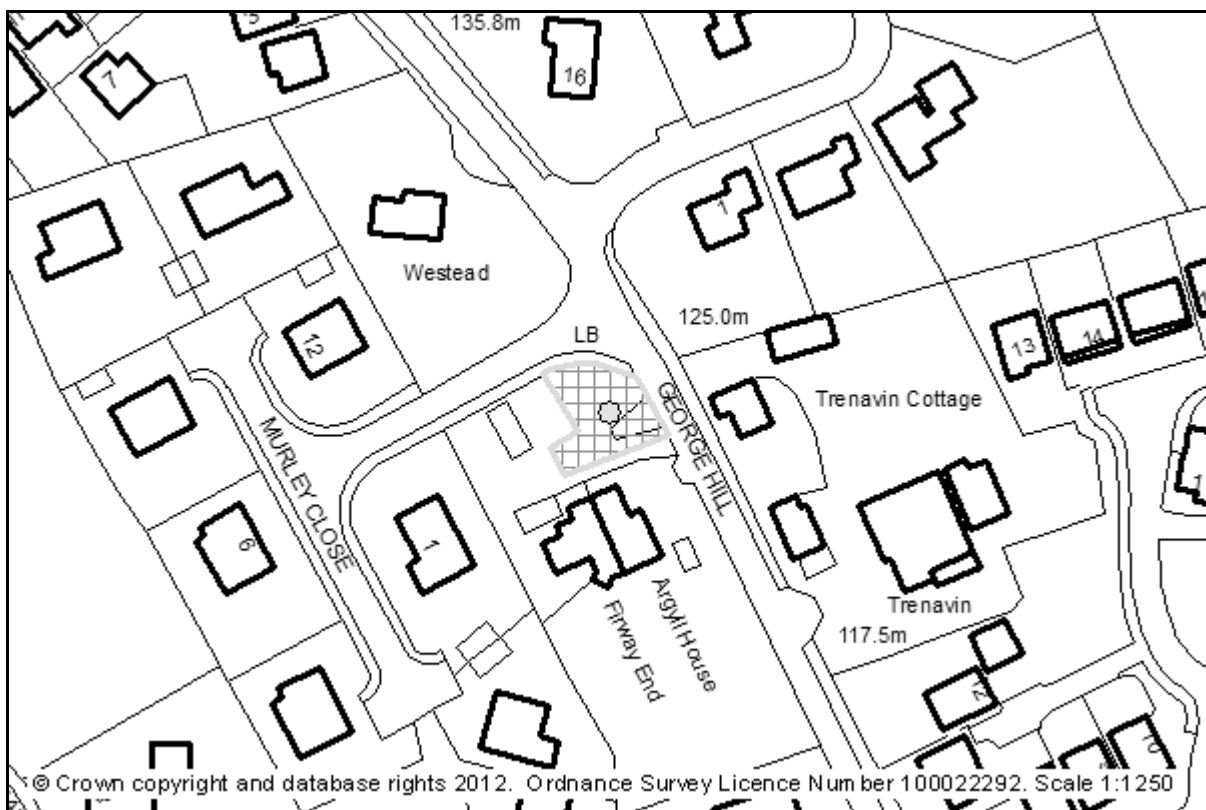
Grid Ref: 282550 : 100754

Applicant: Mr and Mrs Hooper

Location: Firway End
George Hill
Crediton
Devon

Proposal: Erection of a dwelling

Date Valid: 11th November 2020



APPLICATION NO: 20/01874/FULL

MEMBER CALL-IN

The application has been called in by Cllr Frank Letch and Cllr Andi Wyer to consider;

- 1. Whether the proposal is overdevelopment**
- 2. The loss of amenity space**

RECOMMENDATION

Refuse permission

PROPOSED DEVELOPMENT

Erection of a dwelling at Firway End, George Hill, Crediton. The site forms part of the residential garden of the existing semi-detached property, located at the junction of Murley Close and George Hill in Crediton. The site is located at the corner of the garden and bordered on two sides by the public highway, although separated from the highway by a close board timber fence which has recently replaced a hedgerow which formed part of the boundary. To the south the site is bordered by the existing dwelling of Firway End and the neighbouring property adjoining. There are other residential properties surrounding the site although generally separated by the public highway. The site slopes from the north to south. There is an existing access from the east boundary from George Hill. Planning permission has previously been granted for the formation of a new vehicular access and hardstanding area from the northern boundary of the plot (see planning history) at the time of the officer site visit this had not been constructed.

The application seeks consent for the erection of a dwelling. The proposed dwelling is a single storey, two bedroom unit. It is proposed to be accessed via the previously approved access to Firway End (19/01008/FULL) with two parking spaces being given over to the new dwelling. The existing access from George Hill would be closed off. The material palette comprises brick and render with a slate roof and uPVC windows and doors.

APPLICANT'S SUPPORTING INFORMATION

Application form
Plans
Design and access statement
Surface water drainage statement
Wildlife trigger list

RELEVANT PLANNING HISTORY

19/01008/HOUSE - PERCON date 29th August 2019 Formation of a new access and driveway

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan Review 2013 – 2033

S1 Sustainable communities
S3 Meeting housing needs

S8 Infrastructure
S9 Environment
S12 Crediton
DM1 High quality design
DM3 Transport and air quality
DM5 Parking

CONSULTATIONS

HIGHWAY AUTHORITY- 12th November- 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- 25th November-

Contaminated Land: No comment. (23.11.20).

