

Application No. 20/01789/FULL

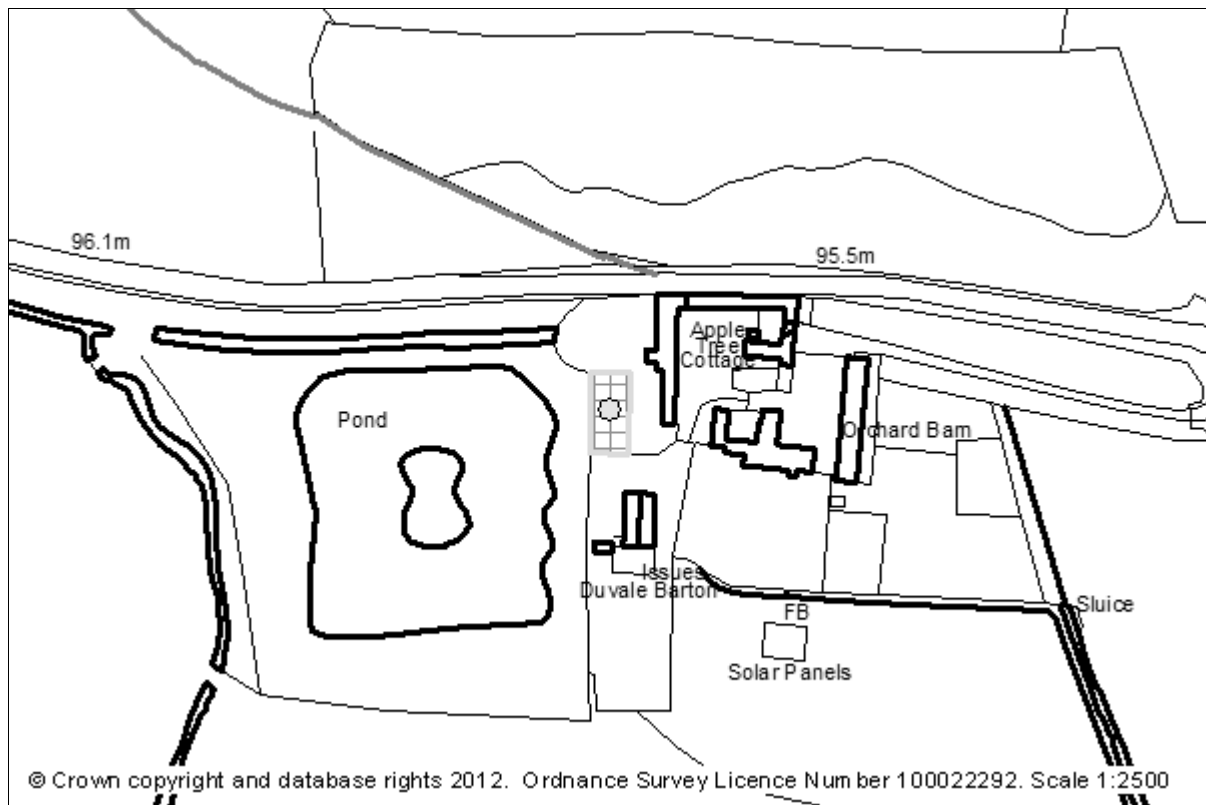
Grid Ref: 294462 : 120501

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



REPORT OF THE HEAD OF PLANNING AND REGENERATION

Reason for Report:

At the Planning Committee meeting on 10th March 2021, Members advised that they were minded to refuse the above application and invited an implications report for further consideration.

RECOMMENDATION(S)

Grant planning permission subject to conditions.

Financial Implications:

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

Legal Implications:

The report identifies the risks in proceeding with an appeal based on the reasons given by the Committee on 10th March 2021 – both in terms of outcome of an appeal and the risk of a costs decision. The Council will still need to prepare draft planning conditions for the appeal. External legal representation may be required if the appeal proceeds to a public inquiry. The applicant has already indicated that they plan to lodge an appeal should this planning application be refused.

