

## PLANNING COMMITTEE AGENDA - 28th July 2021

### Applications of a non-delegated nature

- | <u>Item No.</u> | Description   |
|-----------------|---|
| 01.             | <p>21/00461/FULL - Erection of extensions to existing agricultural storage building 660sqm at Land at NGR 288288 107120, Redyeates Cross, Cheriton Fitzpaine.</p> <p><b>RECOMMENDATION</b><br/>Grant permission subject to conditions.</p>  |
| 02.             | <p>21/00580/FULL - Change of use of agricultural land to allow 1 pitch for the siting of 1 static caravan, 2 touring caravans and associated works for the use of gypsy and traveller family at Land at NGR 276600 96594 (North of Shortacombe Farm), Shortacombe Lane, Yeoford.</p> <p><b>RECOMMENDATION</b><br/>Grant permission subject to conditions.</p> |
| 03.             | <p>21/01086/HOUSE - Erection of side porch at Bluebell House, 18 Court Barton Close, Thorverton.</p> <p><b>RECOMMENDATION</b><br/>Grant permission subject to conditions.</p>   |

Application No. 21/00461/FULL

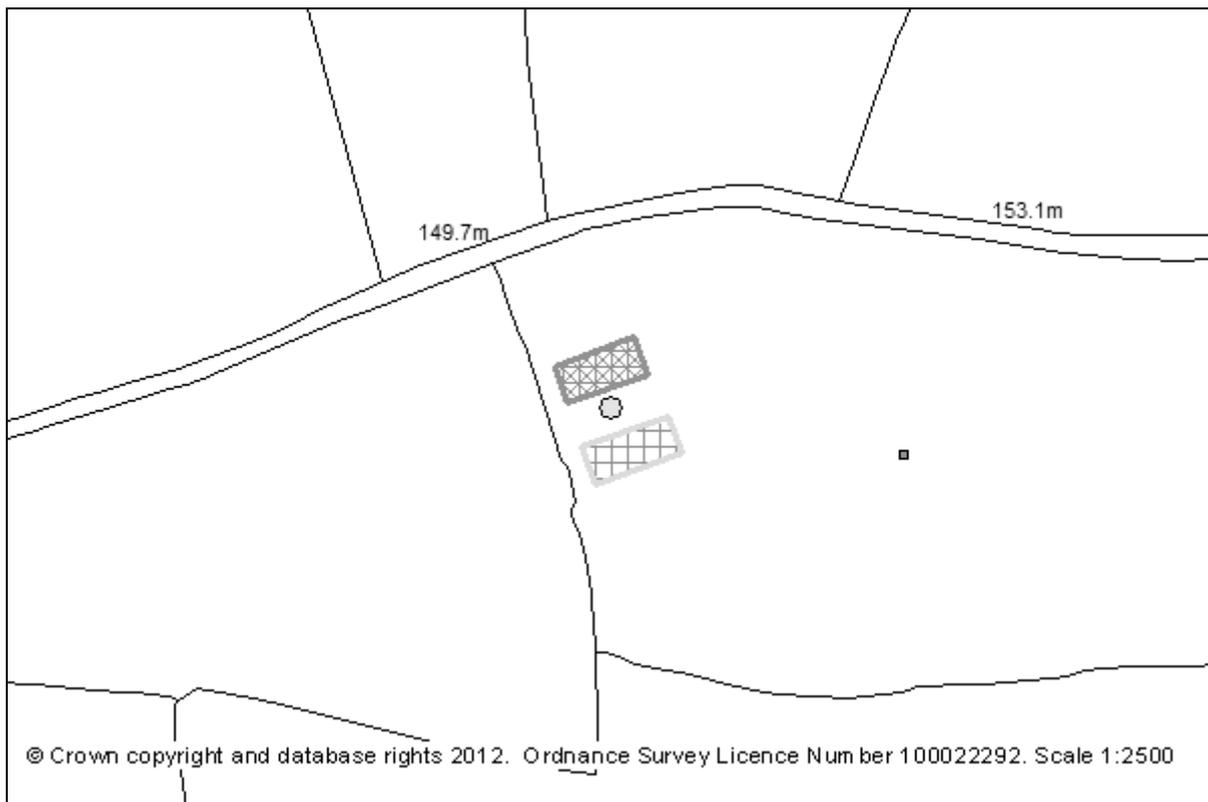
Grid Ref: 288383 : 107104

Applicant: Mr and Mrs Thorne

Location: Land at NGR 288288 107120  
Redyeates Cross  
Cheriton Fitzpaine  
Devon

Proposal: Erection of extensions to existing agricultural storage building 660sqm

Date Valid: 1st March 2021



## **APPLICATION NO: 21/00461/FULL**

### **MEMBER CALL-IN**

Councillor Polly Colthorpe has called this planning application to Planning Committee in order for Members to consider whether the proposed works are suitably scaled, designed and justified and whether there would be any impact on the wider landscape or amenity of neighbouring properties.

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

The applicant seeks planning permission for the erection of extensions to existing agricultural storage building 660sqm on land at NGR 288288 107120, Redyeates Cross, Cheriton Fitzpaine. The proposed extensions would provide livestock housing.

The applicant is a mixed arable and livestock farmer, currently growing fruit, vegetables and cereals, rearing sheep and cattle and operating from Thornes Farm. Planning permission for the erection of an agricultural workers dwelling has recently been approved under 20/01991/FULL in order to a farm worker/manager to oversee the livestock farming element of the agricultural enterprise.

The current livestock numbers of the holding is stated as 100 animals (shorthorn beef, calves, ewes and lambs).

As noted with the previously approved application, which was supported by an agricultural appraisal, the applicant farms approximately 250 acres of land, used either for grazing, grassland or for growing fruit and vegetables. The core of the farm comprises the 17 acres held owned by the Applicant with a farmhouse, farm shop with pick-your-own crops adjacent, newly built cold store and restaurant at Thorne Farm, Stockleigh Pomeroy.

Approximately 1 mile away is a freehold site of 53 acres, and this is where the existing agricultural building is sited which is proposed to be extended in order to house livestock. The remaining balance of land is made up of around 160 acres of grassland, used for grazing and silage, and 20 acres used for growing potatoes, cauliflowers and cabbages. This ground is held on short term cropping licences at around £200 an acre which suits local farmers who would normally use it for grazing land. The exact makeup of the lettings can vary from year to year with livestock being turned out onto the ground by rotation to help improve fertility.

There are plans to increase the livestock numbers as was noted in the update to the previous application where it was outlined that once there is an on site farm worker residing on the site, livestock numbers would increase to 60 sheep, 60 breeding shorthorn beef cows and Young/followers of those cows being heifers – which are kept for 2 years

and sold in calf – and some bulls which are kept for 2 years and sold for breeding. In view of the 2 year timescale, it was advised that this number would be around 100.

## **APPLICANT'S SUPPORTING INFORMATION**

Completed application form, plans,

## **RELEVANT PLANNING HISTORY**

18/01450/FULL - PERMIT date 13th December 2018

Retention of engineering works for improved site access; construction of access track and hard surfaced yard

18/01530/FULL - PERMIT date 13th December 2018

Erection of an agricultural storage building

20/01991/FULL - PERCON date 28th May 2021

Erection of an agricultural workers dwelling

## **DEVELOPMENT PLAN POLICIES**

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

Policy S1 - Sustainable development priorities

Policy S8 – Infrastructure

Policy S9 – Environment

Policy S14 – Countryside

Policy DM1 - High quality design

Policy DM3 - Transport and air quality

Policy DM4 - Pollution

Policy DM18 - Rural employment development

Policy DM20 - Agricultural development

National Planning Policy Framework

National Planning Practice Guidance

## **CONSULTATIONS**

### **Cheriton Fitzpaine Parish Council – 23<sup>rd</sup> May 2021**

The Parish Council Objects to the planning for the following reasons:-

- The correct information has not been provided
- The size of the development is greater than normal
- The position has a visual impact

### **Highway Authority – 16<sup>th</sup> March 2021**

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

**Public Health – 11th May 2021**

I have now had a look at this application and the additional information now provided. I have also considered the various concerns raised by people living in the area. My comments on this application are as follows:

I have considered the application for large extensions to an existing storage barn. There is very little information provided with the application, no planning statement for example, and therefore it was not initially clear what the extensions would be used for. However the additional information suggests that it will be used for housing of livestock on straw (so cattle), and this is most likely in the winter. The applicant has not provided detail about where the resultant farm yard manure will be stored prior to spreading, or how long the cattle will be housed. It is common for fym to build up over several months in situ, or to be periodically removed to an off-site storage area. The agent suggests it will be spread locally but this cannot happen throughout the year. The CSF document suggests that part of the application is to provide a covered fym store, which is beneficial, but this is not detailed in the application. Therefore the applicant should provide full details of their intended use and how it will be managed, including responding to the points raised above.