Air Quality: No comment. (23.11.20).

Environmental Permitting: No objection to this proposal. (11.11.20).

Drainage: No comment. (23.11.20).

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 08.00 and 1800 hours on Monday to Fridays and 08.00 and 1300 on Saturdays.

Reason: To ensure that the proposed development does not prejudice the amenities of neighbouring properties. (24.11.20).

Housing Standards: No comment. (13.11.20).

Licensing: No comments. (11.11.20).

Food Hygiene: No comments. (11.11.20).

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. (23.11.20).

Health and Safety: No comments. (11.11.20).

CREDITON TOWN COUNCIL- 3rd December- no objection.

REPRESENTATIONS

At the time of writing this report three representations have been received, the main comments are summarised below;

1. The building is on the highest part of the small area of land available and will be intrusive to neighbouring properties
2. George Hill is not suitable for additional traffic and visibility is poor
3. Rainwater from the site currently passes through to the neighbouring property to the south which is at a much lower level
4. The development will increase surface water run off towards the neighbouring property
5. Drainage should be managed via mains drainage rather than a soakaway

6. The site would be overlooked by the neighbouring properties, the existing hedgerow should be retained
7. The removal of the hedgerow that has been carried out has removed the only ecological value of the site, mitigation should be provided
8. No wildlife survey has been provided
9. The application is scant in terms of information provided in respect of drainage, landscaping and how the dwelling would fit in context of the surrounding properties
10. The building will be very close to George Hill and Murley close which is not in keeping with the pattern of development in the neighbourhood
11. Concern regarding ability of cars to turn in parking area

This planning application has been advertised by means of a site notice, by notifying immediately adjoining neighbours in writing and by advertising in a local newspaper in accordance with the Council's Adopted Statement of Community Involvement (October 2016) and the legal requirements for publicity on planning applications, as set out in The Town and Country Planning (Development) Management Procedure (England) Order 2015, as amended by The Town and Country Planning (Development Management Procedure, Listed Buildings and Environmental Impact Assessment) (England) (Coronavirus) (Amendment) Regulations 2020.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. Policy and principle of development
2. Highway, access and parking issues
3. Design and amenity including the impact the amenities of neighbouring occupiers
4. Other issues- ecology, PSED

Policy and principle of development

Policy S1 sets a number of strategic priorities to support the creation of sustainable communities. In relation to residential development this sets a development focus at Tiverton, Cullompton and Crediton with a limited level of development in identified villages. Policy S12 states that Crediton will continue to develop its role as a small and vibrant market town and supports the provision of new homes.

The site is located within the settlement boundary of Crediton and therefore the principle of providing a new dwelling in this location is considered to be supportable. The further development management policy considerations are set out in more detail in the relevant sections below.

Highway, access and parking issues

Policy DM3 sets out that development must ensure safe access to the transport network. As set out above, the proposal seeks to utilise a new access to the site from the north in a similar arrangement to the previously approved scheme for a new access and parking area to serve the existing dwelling (see planning history). The access and parking area would be shared with the existing property with two parking spaces allocated for each dwelling. At the time of the application for the new access the Highway Authority required improvements to the visibility achieved at the access of Murley Close onto George Hill, i.e. across the corner of the site. It is considered that these improvements could still be achieved and secured as part of this scheme. On this basis, and given that the development is unlikely to result in any significant increase in traffic movements it is not considered that the highway impacts of the development would be unacceptable.

It is proposed that the new parking area would provide two parking spaces for the new dwelling and two for the existing dwelling. This is considered to accord with policy DM5 of the Mid Devon Local Plan 2013-2033.

Design and amenity including the impact to amenities of neighbouring occupiers

Policy S9 states that development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets and minimise the impact of development on climate change through high quality sustainable design which reinforces the character and distinctiveness of Mid Devon's historic built environment, mitigates and adapts to climate change and creates attractive places.

Policy DM1 requires designs 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 and enable sustainable modes of travel such as a 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), including arrangements for future maintenance, and connection of foul drainage to a mains sewer where available;*
- g) *Adequate levels of daylight, sunlight and privacy to private amenity spaces and principal windows;*
- h) *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; and*
- i) *On sites of 10 houses or more the provision of 20% of dwellings built to Level 2 of Building Regulations Part M 'access to and use of dwellings'.*

The site is located in a residential area of Cridton. There is a mix of properties in the locality with a variety of scale and materials, although the predominant material palette appears to be red brick with slate/ tile roofs. The existing property, Firway End, adjoins the neighbouring property Argyll House. It is understood that the property was originally built in the early 20th century as a single dwelling and subsequently subdivided into two dwellings. The larger area of grounds associated with the property were retained with Argyll House and the northern area of garden (including the site area) is within the ownership of Firway End. Argyll House is a substantial two storey property and has a characterful appearance with red brick walling and large sash windows. Apart from Argyll House and the property opposite at Trenavin, the area was largely undeveloped until late 20th century development surrounded the site.

The site area extends to approximately 220sqm and is located within the existing garden area of Firway End, directly north of Argyll House. The footprint of the dwelling extends to approximately 80sqm and is roughly square apart from the north east corner being squared off where it runs

close to the site boundary. The dwelling is designed with the principal elevation facing west onto the shared parking area, this would be formed with brickwork walling with a large area of glazing to the gable. The remaining elevations are proposed to be of render. The roof form is proposed with a gable feature to the west elevation, it is proposed to provide a perpendicular roof extending southwards from this which, by virtue of the dwelling footprint, results in a long and slow sloping roof pitch to the north east corner and the east and west elevations. It is noted that a timber close board fence of approximately 2m has been provided around the north and east boundaries of the site, following removal of the hedgerow. It is considered that planning permission is required for the new fence and it does not currently benefit from planning permission. The application does not make clear whether it seeks permission to retain the fence but it appears to be included on both the existing and proposed layout plans. The timber fence would partially obscure views of the dwelling.