Risk Assessment:

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

1.0 INTRODUCTION:

1.1 At the meeting on 10th March 2021, Members indicated they were minded to refuse the application and therefore wished to defer the application for consideration of an implications report to consider the proposed reason for refusal, that of:

1. *The impact of the proposed development on local amenity, particularly due to noise associated with increased vehicle movements by members of the public travelling to and from the site.*

2.0 CONSIDERATION OF THE PROPOSED REASONS FOR REFUSAL:

- 2.1 With regards to the concerns raised by Members at their previous meeting, your officers would advise as follows:
- 2.2 The impact of the proposed development on local amenity, particularly due to noise associated with increased vehicle movements by members of the public travelling to and from the site.
- 2.3 In considering the impact on local amenity, concerns were raised by local residents, nearby Parish Councils, and Members that the site is in a quiet and tranquil rural area, where increases in noise are likely to have an adverse impact. In their discussion during the previous Committee meeting, Members expressed concerns about the potential for increased noise as a result of the use of the building and as a result of excessive vehicle movements and noise from cars leaving the site.
- 2.4 The Council's Environmental Protection Officer considered the application in respect to these concerns and advised that the level of usage was insufficient to cause disturbance that would represent an unacceptable harm, subject to the conditions related to noise control previously imposed on planning permission 13/00701/FULL being repeated on this consent, should permission be granted. These conditions are proposed to be retained, along with an additional condition restricting the use of the function room for members of the public, not residing within the holiday accommodation on site, to just 30 users.
- 2.5 In considering the potential impact on local amenity, consideration should be given to the use of the building itself, and to the impact as a result of vehicle movements.
- 2.6 Starting with the use of the function room, Members will recall that planning permission was granted following an appeal against refusal of planning application 13/00701/FULL. In allowing the appeal, the Planning Inspector imposed a number of conditions, which included restricting the use of the function room to occupiers of the existing holiday accommodation on site, restricting the number of users to a maximum of 130 people at any one time, requiring a number of noise mitigation measures to be put in place, such as fitting rubber seals to the doors and windows, and restricting hours of operation, and restricting noise levels both within the building, and at the boundaries of neighbouring noise sensitive premises. Notwithstanding potential changes in the manner of movements to and from the site, there would be no change to the actual operation of the function room as a result of granting permission to the proposed development. With the imposition of the additional condition relating to the use by only 30 people not residing in the holiday accommodation on site, there would be up to 100 less users in the building than is currently allowed under planning application 13/00701/FULL. It would seem unreasonable to refuse planning permission on the basis that 30 users would make more noise than 130 users.
- 2.7 Further to the use of the building, there were suggestions that it would not be realistic to operate the building without having to open the windows and doors for ventilation. It is also suggested that the building is of inappropriate construction to be used as a function room. Whether this is the case or not, it is important to remember that there is already permission in place and the building has been in operation as a function room for several years now with seemingly no complaints, which suggests that the existing measures in place, which would be repeated in any planning permission, have been successful in preventing unacceptable noise disturbance. Reference was also made during the discussion at the Committee meeting that the applicant has complied with the imposed conditions since planning permission was granted for the

current use. Whether the building is used by residents of the holiday accommodation, or members of the public not staying on site, the actual use of the building will be no different than already allowed, other than the maximum number of users being significantly lower than existing i.e. up to 30 people rather than up to 130 people.

- 2.8 With the above in mind, your officers are concerned that including this matter within any reason for refusal could lead to an application for an award of costs should a decision to refuse planning permission on these grounds be appealed.
- 2.9 In relation to costs applications, the Planning Practice Guidance (Appeals) advises that costs may be awarded where a party has behaved unreasonably; and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour in the context of an application for an award of costs may be either:
- Procedural - relating to the process; or
 - Substantive - relating to the issues arising from the merits of the appeal
- 2.10 In respect to substantive matters, an example of unreasonable behaviour is given as:
- Failure to produce evidence to substantiate each reason for refusal on appeal.
- 2.11 In considering that there would be no demonstrable change in the use of the building, in fact the use would most likely be less harmful noting the reduction in permitted users, it is not clear what evidence there is to support the assertion that there will be an unacceptable impact relating to the use of the building should planning permission be granted. As such any reference to this matter within any reasons for refusal is not considered to be defensible, and as such your officers recommend that a resolution to refuse on these grounds should not be pursued.
- 2.12 The other area of concern raised specifically, was the potential risk of noise disturbance as a result of increased vehicle movements relating to members of the public journeying to and from the site, whereas as this would not occur where users were resident on site. The identified concerns related to such noise that may occur from banging of car doors, music playing and general noise from vehicles moving.
- 2.13 In considering the above, it is acknowledged that in approving planning permission 13/00701/FULL, the Planning Inspector gave consideration to the likely noise resulting from vehicle movements, and this directly influenced their imposition of the condition requiring users of the function room to be restricted to occupiers of the holiday accommodation on site. In considering this, the Inspector advised that *“the restriction of the function hall for use by those staying on site will not only reduce noise formerly associated with people leaving in vehicles (potentially late in the evening) but also in part help to self-regulate the noise from the function hall.”* In imposing the conditions on this planning permission the Inspector also states *“conditions restricting the use of the function hall to occupants of the holiday accommodation, and in relation to the hours of use, along with those specifically to noise levels and attenuation, are necessary to ensure that unacceptable noise and disturbance is avoided.”*
- 2.14 Notwithstanding the Inspector’s comments, and the reasons for restricting the use of the site to occupiers of the holiday accommodation, it is important to bear in mind that this relates to the use of the function room for up to 130 people. It may therefore be reasonable to assume that the full reversal of this stance could be lead to