There is available land adjacent to take run off water from the building and also to take liquid waste from the housing, but no details have been provided about how this will be managed in order to ensure that run-off cannot affect the adjacent roadway. We would expect to see details of a proposed field drainage system with a catch pit or similar associated with the livestock or fym storage areas.

If the building is intended to house young stock then it is likely that heat lamps will be needed during the night at certain times of the year and residents are correct to suggest that this could be noticeable from some distance away and therefore impact on the dark sky environment. The applicant should confirm what the building is intended to be used for and if night lighting is intended then they should advise how light pollution will be avoided (for example by installing the wooden slats in a louvre style).

We will be pleased to comment again once this further information has been provided in sufficient detail that the intended uses and management of the building are clearer.

**Public Health – 11th June 2021** (Following receipt of further information from applicant which was as follows:

- There will be no slurry waste. It will be a straw based system.
- Confirmation from Natural England that they will provide some funding to one of the proposed lean to extensions that is to be used as an undercover bunded dung store
- A “Catchment Sensitive Farming Support for Countryside Stewardship” document provided.
- The extension on the South side of existing building will be used for housing cattle on straw bedding from November till the end of March, during the spring and

summer months it will be used for general storage, farmyard manure (fym) will be removed if necessary during the winter and stored in the bunded fym store which forms the extension on the North side of the existing building.

- The rainwater from the building will be put into a soakaway on the south side of the building, the bunded dung store ensures that no liquid waste can escape from the fym.
- There will be no heat lamps used, they are not required for calving cows.
- The building would be lit intermittently during the calving period but the outside of the building will have either vent air steel cladding or Yorkshire boarding and little or no light will escape.)

Yes that makes it clearer and yes it addresses the matters I raised so we have no further concerns.

Environment Agency - Operational development less than 1 ha within Flood Zone 1 - no EA consultation required - see surface water management good practice advice - see standard comment

## **REPRESENTATIONS**

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.

10 letters of representation have been received at the time of writing the report, with the objections summarised as follows:

- This development does not comply with Policies S14 and DM20 which states that agricultural development must be sensitively located, appropriately scaled and designed and not have an impact on neighbours.
- There is no waste disposal plan has required by policy DM20.
- In Section 15 of the application form, the applicant has answered 'No' to the question 'Does the proposal involve the need to dispose of trade effluence or trade waste' Also in Section 20 of the application form the applicant has again answered 'No' to the question 'Does this proposal involve the carrying out of industrial or commercial activities and processes?'
- Does animal waste not constitute trade effluent or waste? Is this not a commercial activity?
- The original barn application, 18/01530/FULL, was approved on 13/12/2018, with the justification that it was for machinery and crop storage.
- The existing barn is on a hilltop and to significantly enlarge it will create an eyesore in an area of great natural beauty.

- At an increase of 250%, the scale of the proposed building is not appropriate for the area and will be a blot on the landscape.
- I suspect this application is aimed to support the application for a farm workers house as previously there were no facilities for animal breeding.
- There are queries about the amount of breeding that will occur on this site and whether the Stockleigh Pomeroy part of the business would be a more appropriate site.
- There is already a substantial barn at the applicant's Stockleigh Pomeroy site. Why can't this be pressed into service for livestock?
- This application has no justification and should be refused.
- A building of this size will most likely require substantial illumination since the livestock may well need supervision 24 hours a day. This will not only affect the neighbouring properties, but this will also cause major light pollution to an already diminishing dark sky.
- In rural areas like this one, there is a great sensitivity to light pollution for residents as well as for the insects (bees and aphid predators) which are essential for the apple orchards and vines (at neighbouring farms) to thrive in EX17.
- There is no pollution impact assessment as required by DM4.
- In the drawing there are feed barriers along all sides of the barn and to me these look like self locking yokes. These feeding stalls are known to be extremely noisy throughout the day and night:
  - The cows put their heads down to feed and the barrier moves across with a bang. The impact of potential noise should be thoroughly investigated.
  - Sound travels in these valleys and hills, and the negative impact of continuous banging from this barn on local residents could be considerable, especially those living at Hayne and at the outlying farms of Hayne.
- The Surface Water Drainage Strategy is inadequate. Since the building of the new barn on this site in 2019, the road just to the north of this building is often flooded in the winter months.
- With the extension, which will create a building which is 250% of the original barn size, and with livestock, the risk of flooding on this road is even greater.
- Only 57 acres in this holding is actually in the applicant's ownership; the rest is leased, largely seasonally, and most is in use for vegetable crops. This does not therefore constitute a permanent holding for which there might be some argument for such a massive new building.
- The plans submitted also show the barn floor all on one level. This then is one continuous level surface of around 39 metres by 27 metres. However this is not a level site and no reference appears to have been made to the necessary landscaping to achieve this.
- When this 57 acre land plot was purchased by the applicants around 2017 it was all laid to permanent grassland as was all the other land sold at the break up of Great Hayne Farm. Since that time the greater proportion of this land has been converted from animal pasture to vegetable growing. The evidence then is that the land was not primarily purchased or intended for sheep or cattle pasture but was in fact intended and has been predominately used for vegetable growing.
- No Business Plan has been submitted to justify this barn extension. In a separate application 20/01991/FULL an accompanying Agricultural Appraisal document in which the applicant clearly demonstrates that over 90% of farm activity is non animal related.

- In planning application 20/01991/FULL the same applicant has detailed that 220 sheep and cattle will be housed in this barn extension and on only 33 acres of this site, the remaining 20 acres of the site being drip-fed vegetables.
- The animal breakdown is given as 60 sheep, 60 breeding shorthorn beef cows and 100 young follower cows.
- It is entirely inappropriate to consider housing this number of animals on such a small parcel of land without a considered and published Waste Management Plan or a Pollution Impact Assessment by a 'suitable qualified person'.
- I believe it is appropriate to refer this application back to the Environment Agency for further comment.
- With respect to the comment made about funding from Natural England relating to use of undercover bunded dung store, this claim should be explored further. Natural England do not provide funds for this type of project.
- It is possible that the funds referred to are from the Rural Payments Agency under a Countryside Stewardship agreement. This is a system that is administered by Natural England but funded by the Rural Payments Agency. However, in order to secure these funds a number of criteria have to be met including the following.
  - 1) The site has to be in a High Priority Area for water and air quality - the Redyeates Cross site does satisfy this requirement.
  - 2) The project has to be supported by and have the approval of the Catchment Sensitive Farming Officer (CSFO) for the area.
  - 3) The project should have prior planning approval.
  - 4) The project is based on existing animal numbers and not some future planned expansion.
- The submitted proposed plan drawing shows no animal access doorways on either extension. Therefore, how are the animals to access the 'livestock' areas if not through the existing barn entrance and hence through the existing barn.

A letter of objection was received from Devon CPRE on the 20th June 2021 commenting as follows:

Devon CPRE have studied the application and wish to make the following comment and objection. Concerns are raised with regard to the justification for the proposed building in terms of need and scale, in this open countryside location. The proposal is not supported by an independent agricultural appraisal, nor a landscape impact assessment, to robustly support what would be an incongruous development in the rural landscape.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

- 1. Relevant Policies**
- 2. Policy in context**
- 3. Design, Landscape and Visual Impact**
- 4. Impact on amenity of local residents (traffic, noise, odour)**
- 5. Environmental Impact**
- 6. Highways**

## 1. Relevant Policies

The key policy used to determine the application is policy DM20 (Agricultural development) of the Mid Devon Local Plan 2013-2033. This states that agricultural development will be permitted where:

- a) The development is reasonably necessary to support farming activity on that farm or in the immediate agricultural community;
- b) The development is sensitively located to limit any adverse effects on the living conditions of local residents and is well-designed, respecting the character and appearance of the area;
- c) The development will not have an unacceptable adverse impact on the environment; and
- d) The development will not have an unacceptable traffic impact on the local road network.

Relevant assessment of the policy is given under Sections 2, 3, 4 and 5 of this report.

Policy DM18 (Rural employment development) is also relevant. This states that in countryside locations, planning permission will be granted for new build employment development or expansion of existing businesses, provided that the development is of an appropriate use and scale for its location. Proposals must demonstrate that:

- a) The development would not lead to an unacceptable impact on the local road network;
- b) There would not be an unacceptable adverse impact to the character and appearance of the countryside; and
- c) There are insufficient suitable sites or premises in the immediate area to meet the needs of the proposal.

The assessment of this policy is made under Sections 2, 3, 4 and 5 of the report.

Policy S9 (Environment) of the Mid Devon Local Plan 2013-2033 requires development proposals to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through high quality design and preservation of the distinctive qualities of the natural landscape. This policy also seeks measures to minimise the impact of development on climate change in order to contribute towards national and regional targets for the reduction of greenhouse gas emissions. Design is also measured under policy DM1 of the Mid Devon Local Plan 2013-2033.