The dwelling would sit forward of the building line established by Argyll House in relation to George Hill, and similarly when compared to the relationship between Firway End and Murley Close. The dwelling is located in an elevated position although its overall ridge height would be lower than the neighbouring property (Argyll House). Whilst there are a variety of different styles of property in the immediate area, the surrounding properties generally feature a traditional and simple roof pitch. The design of the roof of the proposed dwelling introduces a more complex roof form and a shallow roof pitch across varying aspects which overall is not considered to present a coherent form of development that would demonstrate high quality design in accordance with DM1.

Having regard to the area of garden which would be given over to the new access and parking area as approved under 19/01008/HOUSE, the proposed site of the dwelling would result in the loss of the majority of the useable garden space available for the existing property. By virtue of the slope of the site, the formation of the parking and the siting of the proposed dwelling, the amenity space remaining for the existing dwelling would be substandard both in terms of its scale, siting and lack of privacy. The proposed dwelling would be located approximately centrally within its plot. It is accessed directly from the parking area to the west with garden areas shown mainly to the north and south of the building. The rear (east) elevation is located approximately 1.5m from the boundary timber fence with the kitchen and bedroom windows out looking towards this. To the south of the dwelling it is proposed that there is a grassed area of approximately 3m wide between the side of the dwelling and the boundary hedgerow. The boundary hedgerow provides some screening it is likely that this area would be open to some overlooking from the first floor windows of the neighbouring properties. The area to the north of the dwelling provides approximately 30sqm of garden area, between the side of the dwelling and the boundary timber fence.

The provision of a dwelling in this location, by virtue of the scale and layout of the plot and its relationship with surrounding development is considered to present as a cramped form of development that would fail to achieve a suitable level of amenity for future occupiers. Furthermore, it is considered that it would result in loss of amenity space for the existing property to the extent that it would have a harmful impact on the amenity of occupiers, and future occupiers, of that property. It is considered that the proposal fails to provide a high quality form of development that would provide a positive contribution to local character, be well integrated with surrounding buildings and streets and achieve an acceptable level of privacy and amenity for neighbouring properties and future occupiers. On this basis it is considered that the proposal would conflict with the requirements of policy DM1 as set out above.

Policy S9 sets out that development will minimise the impacts on climate change including through measures to reduce the risk of flooding and requiring sustainable drainage systems including arrangements for future maintenance. Policy DM1 reiterates the expectation that developments should include sustainable drainage systems. The submitted surface water drainage strategy

indicates that this would be managed either by a soakaway or connection to mains. It is stated that there is sufficient garden area to accommodate a soakaway. No details have been provided in respect of where the soakaway would be located or the suitability of the ground conditions to accommodate soakaway drainage. Concerns have been raised by the neighbouring occupier that the run off from the site currently falls to their property (being located on a lower level) and the development would worsen this. The site area is relatively modest and given the siting in relation to the neighbouring property it is considered that it is likely that inadequate drainage arrangements would have an adverse impact to the amenities of the neighbouring property and increase surface water run off from the site. In this case it is considered that a more detailed drainage strategy is required to demonstrate that a SUDs system could be appropriately accommodated on the site without adverse impacts to neighbouring properties or the surrounding environment in order to meet the requirements of policy S9 and DM1.

It is proposed that foul drainage would be connected to the mains sewer, this is considered to be appropriate in accordance with policy DM1.

Other issues; PSED

Ecology: Having regard to the submitted wildlife trigger list, the nature of the development and the limited features of ecological value on the site it is considered unlikely that the proposal would result in harm to any protected species and therefore no further survey work is considered to be necessary in this instance. It is noted that the boundary hedgerow has been removed prior to submission of the application, however as it borders a residential garden it is not considered that the hedgerow would have been protected.

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.

REASONS FOR REFUSAL

- 1. In the opinion of the Local Planning Authority, the provision of a dwelling in this location, by virtue of the scale and layout of the site and its relationship with surrounding development is considered to present as a cramped form of development that would fail to achieve a suitable level of amenity for future occupiers and furthermore, would result in loss of amenity space for the existing property to the extent that it would have an unacceptable harmful impact on the amenity of occupiers, and future occupiers, of that property. It is considered that the proposal fails to provide a high quality form of development that would provide a positive contribution to local character and be well integrated with surrounding buildings and streets. On this basis it is considered that the proposal would conflict with the requirements of policy DM1 of the Mid Devon Local Plan 2013-2033.**
- 2. Insufficient information has been provided in respect of surface water drainage to demonstrate how this would be managed to prevent adverse impacts to the amenities of neighbouring occupiers and the surrounding environment. The application scheme does not adequately demonstrate that a suitable sustainable drainage system could be incorporated on the site in accordance with policy S9 and DM1 of the Mid Devon Local Plan 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.