unacceptable harm. In this case however, Members are reminded that should planning permission be granted, it is recommended that a condition be imposed restricting the use of the function room to a maximum of 30 users, thereby significantly reducing the number of resulting vehicle movements. The applicant has agreed to such a condition being imposed.

- 2.15 In addition to the above, it should not be overlooked that planning permission was granted in 2019, under planning permission 19/01062/FULL, for use of a smaller building on site for use as a multi-purpose function room. While similar noise related conditions were imposed on this permission, the use was not restricted to users of the holiday accommodation on site. Similarly there was no condition imposed restricting the number of users, however taking into account the size of the building, it is likely that the maximum capacity of the building would be around 30 users. In considering that this approved use allows members of the public to attend the site, leaving at similar times as the approved use of the larger building that is the subject of this application, it is again unclear why the use of the larger function room for up to 30 users would create additional harm than the use of the smaller function room, when considering users journeying to and from the site.
- 2.16 While there was no restriction on the number of users of the smaller function room, conditions were imposed on planning permission 19/01062/FULL, prohibiting the use of this building at the same time as the larger function room for separate events. This would therefore prevent conflicting traffic movements from two separate events, as well as ensuring that there was sufficient space on site for parking.
- 2.17 Following the consideration of this application at the Committee meeting of 10th March 2021, further advice has been sought from the Council's Environmental Protection Officer, in relation to this concern. The following additional comment has been provided: *"I have been asked to consider whether a maximum of 30 people attending this venue for events open to the public in addition to guests staying on site would impact on the amenity of local residents when leaving the site. This additional note should be read in conjunction with our initial comments of January 2021. My professional opinion, as an Environmental Health officer specialising in planning and nuisance over the past 25 years is as follows. It is likely that there is already activity after events as caterers, staff, entertainers and the like leave the venue and it is not usual for there to be a significant amount of noise associated with car doors, engines and music, certainly not clearly audible beyond the site boundary and inside a dwelling with the windows closed or partially open. Any such noise will be short lived and therefore unlikely to awaken anyone. 30 attendees might well only arrive and depart in 10 – 15 cars, or in small groups by taxi. Again the "noise events" associated with each vehicle will be short lived and these types of noises dissipate quickly over distance. I have previously been involved in a very similar application and local residents were concerned about the same issues. However in the event the disturbance was minimal and not noticed by people living nearby, particularly those already in bed and asleep which you would expect at that time of the night. It is my professional opinion that the likelihood of unreasonable disturbance on local residents by this aspect of the activities at this venue is very low."*
- 2.18 For the same reasons as stated earlier, officers have serious concerns that there is no clear evidence to support the assertion that a limited number of members of the public (up to 30 users) would generate such a level of noise and disturbance that it would be reasonable to refuse planning permission on these grounds. The existing permitted use of the smaller function room on site is particularly pertinent as it is not anticipated that the proposed use of the larger function room for a restricted number of users would be any more harmful than the existing approved use of the smaller

function room. Ultimately, the purpose of the application is to allow the type of uses currently approved within the smaller function room to take place in a larger setting, allowing more space for social distancing. These uses are not just restricted to wedding ceremonies and parties, but also include activities such as yoga, meditation and stretch classes.