Policy S8 (Infrastructure) and Policy DM3 (Transport and air quality) seek to manage travel demand from development and reduce air pollution whilst enhancing road safety. Significant development must be accompanied by Transport plans. Policy S14 (Countryside) seeks to control development outside of settlement limits in order to protect the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy but is permissive of agricultural buildings in principle.

Reference has been made by objectors to Policy DM4 (Pollution) which states that 'Applications for development that risks negatively impacting on the quality of the environment through noise, odour, light, air, water, land and other forms of pollution must be accompanied by a pollution impact assessment and mitigation scheme where necessary. Development will be permitted where the direct, indirect and cumulative effects

of pollution will not have an unacceptable negative impact on health, the natural environment and general amenity.' This matter which be discussed later within this report as the Public Team were consulted on the proposals and made requests for further information which was provided by the applicant.

## **2. Policy in context**

The National Planning Policy Framework (NPPF) affirms three objectives to the principle of sustainable development: economic, social and environmental. The Framework seeks to support a prosperous rural economy through the expansion and diversification of all types of rural business and the NPPF applies a presumption in favour of rural development subject to compliance with local planning policies.

The proposed development is said to be reasonably necessary as it has been outlined that with regard to the current farming enterprise, this extends in total to approximately 250 acres, upon which there can be up to 100 animals (shorthorn beef, calves, ewes and lambs) at any one time. There are proposals to increase the livestock element of the agricultural enterprise and the extensions proposed are to house livestock. As such the extensions to the building are therefore considered reasonably necessary to support the agricultural activity on the holding.

The current livestock figures of up to 100 animals across the current land holding of the agricultural unit is not considered excessive for the proposed livestock extensions proposed. The erection of an agricultural workers dwelling which was recently approved would allow livestock numbers to be increased.

The proposal would therefore allow for the expansion of the farming activity at Thorne Farm and the livestock element on this site in line with the figures quoted in the agricultural appraisal. The proposed development is considered to comply with part a) of DM20 and the generation of employment on the site would receive policy support under DM18 of the Mid Devon Local Plan 2013-2033.

## **3. Design, Landscape and Visual Impact**

The development site comprises an agricultural field used for grazing and the growing of crops with an existing agricultural storage building on site which is to be extended. There is an existing access and the applicant owns the adjoining fields. The development site lies outside of any statutory or non-statutory/local landscape designations.

The materials proposed are for metal profile walls and corrugated sheet roof in keeping with the existing building. Whilst the design of the structure is utilitarian, it is considered to be appropriate for the intended use of livestock housing. The extension is proposed at the north and south side of the existing agricultural building on site and would provide an additional 660 sqm of floor area. The extensions do not exceed either the eaves or ridge height of the existing building, instead providing a smaller continuation to either side. As such the extensions would be viewed in this context which is considered to represent a form and a scale which would be acceptable not having an unacceptable impact upon the character and appearance of the area. Having regard to the siting of the works in relation

to neighbouring properties it is not considered that the proposal would result in any significant adverse effects to the amenities of neighbouring occupiers due to the distances involved.

The extensions to either side of the existing building would project 12m, running length of agricultural building with an eaves height of 3.6m, therefore the nature of the development would not warrant a Landscape Impact Assessment, as this would not be proportionate to the development proposed which would result in an increase in footprint of 660sqm as a Landscape Visual Impact Assessment (LVIA) would be usually required for a much larger development (major application) in a sensitive landscape where it is likely to be EIA development. The development of the site is considered to comply with S9, S14, DM1 and DM20 of the Mid Devon Local Plan 2013-2033.

#### **4. Impact on amenity of local residents (traffic, noise, odour, light pollution)**

In terms of the impact on the amenity of occupiers of neighbouring property, the proposed extensions to the existing agricultural building would be located over 200m away from the nearest residential property. Therefore it is not considered that there would be any significant detrimental impact on amenity of neighbouring occupiers in terms of overbearing impact/overlooking.

Objections have been received on the grounds that there will be a detrimental impact on the amenity of neighbouring properties through noise and light pollution. The Local Planning Authority has consulted Public Health in the determination of the application and whilst they have raised no objection on the grounds of noise disturbance they did question the issue of light as if the building is intended to house young stock then it is likely that heat lamps will be needed during the night at certain times of the year and as such residents would be correct to suggest that this could be noticeable from some distance away and therefore impact on the dark sky environment.

As a result of this, the Public Health Team advised that the applicant should confirm what the building is intended to be used for and if night lighting is intended then they should advise how light pollution will be avoided (for example by installing the wooden slats in a louvre style). The applicant responded to outline that there will be no heat lamps used, they are not required for calving cows. The building would be lit intermittently during the calving period but the outside of the building they have either vent air steel cladding or Yorkshire boarding and therefore little or no light would escape. The Public Health Team are happy with this explanation and raised no objections on the grounds of light pollution.

#### **5. Environmental Impact**

The site is located in the countryside, within Flood Zone 1 and the topography is such that certain views to the proposals will be screened. Objections have been received on the grounds of drainage and pollution to the environment from the proposed livestock use of the building.

The applicant has outlined that there will be no slurry waste. Instead the straw based dung from the livestock building is a valuable commodity and will be ploughed into land used for

growing vegetables to improve soil structure, increase organic matter and provide valuable nutrients. There will be no slurry from this straw based system. There was also reference made to Natural England providing some funding to one of the proposed extension "lean to" that is to be used as an undercover bunded dung store (for this straw based system).

The Public Health Team noted that the information provided was that the extensions would be used for housing of livestock on straw (so cattle), and this is most likely in the winter. However the applicant had not initially provided detail about where the resultant farm yard manure will be stored prior to spreading, or how long the cattle will be housed. The Public Health Officer advised that it is common for fym to build up over several months in situ, or to be periodically removed to an off-site storage area.

As a result, the applicant has provided further information informing that the extension on the South side of existing building will be used for housing cattle on straw bedding from November till the end of March, during the spring and summer months it will be used for general storage, fym will be removed if necessary during the winter and stored in the bunded fym store which forms the extension on the North side of the existing building. The bunded fym store is a water tight area used to store excess fym during the winter months until it will be spread on to the arable land at the site prior to ploughing. The Public Health Officer has confirmed that this would be acceptable.

The Public Health Officer commented that there is available land adjacent to take run off water from the building and also to take liquid waste from the housing, but the initial submission contained no details as to how this will be managed in order to ensure that run-off cannot affect the adjacent roadway. A revised plan has been shown showing the drainage arrangement to a soakaway and the applicant outlines that the rainwater from the building will be put into a soakaway on the south side of the building, the bunded dung store ensures that no liquid waste can escape from the fym as no rain will be passing through it, covered straw yards produce little or no liquid.

In light of the above, the Public Health Team have raised no objection to the scheme and overall it is considered acceptable in terms of the likely environmental impacts, being in accordance with Policies DM4 and DM20 of the Mid Devon Local Plan 2013-2033.

## **6. Highways**

The erection of extensions to an existing agricultural building, on land which is already used for grazing of livestock (or adjoining to land being grazed) is not expected to result in a significant increase in traffic movements. The Highway Authority have not objected to the scheme and as such the likely impact to the local highway network is considered to be acceptable.

There are no other materials considerations to weigh against the grant of planning permission, and approval subject to conditions is recommended.

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.

## **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 external lighting shall be provided unless an application in that regard is first submitted to and approved 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. Having regard to the countryside setting and to safeguard the visual amenities of the area in accordance with Policies S9 and DM1 of the Mid Devon Local Plan 2013-2033.

## **REASON FOR/ APPROVAL OF PERMISSION/GRANT OF CONSENT**

The application scheme for the erection of extensions to existing agricultural storage building (660sqm) is considered to be supportable in policy terms. The extensions are considered reasonably necessary for the purposes of agriculture. There will be no significant adverse impacts on the character and appearance of the area, the amenity of residents of nearby properties, the environment or the local road network. As such, the proposal complies with policies S1, S9, S14, DM1 and DM20 of the Mid Devon Local Plan (2013-2033) 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.