Application No. 20/01789/FULL

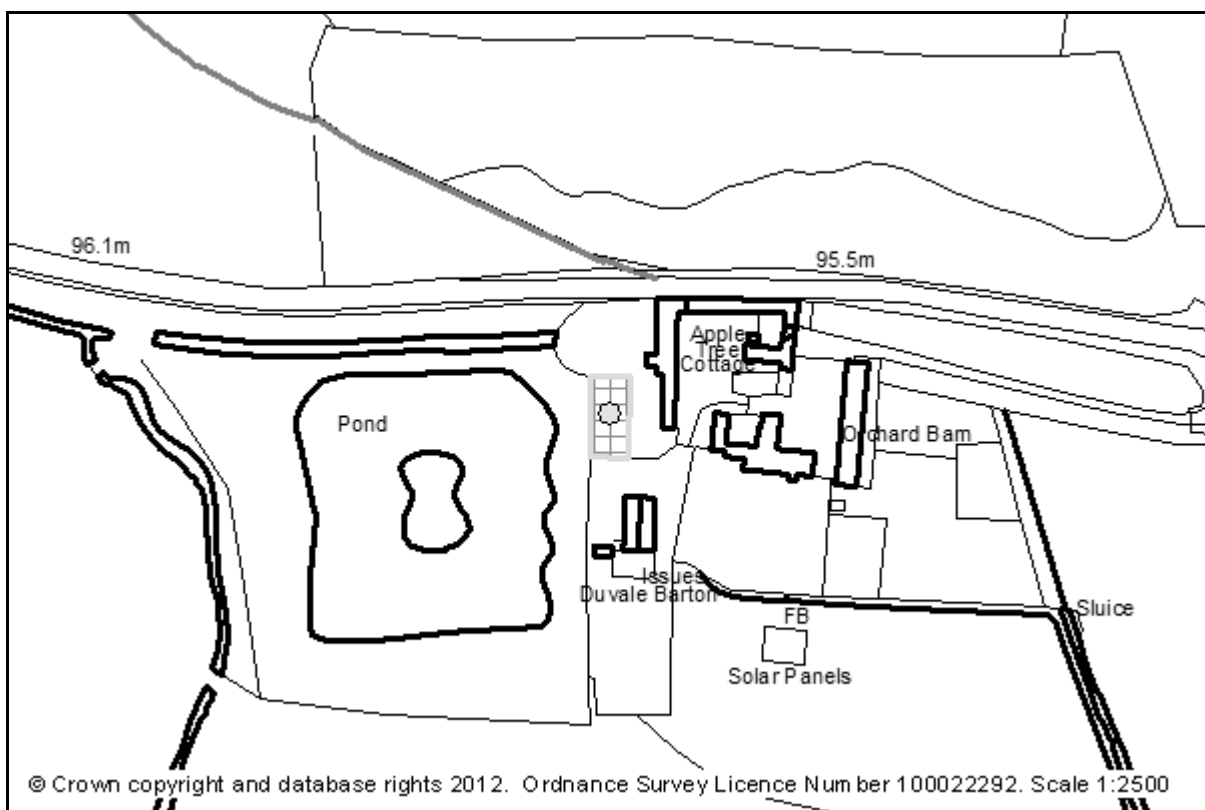
Grid Ref: 294462 : 120501

Applicant: Ms J Underhill

Location: Buildings at NGR 294446 120596
Duvale Priory
Bampton
Devon

Proposal: Change of use of hall solely for use by holiday makers to public use

Date Valid: 22nd October 2020



APPLICATION NO: 20/01789/FULL

MEMBER CALL-IN

Called in by Cllr Ray Stanley, in order to consider the potential impact of the proposed development on local amenity, particularly as a result of noise impact.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

Change of use of hall solely for use by holiday makers to public use

The application relates to an existing large function room within the grounds of a long-established holiday business. Its current use was approved under planning permission 13/00701/FULL, and it is tied to use in connection of the occupiers of adjoining holiday accommodation, and which has a capacity of up to a maximum of 130 people at any one time.

At present there are also 4 large holiday accommodation buildings on site, with associated fishing lake. There is also a smaller function room, previously used as a games room, kitchen and store in connection with the existing holiday business. This was granted permission under 19/01062/FULL for use by member of the public, with no requirement to only be used by occupiers of the adjoining holiday accommodation.

The proposal is to allow the use of the large function room separately from the existing holiday accommodation, allowing a more flexible use.

APPLICANT'S SUPPORTING INFORMATION

Site location plans
Elevation and floor plans
Design and access statement
Flood risk assessment

RELEVANT PLANNING HISTORY

92/00317/LBC - PERMIT date 29th May 1992
Listed Building Consent for internal alterations, alterations to external appearance and reconstruction of collapsed wall, outbuilding to west
05/01828/FULL - PERMIT date 21st December 2005
Conversion of barn to 3 no holiday let units and revised parking/courtyard arrangements to serve Units 4, 5 and 6 without compliance with Conditions (c) and (g) of planning permission 89/01295/FULL - HOLIDAY OCCUPANCY CONDITION APPLIES
05/01977/LBC - PERMIT date 21st November 2005
Listed Building Consent for the conversion of redundant barn into 3 no. holiday cottages
11/00216/FULL - WDN date 7th April 2011
Retention of change of use from agricultural building to function hall
11/00385/FULL - PERMIT date 25th May 2011
Erection of stone laundry store to replace two existing sheds
11/00386/LBC - PERMIT date 25th May 2011
Listed Building Consent for the erection of a stone laundry store to replace two existing sheds

11/00461/FULL - PERMIT date 25th May 2011

Retention of change of use from agricultural building to games room and furniture store