- 2.19 Despite the Planning Inspector's reasons for imposing the condition restricting the use of the larger function room to residents of the on-site holiday accommodation, consideration must also be given to the restricted use proposed, as well as the existing permitted uses on site, which would generate a level of vehicular movement to and from the site, commensurate with what is proposed as a result of this planning application. Taking this into account, and considering the professional advice given by your Environmental Protection Officer, and lack of quantifiable contrary evidence, your officers would advise that the suggested reason relating to increased vehicle movements by members of the public travelling to and from the site, would be very difficult to defend. An award of costs is therefore considered to be a distinct possibility should a decision be made to refuse planning permission be followed by an appeal, and corresponding costs application.
- 2.20 Referring again to the appeal following the refusal of planning application 13/00701/FULL, the key reasons for allowing this was that the reasons for refusal could not be substantiated, and that where harm was identified, this could have been satisfactorily controlled through the imposition of appropriate conditions. In addition to the appeal, an application for costs was also made. In determining this application, an award of costs was allowed. This was allowed on the basis that the Council acted unreasonably in refusing planning permission. In particular, the Inspector found that the Council failed to provide evidence to support the view that noise and disturbance could not be overcome by conditions, thus refusing contrary to the advice of the Environmental Health Officer. In the case of the latest application now being considered, an appropriate condition has been suggested that would ensure activities on site remain at a similar level or less than existing permitted operations. The Environmental Health Officer has also raised no objections. Furthermore, the Environmental Health Officer has given further comment in support of the preparation of this Implications Report. By refusing planning permission against this professional advice, particularly where an award of costs has previously been made on the same site for doing so before, does risk a similar outcome. Members may also wish to consider the recent outcome of the appeal and costs application following refusal of planning application 20/00622/OUT (12 Kabale Close). In this case costs were also awarded on the basis that planning permission was refused for reasons contrary to consultee advice, without satisfactorily justifying departure from that advice.

3.0 **CONCLUSION**

- 3.1 Your officers are of the opinion that the refusal of this current planning application in relation to the above reasons is not defensible and should not be pursued. There is considered to be a real risk of an award of costs in relation to any reference to increased harm as a result of the use of the building itself, due to the fact that the building has been operating as a function room for several years, with up to 130 users. With the suggested conditions, the proposed use would be limited to 30 users only, unless the holiday accommodation is occupied, in which the full 130 users would then be permitted. While the reasons relating to increased vehicle movements may on the face of it be more reasonable, consideration must again be given to the permitted use of the site, in particular the use of the smaller function room granted permission under 19/01062/FULL. Due to any permission having a condition imposed that would restrict the use of the function room to no more than 30 users where the

holiday accommodation is not also being occupied, there would be no increased harm in comparison to the existing permitted use of the smaller function room. Members are also reminded that condition imposed on 19/01602/FULL would prevent both function rooms being used to hold separate events at the same time, thereby limiting vehicle movements to and from the site. On this, it is considered that there is still a real prospect of an award of costs in respect to a refusal reason based on any increase in vehicle movements.

4.0 REASONS FOR REFUSAL:

4.1 Should Members resolve to refuse planning permission, they will need to be able to demonstrate that their concerns have been properly debated and cogently articulated in any final refusal reason. There is also a need to demonstrate that it would not be unreasonable to come to a different view than that of the recommending officer and other professional expert advice.

4.2 The following refusal reason is suggested below covering the matters raised, however it is still your officers' advice that this would not be defensible, and there may be a risk of an award of costs, bearing in mind the advice of the Council's Environmental Protection Officer, and the existing permitted use of the application building, and the wider site in general:

1. The proposed use of the premises as a function room for public use by up to 30 people, and not solely for use by holiday makers, is deemed to be unacceptable and likely to cause unacceptable harm to the amenities of local residents living within the Exe Valley and the enjoyment of their homes late at night. In particular, there is a potential for increased noise and disturbance as a result of increased levels of traffic, associated with members of the public travelling to and from the site, who are not guests at the existing on site holiday accommodation. The suggested controls are not considered to overcome or remove or adequately control the noise and disturbance to the area arising from the use of the premises as a function room for public use and as such would be contrary to policies DM1, DM4 and DM22 of the Mid Devon Local Plan 2013-2033.

Contact for any more information

John Millar

Background Papers

Application file and previous committee reports

File Reference

20/01789/FULL

Circulation of the Report

Cllr Richard Chesterton

COMMITTEE REPORT – 10th MARCH 2021

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 pubic 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 Duvale 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, 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 Duvale 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.