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 the submission of additional information from the applicant. 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. 21/00580/FULL

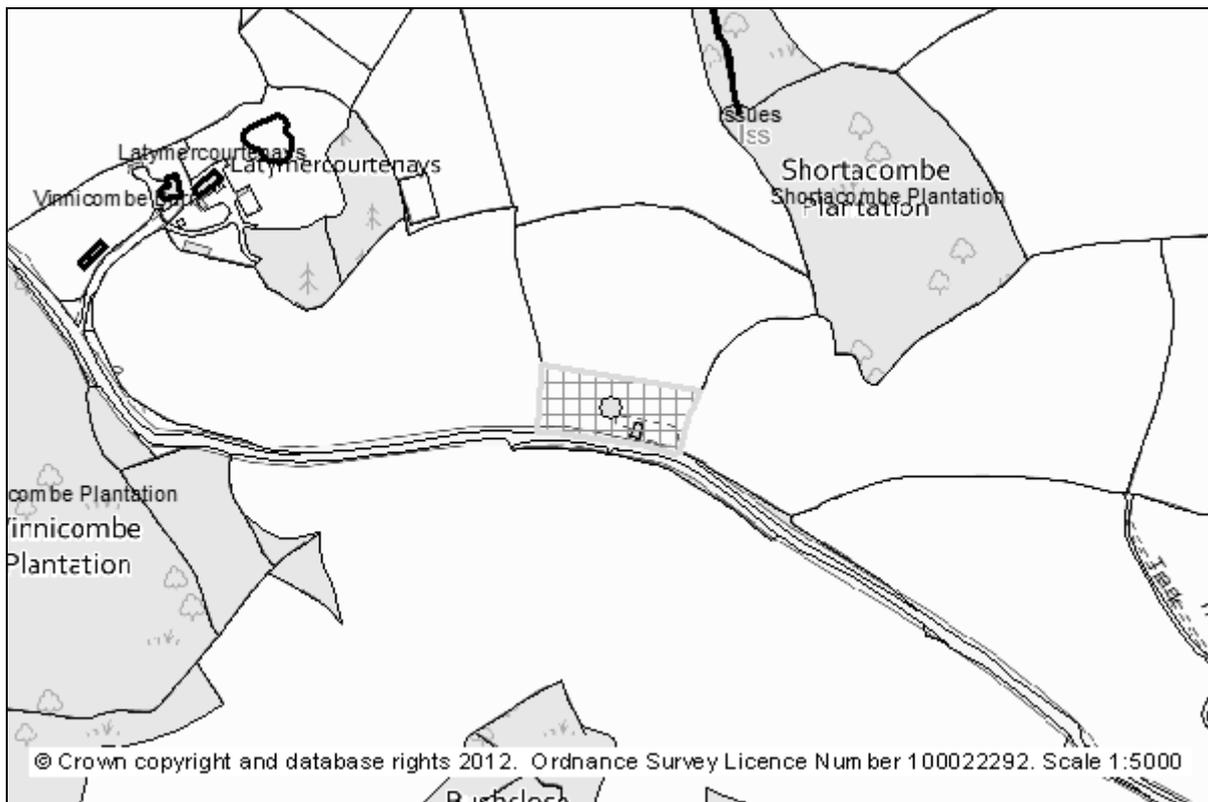
Grid Ref: 276612 : 96646

Applicant: Ms A Tyrer

Location: Land at NGR 276600 96594 (North of Shortacombe Farm)  
Shortacombe Lane  
Yeoford  
Devon

Proposal: Change of use of agricultural land to allow 1 pitch for the siting of 1 static caravan, 2 touring caravans and associated works for the use of gypsy and traveller family

Date Valid: 22nd March 2021



## **APPLICATION NO: 21/00580/FULL**

### **MEMBER CALL-IN**

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

I would wish to call the application in to enable the planning committee to consider the detail of the application and its compliance with National and Local Planning Policy.

Specifically:

- Whether the proposal for a development outside a defined settlement is acceptable in this case.
- Consideration to whether this application would give rise to significant levels of vehicular movement.
- Whether the development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets
- Consideration to the level of interest within the community.
- Whether it would be considered that adequate local infrastructure is in place.

### **RECOMMENDATION**

Grant planning permission, subject to the conditions detailed below.

### **PROPOSED DEVELOPMENT**

The applicant seeks planning permission for the change of use of agricultural land to allow 1 pitch for the siting of 1 static caravan, 2 touring caravans and associated works for the use of gypsy and traveller family. This planning application is identical to a previous planning application 19/01188/FULL considered by Members of the Planning Committee which was refused on the 10th September 2020, the only difference being that the applicant is willing to agree to a personal condition. The applicant did appeal but as the applicant did not submit all of the documents in time, the Planning Inspectorate declined to determine the appeal, hence the reason this planning application has been submitted.

As with the previous application, this planning application proposes the material change of use of agricultural land to residential use for a gypsy and traveller family. The proposal would involve the siting of a static caravan; parking for two touring caravans; the siting of a storage shed and car parking area; landscaping works, including tree planting and the creation of a landscaped bank; and works to create a safe access onto the public highway.

The original submission included the provision and use of a compost toilet and a reed-bed drainage system to deal with grey water but the proposal was amended following concerns received from members of the public and questions as to whether this type of drainage system was the most appropriate in this area given the standing advice from the Environment Agency.

The proposal now involves the use of a toilet facility within the static caravan with a Vortex

Treatment Plant proposed to deal with foul drainage. Confirmation has also been provided from the applicant that there is mains water running adjacent to the site and power will be provided from solar panels.

The site comprises an area of mostly open grassland, including an area surfaced with loose material, on which two touring caravans are currently being kept (these would be moved on site to the position shown on the layout plan and form part of any planning permission issued), along with a wooden storage structure. The site's western, northern, and eastern boundaries adjoin open fields in agricultural use. The southern boundary runs alongside the public highway and is formed by a mature hedgerow. The site is located outside settlement limits.

## **APPLICANT'S SUPPORTING INFORMATION**

Application form, plans, supporting information such as traffic survey and wildlife survey.

## **RELEVANT PLANNING HISTORY**

19/01188/FULL - REFUSE date 10th September 2020

Change of use of agricultural land to allow 1 pitch for the siting of 1 static caravan, 2 touring caravans and associated works for the use of gypsy and traveller family

01/01704/FULL - PERMIT date 8th November 2001

Retention of field shelter and hay store

99/02850/FULL - REFUSE date 1st October 1999

Erection of stabling/tackroom

## **OTHER HISTORY**

18/01964/PREAPP - CLO date 30th January 2019

Proposed traveller pitch

## **DEVELOPMENT PLAN POLICIES**

### **Mid Devon Local Plan 2013 – 2033**

S3 - Meeting housing needs

S8 - Infrastructure

S9 - Environment

S14 - Countryside

DM1 - High quality design

DM4 - Pollution

DM5 - Parking

DM7 - Traveller sites

DM28 - Other protected sites

The National Planning Policy Framework ("the NPPF")

## **CONSULTATIONS**

### **Crediton Hamlets Parish Council** – 6th May 2021

It was resolved to object to this application for the following planning reasons: highways issues (including that the access road has a steep dip which will not allow the passage of caravans); environmental health issues; concerns that if allowed the site will be expanded; impact on the community; the site is unsuitable in relation to access to infrastructure and local transport; the drawings show that foul drainage will be by way of a vortex treatment plan and there are doubts that this will pass a percolation test, the local clay soil will be impermeable for surface and grey water drainage with the result that this will run off onto neighbouring properties, the road and water courses.

Councillors were sympathetic to the applicant's predicament in that it is very difficult for Gypsies and Travellers to find legal sites. However, for planning reasons Councillors believe that this is not a legal site. Councillors understood that planning consent has been granted for a residential development at Pedlerspool (Creedy Bridge) which includes 5 Gypsy and Traveller pitches and that the S106 agreement in relation to that application has now been signed. Councillors noted that these will be appropriate sites and ask MDDC for confirmation that the pitches be provided as soon as possible to assist the applicant and all Gypsy and Traveller families in finding legal pitches. Councillors ask that the provision of these sites be put at the top of MDDC's list of priorities.

### **Crediton Hamlets Parish Council** – 7th April 2021

Crediton Hamlets PC objects to this application for the reasons given in relation to the applicant's earlier application (19/01188) which are: highways issues (including that the access road has a steep dip which will not allow the passage of caravans), environmental health issues, impact on the community, no evidence of need, unsuitable site in relation to access to infrastructure and local transport and concerns that if allowed the site would expand. In addition, the terrain is not suitable for the proposed reed bed which therefore would not be effective. Thus the application does not address concerns that surface and grey water will run off on to neighbouring properties, the road and water courses.

### **Cheriton Bishop Parish Council** – 12th May 2021

Cheriton Bishop Parish Council objects to this application, which is almost identical to the applicant's previous application 19/01188 for which consent was refused. The reasons for objecting are as for that earlier application, which were: poor highways access, removal of ancient hedge, unsuitable site that does not meet government criteria and is in an isolated situation, MDDC had already identified sufficient sites to meet targets, no services on site and no transport links or services within reasonable distance. In addition, the MDDC Local Plan has now been adopted and the site does not meet the criteria for gypsy/traveller sites set out in the Plan.