12/01766/FULL - WDN date 26th April 2013

Retention of change of use from agricultural building to function hall (Revised Scheme)

13/00701/FULL - REFUSE date 12th November 2013

Retention of change of use from agricultural building to function hall for sole use by occupiers of the existing holiday accommodation at Duval Priory - APPEAL ALLOWED 09/06/2014 - PLANNING PERMISSION GRANTED

14/00929/FULL - PERMIT date 11th August 2014

Retention of kitchen in games room as ancillary use and alterations to east elevation

19/01062/FULL - PERMIT date 20th December 2019

Change of use of games room to multi-purpose function room

DEVELOPMENT PLAN POLICIES

S1 - Sustainable development priorities

S9 - Environment

S14 - Countryside

DM1 - High quality design

DM3 - Transport and air quality

DM4 - Pollution

DM18 - Rural employment development

DM25 - Development affecting heritage assets

National Planning Policy Framework

CONSULTATIONS

BAMPTON TOWN COUNCIL - 06/11/20

OBJECTION - there is a history of noise issues from this site, which if made over to public use can only increase.

STOODLEIGH PARISH COUNCIL - 03/12/2020 - This was discussed at a meeting of Stoodleigh Parish Council on the 30th November 2020. It was decided that opening the facility to the public would not be appropriate. Noise has been an issue in the past and the subject of complaints. Increased usage by the general public would be a detriment to the tranquillity of the Exe Valley. The council unanimously decided to object to the planning application.

MOREBATH PARISH COUNCIL - 08/12/2020 - Morebath Parish Council wish to support Bampton Town Council's response to this Application.

WASHFIELD PARISH COUNCIL - 02/12/20

Washfield Parish Council have confirmed that they will not be commenting on this application.

HIGHWAY AUTHORITY - No Comment

PUBLIC HEALTH –

Contaminated Land: No comments. (10.11.20).

Air Quality: No comments. (10.11.20).

Environmental Permitting:	No objection to this proposal. (02.11.20).
Drainage:	No comments. (10.11.20).
Noise & other nuisances:	No comments. (10.11.20).
Housing Standards:	No comment. (12.11.20).
Licensing:	No comments. (30.10.20).
Food Hygiene:	No comments. (02.11.20).
Private Water Supplies:	Existing water supply therefore no further comment. (30.10.20).
Health and Safety:	No comments. (02.11.20).

21 January 2021

Environmental Protection Officer - I have now considered the proposal to remove the restriction on the larger activity space to enable it to be used for a wider variety of events and activities. I have looked at the previous planning history and also note the concerns of some local residents and the town council that this venue was the subject of disturbance by noise some while ago. However there is no mention of recent issues and some of the historic problems involved events in the open which is outside the red line of this application. Any future issues regarding unreasonable noise on the premises could also be addressed within the licensing system or by the public health team.

The applicant has mentioned the current pandemic in their justification but this is not relevant because this is an indoor event space intended to be used for social gatherings on a permanent basis, not just during this temporary situation. It would be unreasonable to suggest that people will socially distance within an indoor space during a social event. In any case indoor events are not permitted to take place at the moment and this is not likely to change in the short term. So we are considering whether there is likely to be a change in the potential for noise disturbance over the long term if this variation is allowed.

The approval issued after the 2013 and 2014 application and appeal includes specific and comprehensive conditions designed to control music noise and hours of use so that off-site residents are not disturbed by events, particularly during the night. If the applicant intends to hold public events at the venue then they must also consider that guests staying at their holiday accommodation and not involved will stand to be most affected, so the need for tight controls on music volume, closing windows and doors and finishing times is even more important. So if this is achieved there is even less of likelihood that off-site residents will be unreasonably disturbed.

In conclusion, specifically from a noise control point of view, we have no concerns about the proposed change but recommend that the noise conditions included in the 2014 approval are included on any approval issued in relation to this application.

REPRESENTATIONS

This planning application has been advertised by means of a site notice erected by the applicant, neighbour notification letters and by advertising in a local newspaper in accordance with the legal requirements for publicity on planning applications, and the Council's Adopted Statement of Community Involvement (October 2016).

At the time of writing this report, six letters of objection has been received. The main points are summarised as follows:

- Before the planning appeal was decided in 2014, there were numerous complaints about noise emanating from the site. In determining the appeal, the Inspector imposed conditions requiring the building to only be used by holiday residents only. Allowing public use would lead to the same problems previously experienced.
- Need for the proposal is questioned for another public hall in which people can 'socially distance' in Bampton, which is adequately served by existing halls.
- Future holiday residents are likely to be impacted by separate use of the hall by members of the public.
- The hall is a former livestock building with very little soundproofing to contain the noise from loud music.
- The hall and many buildings are in flood zone 3, which is at high risk. Several hundred people having to evacuate would be put at risk in the event of flooding.
- Anyone attending the function hall will need to drive, making local roads very busy.
- Previous management of the site has been poor with music allowed to play inside and out at a very high volume.
- Allowing more people to visit the area would increase the risk of Covid 19 spreading.
- Should the application be approved, this must be in conjunction with a robust set of conditions which limit noise levels and hours of operation, noting the noise disturbance experienced in the past.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The application is for the use of the existing large function room for public use rather than solely by occupiers of the on-site holiday accommodation.