### **Cheriton Bishop Parish Council** – 14th April 2021

Cheriton Bishop Parish Council objects to this application, which is almost identical to the applicant's previous application 19/01188 for which consent was refused. The reasons for objecting are as for that earlier application, which were: poor highways access, removal of ancient hedge, unsuitable site that does not meet government criteria and is in an isolated situation, MDDC had already identified sufficient sites to meet targets, no services on site and no transport links or services within reasonable distance. In addition, the MDDC Local Plan has now been adopted and the site does not meet the criteria for gypsy/traveller sites set out in the Plan.

**Hittisleigh Parish Council** – 16th April 2021 - Hittisleigh Parish Council have the following comments:

The agent acting for the applicant highlights a lack of 5 year sites for gypsy and traveller occupation in Mid Devon and that the applicant fulfils the definition of a traveller and therefore should be permitted to reside in the countryside. The way this is presented discriminates against others who would wish to have a home on agricultural land that their family owns, including the elderly, newlyweds and people unable to access a council house.

It is indicated that the applicant lives in a house but travels with a caravan to festivals. It is not clear why the applicant should be permitted to reside in the countryside due to ownership of a field.

The application for 2 touring caravans does not clearly indicate ongoing use. They could be caravans of a type that are able to be towed, but left permanently on site, or caravans that come and go from the site.

The location of the field has inadequate access that counts against the application with a steep hill, a ford and a narrow lane with hedges. There is environmental concern over the proposed reed bed system - the gradient of the field and the amount of surface water could result in grey water entering the water course. Clay soil is predominant in the location which indicates further difficulties with pollution control.

This application repeats an earlier application with the only additional factor highlighted is the slow development of sites elsewhere. At the time of the first application the national guidance was able to be quoted by solicitors to both support and refuse the application and that does not appear to have changed.

### **Public Health** – 9th April 2021

Contaminated Land: No concerns. (09.04.21).

Air Quality: No concerns. (09.04.21).

Environmental Permitting: No objection to this proposal. (25.03.21).

Drainage: The applicant proposes a compost toilet and a reed bed system to hold and decompose grey water (ablutions and washing machine water). Compost toilets are very

difficult to manage and only work where liquid and solid wastes are separated; this is not possible for many people. The plans show that there is potential for rodents, smell and flies, and furthermore the solid waste will need to be stored on site for composting and re-use. Longterm this is unlikely to be sustainable. Reed beds are also difficult to manage and infact the two drawings, 21/6 and 21/2RevA, are contradictory and the reed bed is showing beneath a touring pitch.

Plan 21/6 shows a vortex treatment plant discharging to a drainage field. This would negate the need for a compost toilet and reed bed so will be a better solution. The applicant would need to confirm which of these systems are actually proposed so that we can comment further. Percolation tests must first be carried out on the land in order that full details of the drainage field can be provided with the updated plans. This matter will need to be resolved prior to any decision and we will not support the proposal for a composing toilet; this is in line with our comments on the previous application on this site in 2019. (09.04.21).

Noise & other nuisances: No concerns. (09.04.21).

Housing Standards: No comment. (29.03.21).

Licensing: This will require a licence please contact licensing via email [licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk) . (25.03.21).

Food Hygiene: No comments. (25.03.21).

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. (29.03.21).

Health and Safety: No comments. (25.03.21).

### **Natural England** – 4th May 2021

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 13 April 2021 (Our Ref: 347840). The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal. The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially

affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

**Natural England** – 13th April 2021

Natural England has no comments to make on this application.

**Highway Authority** – 6th May 2021

The Highway Authority has no further comments

**Highway Authority** – 29<sup>th</sup> March 2021

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

**South West Water** – 23rd April 2021

So long as a 3 metre easement is maintained from the water main already advised of, South West Water have no further concerns.

**South West Water** – 8th April 2021

Please find enclosed (sent separately via email) a plan showing the approximate location of a public water main in the vicinity. Please note that no development will be permitted within 3 metres of the water main, and ground cover should not be substantially altered.

Should the development encroach on the 3 metre easement, the water main will need to be diverted at the expense of the applicant. The applicant/agent is advised to contact the Developer Services Planning Team to discuss the matter further.

If further assistance is required to establish the exact location of the water main, the applicant/agent should call our Services helpline on 0344 346 2020.

## **REPRESENTATIONS**

40 letters of representation were received to this application, 33 letters of which were objection and 7 letters in support of the proposals.

The objectors raise the following concerns:

- The objections outlined within the previous application (19/01188/FULL) still apply.
- Although recent, planning has been granted at Peddlars Pool in Crediton for 5 Gypsy/Traveller pitches and therefore as there is not a local need for pitches or housing within Binneford, MDDC have ensured that allocation is available elsewhere.
- Earlier this month planning was refused in Binneford for the development of two houses and the arguments used in relation to that application could be applied to this application as well.

- The proposed site is on agricultural land, which is the nature of the surrounding environment being farmed by local livestock keepers. This will lead to further loss of agricultural land at a time where the government policy is for the promotion of agricultural enterprises.
- The latest revised application will in no way be an improvement or a workable solution to the safe and efficient dispersal/filtration of waste water from the proposed living accommodation on the site.
- This is an unsafe site for mobile homes in the winter months when wind and rain can cause obvious dangers on such an exposed high and sloping piece of land.
- Public health stated a license and a percolation test need to be carried out. All the surrounding land is heavy clay which will never pass the test, we would want assurances the percolation tests are valid and by a reputable company and in the location of the planned drain away.
- Public health also stated the location of the reed bed which has been replaced with the treatment plant was not actually in the correct location.
- SWW stated a 3-meter easement had to be in place from the water mains, the plans have not altered from 1 year ago, there is no 3-meter easement, in fact the applicant is planning on digging a trench and a new bank within the 3 meter easement.
- Should the applicant abide by the 3 meters easement this will then require more hardcore to be placed and make the touring caravans even more prominent. I would be interested to know whether this moves the site beyond the current 0.4hecters.
- With regard to the vortex, reputable installers as stated in my first objection state treatment plants do not work on boggy ground, they fail and contaminate the area with excrement.
- The site is on a flood zone, and has flooded every year. Additionally vortex treatment plants need to disperse into a ditch or water course, the site has neither as it is landlocked.
- Treatment plants have to run 24/7, 365 days of the year. I assume the applicant will eventually state a portable solar panel, and maybe a battery, in deepest winter this will not be sufficient, neither is there a backup for when it fails again leading to zero confidence the treatment plant will be operated properly.
- The site drawing is misleading, it does not show the removal of the bank and trees to deliver the right splay, it shows the current bank and trees in site. The left splay is not the applicants to remove.
- Finally, there has been zero effort made to establish if it is legal, which it is not to re direct rain water from the ditch into the western hedge. This is effectively pushing the rain water which is significant and heavy in winter off the applicants land straight onto the neighbouring land.
- The proposal is contrary to Local Plan and NPPF policies.
- The site is located outside settlement limits and is remote from established settlements.
- The proposal is not sustainable as it is not located near to services, including any hospital that has capacity, and there is a lack of access to public transport. The nearest bus stop provides a very limited service. The site is not located within 30mins of a hospital.
- The highway is very narrow, poorly drained and lacks a pedestrian footway and lighting, and is therefore unsafe and cannot accommodate additional traffic.
- The proposed access would not have adequate visibility onto the public highway.

- The drainage arrangements are not sufficient to cope with the number of people that the site would have the capacity to accommodate and the sloped nature of the site is such that, particularly during freezing conditions, the reed bed system is likely to fail and waste water will run off to neighbouring land and water courses.
- It is unclear how grey water from the touring caravans would be managed.
- The proposal would result in harm to wildlife.
- The proposal should be assessed in relation to the number of people that may live at the site rather than the number of caravans.
- The site occupies a prominent position in the landscape and the proposal would result in harm to the character of the area, and be contrary to the recommendations of the Mid Devon Landscape Character Assessment.
- The proposal is unlikely to promote peaceful co-existence of neighbouring communities.
- The proposal would result in the loss of part of a hedgerow.
- The status of the applicant, as a gypsy or traveller, has not been adequately demonstrated.
- The applicant already has access to accommodation in the local area.
- The site is in an isolated location remote from sewerage and other drainage arrangements.
- The proposal would not be well served by local services.
- Potential for noise nuisance as a result of music and use of a generator.
- There is no need for two travelling caravans, in addition to the static caravan, given that the applicant's son is 14 years old.
- The proposal does not seem to include access to running water or electricity.
- Permission has previously been refused for a stable and tack-room, based on the poor access arrangements, isolated location, and visual impact. These reasons for refusal apply all the more to the proposed development.
- The proposal could increase the probability of flooding.

In terms of material planning considerations, the letters of support state that:

- The site is well screened and further landscaping is proposed, with caravans being low level having less impact than a house or bungalow.
- The applicant would only have a low impact on the environment because of her strong beliefs in respecting the land and the community around.
- The site is a considerable distance from neighbouring properties.
- The applicant is a member of the travelling community, and travels to festivals and other events for work throughout the year. She fits the description of an old school traveller.
- The applicant would integrate well with the local community and there would be minimal disruption as a result of the proposal.
- The site is within walking/cycling distance of public transport and school transport.
- There is a need for the proposal given the absence of designated alternatives.
- The objections should not worry that the applicant would invite a field full of travelers to live on the land and understand that the applicant is a private person.
- The applicant has worked to comply with the requirements of the planning permission with the help of professional architects, and alterations that follow a sustainable and ecological approach to living.

- The Applicant is a gardener and landscaper and has shown a high level of skill and understanding of garden plants, trees (planting and care) and land management. She is hard working, careful and reliable.
- The plans include enhancements through the planting of native trees and if the reedbed can be made to work this will certainly be of benefit to wildlife locally, compared to the current species poor grassland.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

- 1) Principle of Development**
- 2) Visual Impact**
- 3) Amenity**
- 4) Access Arrangements**
- 5) Drainage Arrangements**
- 6) Nature Conservation**
- 7) Other Considerations**

### **1) Principle of Development:**

This planning application is the same proposal as submitted under planning application 19/01188/FULL which went in front of Members of the Planning Committee as an Implications Report on the 9<sup>th</sup> September 2020 where Members resolved to refuse for the following reason:

1. In the opinion of the Local Planning Authority, the proposed site of the family traveller pitch given its countryside location and prominent position on the ridge of the hill will result in an unacceptable landscape and ecological impact through the introduction of caravans and other structures and the removal of hedgebank and trees to provide an adequate visibility splay for the access into the site. The location of the site is such that there will be no safe or convenient access to local facilities or services. Therefore any need for the development does not outweigh the harm which would result with the development being contrary to Mid Devon Local Plan Review 2013-2033 Policies S14, DM1 and DM7 and guidance within the National Planning Policy Framework 2019 and Policy Planning for Traveller Sites (2015).

As outlined within the Implications Report, it was noted that the above reason for refusal relates to the location of the site in the countryside some distance away from local services as would be required by occupiers of the site with the development resulting in a detrimental impact on the landscape and ecology given the prominent position of the site on the ridge of the hill and associated works required to create a safe access through the removal of hedgebank and trees. The site is located over 2 miles away from any settlement recognised within the Local Plan as having a number of community services for members of the public and in terms of this site, there are no direct public transport services available in close proximity to the site to access these services. The impact on the amenity of the area is subjective and therefore Members were informed that a case

could be made that the proposals would result in a change to the appearance and character of the site with the main mitigation put forward being through further landscaping to screen the development including replacing hedgebanks.

Policy DM7 of the Local Plan states in criterion (c) that the site should not cause unacceptable landscape or ecological impact and criterion (e) outlines that a safe and convenient access to local facilities is provided. Policy DM1 of the Local Plan also requires development to result in a positive contribution to local character including biodiversity and for development to result in the creation of safe and accessible places that encourage and enable sustainable modes of travel such as walking and cycling (criteria (c) and (d)). As outlined within the Implications Report for 19/01188/FULL, through the assessment of this proposal, in the event that Members are of the view that any need for such a development does not outweigh the harm created by the proposal in this location, the development could be considered to be contrary to these two policies. Should Members conclude this to still be the case, they could seek to refuse this application under the previous reason for refusal given to planning application 19/01188/FULL.

However, as previously commented upon, Members were reminded that consideration needs to be given to the weight of any harm this development will have on the impact of amenity of the area and whether any harm identified can be mitigated against through specific planning controls which it is considered would be the case such as landscaping which could result in a net biodiversity gain. Following this assessment and in order to then come to a final conclusion on this matter, Members would then need to weigh these considerations against the previous under delivery of gypsy and traveller pitches across the district and the realistic timeframe of delivery of pitches on allocated sites within the Local Plan.

Notwithstanding the above, the view of officers is the same as provided in the officer report for 19/01188/FULL as taken in front of Planning Committee in August 2020 whereby it was considered that the principle of the development could be accepted. The Parish Councils and members of the public have objected to the proposal, stating that it is for residential development in the countryside and that the need for the proposal has not been demonstrated. Concerns are also raised about the sustainability of the location in terms of its access to services, and the traveller status of the applicant is also questioned. The application, and representations received from supporters, state that there is a need for the proposal given the absence of alternative gypsy and traveller provision in the area, and refer to the applicant's status as a gypsy/traveller.

The main national policy in relation to gypsy and traveller accommodation is contained within the Planning Policy for Traveller Sites (PPTS). The PPTS states that applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework. It requires that Local Planning Authorities should consider the following issues, amongst other relevant matters, when considering planning applications for traveller sites:

- the existing level of local provision and need for sites;
- the availability (or lack) of alternative accommodation for the applicants;

- other personal circumstances of the applicant;
- that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites;
- that Councils should determine applications for sites from any travellers and not just those with local connections.

The adopted development plan, in technical terms, remains the starting point for planning decision making. Relevant policies in the Mid Devon Local Plan 2013-2033 are S14 which outlines that development outside settlement limits is strictly controlled but provides a list of exceptions, which are subject to detailed criteria-based development control policies. These include gypsy accommodation but this is subject to meeting other criteria such as preserving and where possible enhance the character, appearance and biodiversity of the countryside.

When the officer report for planning application 19/01188/FULL was first considered by Members, the previous Local Plan was in force which contained Policy AL/DE/7 of the Local Plan which indicated that planning permission would be granted for new gypsy and traveller sites in the countryside provided three criteria are met. It stated that pitches would be permitted provided that: a) the need cannot reasonably be met on another site within Mid Devon which has consent or is allocated for gypsy and traveller pitches; b) that the site is within 30 minutes travel by means of public transport, walking and/or cycling of a hospital and secondary school; and c) that occupation is limited to those meeting the definition of Gypsies and Travellers in the relevant national policy. However, through the adoption of the Mid Devon Local Plan 2013-2033 this policy no longer applies.

Policy AL/DE/7 was replaced by Policy DM7 (Traveller Sites) which states:

#### 1. Planning applications for Pitches and Plots

‘Planning applications for gypsy and traveller pitches, or plots for travelling showpeople, will be permitted where:

- Suitable onsite facilities will be provided including space for children’s play;
- The proposal will have suitable environmental quality for residents including non-isolating boundary treatments; and
- The site will not cause unacceptable landscape or ecological impact and is not located in an area at high risk of flooding;
- Occupation will be limited to those who meet the Government’s published definition of gypsies and travellers, including travelling showpeople or their dependents; and.
- Safe and convenient access to local facilities is provided

Sites with associated employment or storage elements will be permitted where there is specific justification and the location, scale, and nature of the proposed development will not have harmful impacts on local amenity or the local environment. Gypsy and traveller accommodation may be included as part of the affordable housing requirement.’

Therefore in light of the above some of the more stringent requirements have been removed from Policy AL/DE/7 and it is considered that there would be ample space on site

for children to plan, extensive landscaping would be provided which in turn could help in increasing biodiversity and the area is not located in an area at high risk of flooding, being outside of flood zones 2 and 3.

Notwithstanding the loss of Policy AL/DE/7, certain matters raised by the former policy are considered such as the need for the provision of gypsy/traveller sites, proximity to Public Transport and Services and Provenance of the Applicant.

With respect to need, The PPTS states that Councils, through their local plans, should be able to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of sites for gypsies and travellers set against local targets and broad locations for future growth. Through the adoption of the Mid Devon Local Plan 2013-2033, the case would be that five years worth of sites could be provided. However, this alone would not necessarily mean that other sites cannot be considered especially in light of the fact that as referred to by objectors, five Gypsy and Traveller pitches were approved as part of outline planning permission 17/00348/MOUT for a residential development at Creedy Bridge, Crediton, but the condition is such that the applicant has 5 years from the date of commencement of development on site in which to submit reserved matters for On-Site Travellers Pitches. As such the delivery of these pitches could take over 5 years to be implemented.

At an appeal (APP/Y1138/W/322285), which was concluded in November 2019, the Inspector stated that:

“With the degree of doubt present over the delivery of sites put forward for the windfall allowance and within the urban extensions, I find that the table of pitch-supply presented at the hearing does not reasonably demonstrate that the Council can show a five year supply at the moment bearing in mind the shortfall of sites carried over from the previous period. I conclude that there is an unmet need for gypsy and traveller sites in the district at the moment. This finding is a significant factor in favour of the appellant's case...