The main material considerations in respect of this proposal are:

- 1) Principle for development in this location
- 2) Impact on the character and appearance of the surrounding area
- 3) Impact on residential amenity
- 4) Highway safety
- 5) Flood Risk

- 1) Principle for development in this location

The wider site currently comprises a large complex of holiday accommodation, including the application building, which is a large function room, which is available for use for up to 130 people, subject to this being in connection with the wider rental of the holiday accommodation on site. There is also a smaller multi-purpose function room with no restrictions on users, which has allowed smaller functions such as weddings, yoga retreats, meetings, etc. to take place without the requirement to be tied to the occupation of the holiday accommodation.

In this case, Policy S14 seeks to control development outside defined settlement limits to that which would, where possible, enhance the character, appearance and biodiversity of the countryside, while promoting sustainable diversification of the rural economy.

The proposal seeks to enable a more flexible use of the existing business, which has suffered from a loss of revenue as a result of the impact of Covid 19 on bookings. In the applicant's design and access statement, it is suggested that the use of the larger function hall, without being tied to

residents of the holiday accommodation, would allow functions that would have previously taken place in the smaller function room to continue, for the duration of the Covid 19 pandemic, while allowing for 2m social distancing. It is advised that the internal space of 295 square metres would be ideal for groups to spread out and practice social distancing, while the inclusion of a kitchen and toilet would enhance its earnings potential, supporting this existing rural business.

Additionally, Policy DM18 supports the expansion of existing business facilities in countryside locations, where this would not lead to an unacceptable impact on the local road network, there would be no unacceptable adverse impact to the character and appearance of the countryside, and there are insufficient suitable sites or premises in the immediate area to meet the needs of the proposal.

The question of impact on the road network and character of the area will be addressed below. In respect to the suitability of other sites or premises nearby, this is not considered to be relevant in this case. The proposal does not represent an expansion of the site itself, with the proposal to take place in an existing building, which already is allowed to be used for functions. Additionally, there is the smaller function room on site, also connected with the existing wider use of the site. Fundamentally, the use would not be expected to be significantly different from the existing use of the site.

Overall, the principle of development is considered to be acceptable, subject to consideration of other relevant planning policy considerations, which will be discussed further below:

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

The proposed development relates only to the use of this existing building, with no physical alterations proposed internally or externally, thereby having no adverse impact on the appearance of the site and its surroundings.

Similarly, it should be noted that the main house on site is a Grade II listed building. As such, the impact on the significance of this heritage asset is important. Due to the lack of alteration to the external appearance of the building, and the use being consistent with the existing use of the site, there is considered to be no impact on the significance of the heritage asset.

It is not considered that there will be any adverse impact on the character or appearance of the local countryside, or on the significance of the adjoining heritage asset, thereby according with policies S1, S9, S14, DM1 and DM25 of the Mid Devon Local Plan.

3) Residential amenity

Policy DM1 e) states that new development should create *“visually attractive places that are well integrated with surrounding buildings, streets and landscapes, and do not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses...”*. Similarly, policy DM4 concerns the impact of development on the quality of the environment due to the impact of noise and other forms of pollution.

In this case, objections have been raised with some local residents concerned that the proposal will lead to an intensification of use that may be harmful to their living conditions, particularly as a result of late night music and general disturbance. It is noted that there have been complaints in

the past about the use of the site, with complaints raised about excessive noise generated, as well as events running late into the night. In 2014, planning permission (13/00701/FULL) was granted formally for the use of this building as a function room. This was initially refused planning permission, however the applicant successfully appealed against the decision. The Planning Inspector did however impose a number of conditions restricting the use of the function hall to occupiers of the existing holiday accommodation at Duval Priory, for a maximum of 130 users, as well as imposing conditions that placed restrictions on operating hours and noise levels, and required noise mitigation measures to be put in place. The Inspector felt that these conditions were required to ensure that unacceptable noise and disturbance was avoided.

While several objections have been received from local residents and several of the nearby Parish Council's, of particular concern is the possibility that allowing unfettered use of the building would lead to an intensification of the use that would generate additional noise from both the use of the building and vehicles departing late at night, in excess of the existing permitted use, and with the potential to cause an adverse impact like that experienced in the past.

In considering the objections raised, the Council's Environmental Protection Officer has commented, raising no objections. They have assessed the comments made and referred to the history of complaints, although note that there have been no recent issues reported to the Public Health Team. It is also noted that several historic problems related to noise events outside, which would be outside of the red line of the application, which includes only the building itself.

The Environmental Protection Officer does not support the justification on the basis of allowing social distancing as they feel that it is unreasonable to expect people to socially distance indoors during a social event. Notwithstanding this however, they do not consider that the removal of the restriction tying the use to occupiers of the holiday accommodation only, would lead to any unacceptable increase in noise. It is however advised that the noise related conditions imposed on permission 13/00701/FULL by the Inspector be repeated. In addition to the ability to enforce against any breach of these conditions, there is also the ability to address any future issues of unreasonable noise through the licensing system or Public Health Team.

While noting that the Environmental Protection Officer has raised no objection to the proposed use of the large function room, without being restricted to the occupiers of the holiday accommodation, the applicant has agreed to the imposition of a condition limiting the use of the building to 30 users only. This would allow them to continue with the type of functions already permitted within the smaller function room and still generate some revenue. In terms of impact, this would be used by a similar number of public users, which would also be significantly less than the greater number of 130 users permitted to use the large function room at present, albeit only where also occupying the holiday accommodation. Importantly there are conditions already imposed on the use of the smaller function room, under planning permission 20/01062/FULL, that do not permit its use for events, while there are functions taking place in the larger building. This restriction would equally apply to the use of the application building, should permission be granted. As such, by repeating the previously applied noise related conditions, and also limiting the use of the building to 30 users, it is considered that the impact would be less than that of the existing consented use of the building, thereby having no unacceptable impact on local amenity, in accordance with policies DM1 and DM4 of the Mid Devon Local Plan. Any breach of those conditions, as is the case with the

already consented use, would be liable to enforcement action and/or further restrictions imposed by the Public Health and Licensing teams.