In terms of the availability of alternative sites, neither the Council or the appellant are able to identify any alternative site available at the moment that the appellant could turn to for residential accommodation. This appears to reflect a lack of available private sites in the district over some time as the previous Inspectors reached similar conclusion in 2012 and 2014. Moreover, the Council accepts that there is no public site for gypsies and travellers in Mid Devon. There is therefore little other scope available to the appellant to meet his accommodation needs. This is a factor to which I attach significant weight.”

Therefore whilst a five year supply of deliverable sites can be identified, the case could be argued that at the current time there continues to be a lack of availability of alternative sites, either public or private, for the applicant to meet their accommodation needs in a manner that is conducive to their travelling lifestyle. This would therefore add weight to the case that the applicant is in need now.

On the matter of proximity to Public Transport and Services, the former Policy AL/DE/7 required sites to be within 30 minutes travel, by means of public transport, walking and/or cycling, of a hospital and secondary school. Policy DM7 of the Mid Devon Local Plan does

not have this requirement, instead it requires that proposals have “safe and convenient access to local facilities...”

The County’s Gypsy and Traveller Liaison Officer made comments to the previous planning application, stating that, given the absence of adequate sites in the area:

“... it is becoming more essential for Gypsy and Traveller families to have an authorised stable base from which they may access services such as Health and Education, that the rest of us may take for granted. It also provides the security to travel for economic purpose, knowing that there is an authorised base on return. The Applicant would wish to reside her with her son. This enables both to access health provision, him to continue his schooling at the same school, and, for the applicant to maintain her employment both at this location and elsewhere when economic need arises.”

The applicant’s son is able to reach school within half an hour, using a school bus service that is within walking distance of the site. In relation to medical care, the site is located around 5.5 miles from Crediton Hospital and a doctors surgery, which is approximately 15 minutes away by car, but would take around 35 minutes to reach using a bicycle. The journey times would be considerably longer on foot or using public transport, access to the latter being distant from the site and the local bus service is understood to be infrequent. It is noted that Crediton Hospital does not include an accident and emergency facility.

Given the lack of alternative sites available at the current time, more weight is attributed to meeting an unmet need and that given the adoption of the Local Plan and the weight to be attributed to Policy DM7, the criteria of a 30 minute distance from certain services is removed and replaced with ‘safe and convenient access to local facilities is provided’. It could therefore be argued that the Village of Yeoford is 2.6miles by road from the application site which equates to 7 minute car drive or 14 minute bike ride and the village of Cheriton Bishop is 2.8miles from the site, which equates to an 8 minute car ride or 17 minute bike ride. At these villages, there would be access to a number of facilities such as primary schools, public houses, doctor’s surgery shop, railway station etc.

With respect to the Provenance of the Applicant, The County’s Gypsy and Traveller Liaison Officer has confirmed that the applicant and her son are a Traveller family working and residing in Devon, and who have been known to the County for 11 years. If Members are concerned on this issue, it would be possible to request a statutory declaration from the applicants and third parties to give more assurance of the eligibility of the applicant to propose accommodation for a Traveller pitch in accordance with adopted policy. Therefore the proposal is acceptable in principle, subject to the use of conditions to limit occupation at the site to those gypsy/traveller descent and to the overall number of caravans on site, with only one to be a static caravan.

Concerns have been raised by objectors to the potential number of caravans and occupiers on site. A difference to the previous application is that the applicant has confirmed that they would be willing to agree to a personal condition whereby only the applicant and her son could reside on site. Whilst personal permissions are not something the Local Planning Authority would usually consider, given the concerns of nearby residents and the acceptance of the applicant, a condition is included to this affect.

## **2) Visual Impact**

Policy DM1 of the Mid Devon Local Plan states that the design of new development must be of high quality and demonstrate a number of principles, including efficient and effective use of the site, an understanding of the local context, and appropriate siting, layout, scale, and other design characteristics to ensure visually attractive and well integrated development.

The PPTS requires that planning authorities should give consideration to whether proposed gypsy and traveller sites would be “well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness” and avoid “enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.”

Objectors have raised concerns about the proposal’s visual impact, whereas supporters have stated that the proposal would be sufficiently screened by the existing hedgerow and proposed planting.

Currently on site there is an existing field shelter which the applicant has outlined as being required for agricultural purposes. The applicant is also currently storing two tourers and it is these two tourers which are shown on the proposed site layout, moving them further over and lower down within the field. In terms of new structures, a static caravan is proposed and storage shed with the former proposal for a compost toilet removed. Surrounding the area to the north of the caravan and two tourers, extensive landscaping is proposed to provide a screen from long range views across the valley.

It is considered that planning conditions relating to landscaping, boundary treatment, refuse storage and removal of Part 2 Permitted Development rights would be possible help to mitigate against any harm. Notwithstanding this, it is acknowledged that the proposal would result in some visual harm at the site, even if landscaping can acceptably address the effects in terms of the wider landscape. After all, the proposal introduces the siting of caravans on open grassland and therefore any harm would be contrary to Policy DM1 of the Local Plan, but with the proposed mitigation, the harm is considered to be outweighed by other material considerations such as the need for the proposal, which is to be afforded considerable weight and can allow for this exception. Subject to the use of the aforementioned conditions, the proposal is considered to be acceptable having regard to Policy DM1 of the Local Plan and the guidance contained in the PPTS.

## **3) Amenity**

Policy DM1 of the Mid Devon Local Plan 2013-2033 states that development proposals should not result in unacceptable impacts on the privacy and amenities of those occupying existing or proposed dwellings. Objectors have raised concerns about potential noise and other disturbance as a result of the proposal.

The Council’s Public Health team have raised no objections to the proposal in terms of noise, contamination, or air quality impacts. The proposal is not located in close proximity

to any neighbouring occupiers and given the nature of the proposed use, along with its siting, scale, and design, it is considered that it would not result in unacceptable harm to the amenities of neighbours, in terms of disturbance, their outlook, privacy, or access to light. In this respect, the proposal is in accordance with Policy DM1 of the Local Plan. A condition is recommended to secure details of the proposal's refuse and recycling storage arrangements.

#### **4) Access Arrangements**

Policy DM1 of the Local Plan states that new development should be safe and accessible. Policy DM5 of the Local Plan states that sufficient vehicle parking and bicycle storage must be provided. Objectors have raised concerns about the safety of the site access and the ability of the public highway to accommodate the proposal in this location.

As part of the previous application, following a traffic speed survey along this lane and amendments to the submitted scheme, the Highway Authority removed its objection to the proposal, being satisfied that adequate visibility splays can be achieved onto the public highway from the site's access/egress point. The proposal would involve the partial removal of an existing hedgerow, running along the site's southern boundary, but this would be replaced further into the site, and following the line of the required splays. The proposal would give rise to a very small number of vehicle movements and there is adequate space within the site, on an existing area of permeable hardstanding, for the parking and manoeuvring of vehicles. Conditions are recommended to secure the required visibility splays and replacement hedge planting; to ensure the provision of the proposed parking and manoeuvring area; and to achieve an acceptable area of drained surface at the site access.

Subject to the use of these conditions, in terms of its access and parking arrangements, the proposal is considered to be in accordance with Policies DM1 and DM5 of the Local Plan.

#### **5) Drainage Arrangements**

Policy DM4 of the Local Plan states that development will be permitted where the effects of pollution would not have unacceptable impacts in relation to health, the natural environment, and general amenity. The initial proposals were for a compost toilet and a reed-bed system to deal with grey water.

Objectors raised concerns about the proposed grey water, surface water, and foul drainage arrangements and their ability to properly serve the development. There were also concerns about potential run-off and pollution in relation to neighbouring land and watercourses. As a result the proposals have been amended removing the reed-bed drainage system and the compost toilet, with a new low powered Vortex treatment plant proposed which has been outlined as being suitable for use off grid and a conventional drainage field.

The Public Health Officer has noted that this is preferable to the original reed-bed drainage system although the latest comments received from the Public Health Officer noted that percolation tests should be undertaken to confirm this system is appropriate. In

the meantime the applicant has outlined that it would be installed according to manufacturer's specification and UK Government Building Regs 2010 H document with maintenance undertaken by a British Water Approved engineer and in accordance with The British Water Code of Practice.

It is noted that the application site is not in a Water Source Protection zone or a Flood Zone with there being no residential properties adjacent to the application site with it being a sloping field. It is also considered that notwithstanding the outcome of percolation testing, alternative drainage systems would be available. Therefore subject to the use of a condition to secure these arrangements, the proposal is considered to be acceptable and in accordance with Policy DM1 of the Local Plan.