In order to retain flexibility to use the building, as it is allowed to be at present, it is proposed to also permit the use by up to 130 users, where these are occupiers of the existing holiday accommodation. Again this would be in line with the existing restrictions and would not generate any increase in noise or intensification of use over existing.

4) Highway safety

The proposed use will not significantly increase vehicular movements associated with the wider use of the site due to the reduced numbers using the facilities.

No improvements are proposed to the existing access or parking facilities, which are considered appropriate for the larger functions that could accommodate up to 130 people. Should planning permission be granted, the number of users would be limited to 30 people, other than when being used by the larger number allowed while occupying the holiday accommodation.

Overall, the proposed development is deemed to be acceptable from a highway safety point of view, according with policies DM3 and DM18 of the Mid Devon Local Plan.

5) Flood risk

It is noted that the site is located within an Environment Agency Designated Flood Zone 3. Despite this, there is no change in the vulnerability of the use, with the existing and proposed use being classed as 'less vulnerable'. The Environment Agency have not commented on the application, although in this case there is no requirement to consult them.

In considering the risk however, there will be no increase in usage of the site, with either the permitted 130 users, or the reduced capacity of 30 users. Conditions were imposed on the previous consent (13/00701/FULL) requiring the provision of two flood evacuation routes from the site to the higher ground to the north and east, as well as for the provision of appropriate signage to guide users to these evacuation points. The requirement to retain and maintain these facilities will be repeated, should permission be granted. Otherwise, there is no increase in built form that would impact on the flood plain.

As such, despite the presence of the site in a designated flood risk zone, it is not considered that the proposal will increase the risk of flooding or to users of the site.

SUMMARY

The proposed development, which would allow the use of the large function room at Duval Priory, for public users who are not also occupiers of the existing holiday accommodation on site, is considered to be acceptable provided conditions are imposed. Such conditions would also include the imposition of a condition limiting the number of people able to use the function room, without occupying the holiday accommodation to 30 users, and the repeating of the previously imposed noise related conditions. With these conditions, it is considered that there will be no unacceptable adverse impact on the private amenities and living conditions of the occupiers of neighbouring noise sensitive properties. Furthermore, it is also considered that the proposal would not have a detrimental impact on the character or appearance of the surrounding development and highway safety, or increase the risk of flooding. It is therefore considered appropriate to recommend

approval with conditions necessary to ensure the success of the development in this location. As such, it is considered that the proposed development is in accordance with policies S1, S9, S14, DM1, DM3, DM4, DM18 and DM25 of the Mid Devon Local Plan 2013-2033, and the aims and objectives of the National Planning Policy Framework.

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. The development hereby permitted shall not be used other than as a function hall by:
 - (i) the occupiers of the existing holiday accommodation at Duval Priory, for a maximum of 130 people at any one time; or
 - (ii) a maximum of 30 people, not occupying the existing holiday accommodation.
4. Subject to conditions 5 and 6 below, the function hall shall not be used other than at the following times:

06:00 to 00:00 Monday to Thursday
06:00 to 01:00 Friday and Saturday
06:00 to 23:00 on Sunday
5. On New Year's Eve the function hall may be used between 06:00 and 02:00.
6. Any use of the function hall between 06:00 and 09:00 on any day shall be without live or amplified music.
7. Noise from the building shall not exceed Laeq (15 min) 42 dB in the daytime (07:00 to 23:00) and Laeq (5min) 42dB in the night-time (23:00 to 07:00) as measured at the boundary of any neighbouring noise sensitive premises.
8. When the function hall is being used for any event involving music, the doors and windows shall remain closed at all times other than to achieve access to and from the building.
9. Internal music noise levels shall not exceed LAeq (5 min) 90dB during daytime hours (07:00 to 23:00) and LAeq (5 min) 87dB during night time hours (23:00 to 07:00).
10. The following noise attenuation measures, previously approved in relation to planning permission 13/00701/FULL, shall be retained and maintained in good order, in relation to the operation of the development hereby permitted:
 - (a) The wooden doors to the rear of the bar shall have close fitting rubber seals fitted to them and threshold reveals fitted to close existing gaps;
 - (b) The external and internal lobby doors shall have close fitting rubber seals and automatic door closers fitted; and
 - (c) Ventilation and existing holes within the fabric of the building shall be fitted with acoustic vent covers or sealed if not required.

11. No music shall be played outside the function hall.
12. The development hereby permitted shall be operated in accordance with the approved Flood Risk Management Plan (FRMP), (dated 11th August 2014 - prepared by Robson Liddle Ltd).
13. The pedestrian emergency access and escape routes, and associated signage, detailed within the approved Flood Risk Management Plan, (dated 11th August 2014 - prepared by Robson Liddle Ltd), shall be permanently retained and maintained in good order, in relation to the operation of the development hereby permitted:
14. The owners and/or operators of Duval Priory shall maintain an up-to-date register of the names of all occupiers of the holiday accommodation on the site that use the function hall, including their arrival and departure dates and their main home addresses. This register shall be made available for inspection at all reasonable times by the Local Planning Authority.

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. In the interests of residential amenity and highway safety in accordance with policies DM1, DM3, DM4 and DM18 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
4. In the interests of residential amenity in accordance with policies DM1 and DM4 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
5. In the interests of residential amenity in accordance with policies DM1 and DM4 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
6. In the interests of residential amenity in accordance with policies DM1 and DM4 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
7. In the interests of residential amenity in accordance with policies DM1 and DM4 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
8. In the interests of residential amenity in accordance with policies DM1 and DM4 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
9. In the interests of residential amenity in accordance with policies DM1 and DM4 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.

10. In the interests of residential amenity in accordance with policies DM1 and DM4 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
11. In the interests of residential amenity in accordance with policies DM1 and DM4 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
12. In the interests of protecting the safety of users of the development during a flood event, in accordance with policy S9 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
13. In the interests of protecting the safety of users of the development during a flood event, in accordance with policy S9 of the Mid Devon Local Plan 2013-2033 2007 and the aims and objectives of the National Planning Policy Framework.
14. In the interests of residential amenity and highway safety in accordance with policies DM1, DM3, DM4 and DM18 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of 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.

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.

In accordance with Paragraph 38 of the National Planning Policy Framework, the Local Planning Authority has worked proactively and positively with the applicant. This has included further negotiations/discussions during the application process to address issues raised.

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

The case officer has not carried out a site visit in the determination of this application due to Covid-19 travel and social distancing restrictions which are currently in place. The officer has instead considered the application using google maps and photographs and considers that to determine the application without a site visit would not prejudice any interested party.

Application No. 20/01983/FULL

Grid Ref: 296232 : 113094

Applicant: Mr Mitchell Frost, Mid Devon District Council

Location: 21, 22, 23 & 24 Siddalls Gardens
Tiverton
Devon
EX16 6DG

Proposal: Rendering of ground floor flats

Date Valid: 12th January 2021



APPLICATION NO: 20/01983/FULL**REASON FOR REFERRAL TO COMMITTEE**

This application is required to be considered by the Planning Committee, in line with the Council's adopted Scheme of Delegation, as Mid Devon District Council is the applicant.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

Rendering of ground floor flats

APPLICANT'S SUPPORTING INFORMATION

Existing and proposed plans

RELEVANT PLANNING HISTORY

81/00302/FULL - DEMCON date 9th April 1981
DEEMED CONSENT for the change of use of 4 houses to 8 one-bedroomed flats

DEVELOPMENT PLAN POLICIES**Mid Devon Local Plan 2013-33**

S1 - Sustainable development priorities

S10 - Tiverton

DM1 - High quality design

DM11 - Residential extensions and ancillary development

National Planning Policy Framework**CONSULTATIONS**

TIVERTON TOWN COUNCIL - Support

HIGHWAY AUTHORITY - The County Highway Authority have no comments to make on this application

REPRESENTATIONS

This planning application has been advertised by means of a site notice erected by the applicant, neighbour notification letters and by advertising in a local newspaper in accordance with the legal requirements for publicity on planning applications, and the Council's Adopted Statement of Community Involvement October 2016.

No representations have been received in respect to this application.

MATERIAL CONSIDERATIONS

The application relates to an existing block of flats within the ownership of Mid Devon District Council. They comprise a terrace of properties, originally constructed as four houses, however were then divided into eight flats in the 1980s. There are primarily constructed from red brick, although the first floor flats are rendered at first floor level on the south west (roadside) elevation, and the north west and south east gable ends. The proposal is made to render the remainder of the building to match that used at first floor level.

Policy DM1 of the Local Plan seeks high quality design that demonstrates a clear understanding of its context. This policy also requires that the development does not have an unacceptable impact on the privacy and amenities of neighbouring uses.

Policy DM11 of the Mid Devon Local Plan 2013-2033 permits extensions, and other ancillary works to existing dwellings provided that they:

- a) Respect the character, scale, setting and design of the existing dwelling;
- b) Will not result in over-development of the dwelling curtilage; and
- c) Will not have a significantly adverse impact on the living conditions of occupants of neighbouring properties.

The proposed works will create a fully rendered terrace of properties, within a residential area comprising a mix of property types, most of which are part brick and part rendered. There are however several examples of properties in the immediate vicinity that are fully rendered. As such, the proposed development will respect the character, setting and design of the existing dwellings.

The properties will not be extended or altered in any other way, as such the proposal will not result in over-development of the curtilage of these flats. The proposal would have no adverse impact on the living conditions of occupants of neighbouring properties.

The proposal does not encroach on any existing parking provision, and will not increase the need for parking in the area. As such, there will be no impact in respect to highway safety.

Taking the above into consideration, the proposed rendering of the brickwork elements of the building is considered to be acceptable and will accord with policies DM1 and DM11 of the Mid Devon Local Plan, and the aims and objectives of the National Planning Policy Framework.

SUMMARY

The proposed development is considered to be acceptable, satisfactorily relating to the character and appearance of the existing property and its surroundings. Furthermore, there will be no unacceptable impact on neighbouring living conditions, or adverse impact on highway safety. The proposal therefore accords with policies S1, S10, DM1 and DM11 of the Mid Devon Local Plan 2013-2033 and the National Planning Policy Framework.

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.

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.

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.

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.

In accordance with Paragraph 38 of the National Planning Policy Framework, the Local Planning Authority has worked proactively and positively with the applicant. This has included determining the application in a timely fashion.

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