## **6) Nature Conservation**

Policy S14 of the Mid Devon Local Plan states that the biodiversity of the countryside will be enhanced. Objectors have raised concerns about the proposal's potential impact on wildlife. The submitted ecological assessment concludes that the proposal would not result in unacceptable harm to protected species or biodiversity in general subject to the use of mitigation and enhancement measures. Should planning permission be granted, it is recommended that a condition be imposed to secure the recommended measures, including the installation and subsequent retention of dormice nest boxes, and the replacement of the hedgerow which would be removed as part of the access visibility works. A scheme of external lighting should also be employed to prevent spill lighting beyond the site boundaries to the greatest extent possible. An informative is also recommended to draw the applicant's attention to their legal obligations in relation to protected species.

Subject to the use of the aforementioned condition to secure these arrangements, it is considered that there would not be unacceptable harm in relation to biodiversity, and the proposal is in accordance with Policy S14 of the Local Plan.

## **7) Other Considerations**

Objectors have questioned the necessity of having two touring caravans at the site. According to the submitted information and representations received from supporters of the proposal, the applicant does travel for work to festivals and other events, and a touring caravan is considered necessary for the applicant's travelling lifestyle. Officers consider this to be a reasonable requirement given the traveller status of the applicant. With regard to there being two touring caravans, the applicant has outlined that it is entirely normal for teenagers to have their own touring caravan to sleep in on Traveller sites and that it should be noted that there will not be running water facilities within the touring caravans.

Objectors also raised concerns about the proposal's connection to utilities, such as running water and electricity. As referred to earlier within the report, the applicant has stated that there is mains water running adjacent to the site which can be connected to and power will be provided from small portable solar panels, providing power.

Objectors have also referred to the previous refusal of an application for a stable and tack-room at the site. That decision was made over twenty years ago and there have been various changes in the planning policy context since that time. In any case, planning applications must be determined on their own merits. In this case, it is considered that the proposal would result in some visual harm in relation to the site area, but with various mitigation measures to be secured using planning conditions, the harm to the character of the area is considered to be limited and, in any case, outweighed by other material considerations.

## **8) Conclusion**

The proposal is considered to be acceptable, having regard to the Local Plan and all other material considerations, subject to the use of the conditions outlined below. It will however be up to Members to consider whether they agree with the officer recommendation to approve the development or would wish to refuse in line with the reason for refusal given on the previous decision.

## **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 allows for the provision of 1 pitch only involving the siting of 1 static caravan, 2 touring caravans and associated works for the use of a gypsy and traveller family. Occupiers of this site will need to comply with the definition of a gypsy or traveller, being persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
4. No more than 3 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, as amended (of which no more than 1 shall be a static caravan) shall be stationed on the site at any time. Any caravans positioned on the site shall be capable of being lawfully moved on the public highway.
5. On the family traveller pitch becoming redundant for such purposes, within a period of 3 months, all caravans, buildings, structures, materials and equipment brought on to the land, or works undertaken to it in connection with the use shall be removed and the land restored to its condition before the development took place.
6. Prior to the first use of the static caravan hereby approved, notwithstanding the information submitted, a scheme of hard and soft landscaping, including specimens to be retained, shall be submitted to and approved in writing by the Local Planning Authority.

The proposed planting scheme shall follow the recommendations of the submitted ecology appraisal (Andrew McCarthy Ecology, dated January 2020).

All planting, seeding and turfing comprised within the approved scheme, including the proposed new bank depicted on the approved plans, shall be carried out in the first planting season following the commencement of development and any trees or plants, including existing specimens to be retained, which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species. The approved hard landscaping shall be provided within four weeks of the development being brought into use, and shall be retained for the life of the development.

7. The development hereby approved shall not be brought into use until the surface water drainage arrangements, including the package treatment plant shown on the approved plans, have been provided in full. The approved measures shall thereafter be retained for the life of the development.

8. Prior to the first use of the static caravan hereby approved, the on-site parking and manoeuvring area shall be provided in full and thereafter retained for the life of the development.

9. The development shall be undertaken in full accordance with the recommendations contained in the submitted ecological appraisal (Andrew McCarthy Ecology, dated January 2020).

10. Prior to the first occupation of the static caravan hereby approved, dormouse nest boxes shall be installed in accordance with details which shall previously have been submitted to and approved in writing by the Local Planning Authority, and shall thereafter be retained for the life of the development.

11. All external lighting at the site shall be installed in full accordance with a scheme which shall previously have been submitted to and approved in writing by the Local Planning Authority. External lighting at the site shall be kept to a minimum and shall be designed to prevent overspill lighting beyond the site's boundaries, particularly in relation to the hedgerow running alongside the site's southern boundary.

12. All new fencing at the site shall be installed in accordance with a scheme which shall previously have been submitted to and approved in writing by the Local Planning Authority, and shall thereafter be retained as such.

13. Notwithstanding the provisions of Schedule 1, Part 2, Classes A and B, of the Town and Country Planning (General Permitted Development) Order, 2015 (as amended) no new means of enclosure or access points shall be created at the site.

14. The access construction shall be a hard surface in a bound material and drainage shall be provided to prevent surface water discharge on to the highway. Visibility splays

shall be provided, laid out and maintained for that purpose at the site access where the visibility splays provide inter visibility between any points on the X and Y axes at a height of 0.60 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.40 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 55 metres in both directions. For the avoidance of doubt, to the right on exiting access the splay should be measured to the nearside carriageway edge and to the left it should be measured to Centre line of the carriageway.

15. Notwithstanding the details as submitted with the application, detail plans shall be submitted to and approved in writing by the Local Planning Authority to identify refuse and recycling storage facilities on site. No caravan shall be first occupied until final details of the refuse and recycling storage have been approved and provided on site in accordance with the approved details. Once provided, the bin stores shall be permanently retained for such purposes.

16. The use hereby permitted shall be carried on only by the applicant Ms A Tyrer, and any children of the aforesaid, or other person as agreed in writing by the Local Planning Authority, and shall be for a limited period being the period during which the premises are occupied by one or other of the above mentioned people, as bonafide Travellers.

## **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. For the avoidance of doubt and to outline the special circumstances for this development within a countryside location in line with Policy S14 of the Mid Devon Local Plan 2013-2033.
4. In order to protect the character, appearance and general amenity of the area of countryside in accordance with Policy S14 of the Mid Devon Local Plan 2013 – 2033.
5. In order to protect the character, appearance and general amenity of the area of countryside in accordance with Policy S14 of the Mid Devon Local Plan 2013 – 2033.
6. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with Policy DM1 of the Mid Devon Local Plan 2013 – 2033.
7. In the interests of sustainable drainage and to prevent water pollution and in accordance with Policy DM1 of the Mid Devon Local Plan 2013 – 2033.
8. In the interests of highway safety and amenity and in accordance with Policies DM1 and DM5 of the Mid Devon Local Plan 2013 – 2033.

9. In the interests of nature conservation and in accordance with the guidance contained in the National Planning Policy Framework.

10. In the interests of nature conservation and in accordance with the guidance contained in the National Planning Policy Framework.

11. In the interests of nature conservation and to prevent unacceptable levels of light pollution, in accordance with Policy DM4 of the Mid Devon Local Plan 2013 – 2033.

12. In order to protect the character, appearance and general amenity of the area of countryside in accordance with Policy S14 of the Mid Devon Local Plan 2013 – 2033.

13. To safeguard the visual amenities of the area in accordance with Policy DM1 of the Mid Devon Local Plan 2013 – 2033.

14. In the interest of highway safety and in order to provide adequate visibility from and of emerging vehicles.

15. To ensure adequate facilities are provided for bin and recycling storage and to protect the character and appearance of the area in accordance with Policy DM1 of the Mid Devon Local Plan 2013-2033.

16. To maintain adequate control over the use of the site and ensure that the special circumstances which justified the approval, i.e. their status as Travellers, is perpetuated in relation to any potential future occupants.

## **INFORMATIVES**

### **1. Protected Species**

All bats are protected by law. If bats are found, works must immediately cease and further advice be obtained from Natural England and / or a licensed bat consultant. Works must not resume until their advice has been followed. Nesting birds are also protected by law. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds and reptiles all of which are protected under the Wildlife & Countryside Act 1981 (as amended). Where works are to involve cutting or clearance of shrubs, hedges or other vegetation, which can form nesting sites for birds, such operations should be carried out at a time other than in the bird breeding season (which lasts between 1 March - 15 September inclusive in any year). Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.

## **REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT**

The change of use of agricultural land to allow 1 pitch for the siting of 1 static caravan, 2 touring caravans and associated works for the use of gypsy and traveller family, is considered to be acceptable in this instance, being supportable in policy terms. It is not

considered that the proposed development would result in significant harm to the character and appearance of the rural area subject to the imposition of planning conditions or detrimentally impact amenity to any neighbouring property. The proposed development is not likely to result in any significant adverse highway impacts. On this basis the proposal is supported in accordance with Policies S9, S14, DM1, DM5 and DM7 of the Mid Devon Local Plan 2013 – 2033 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. 21/01086/HOUSE

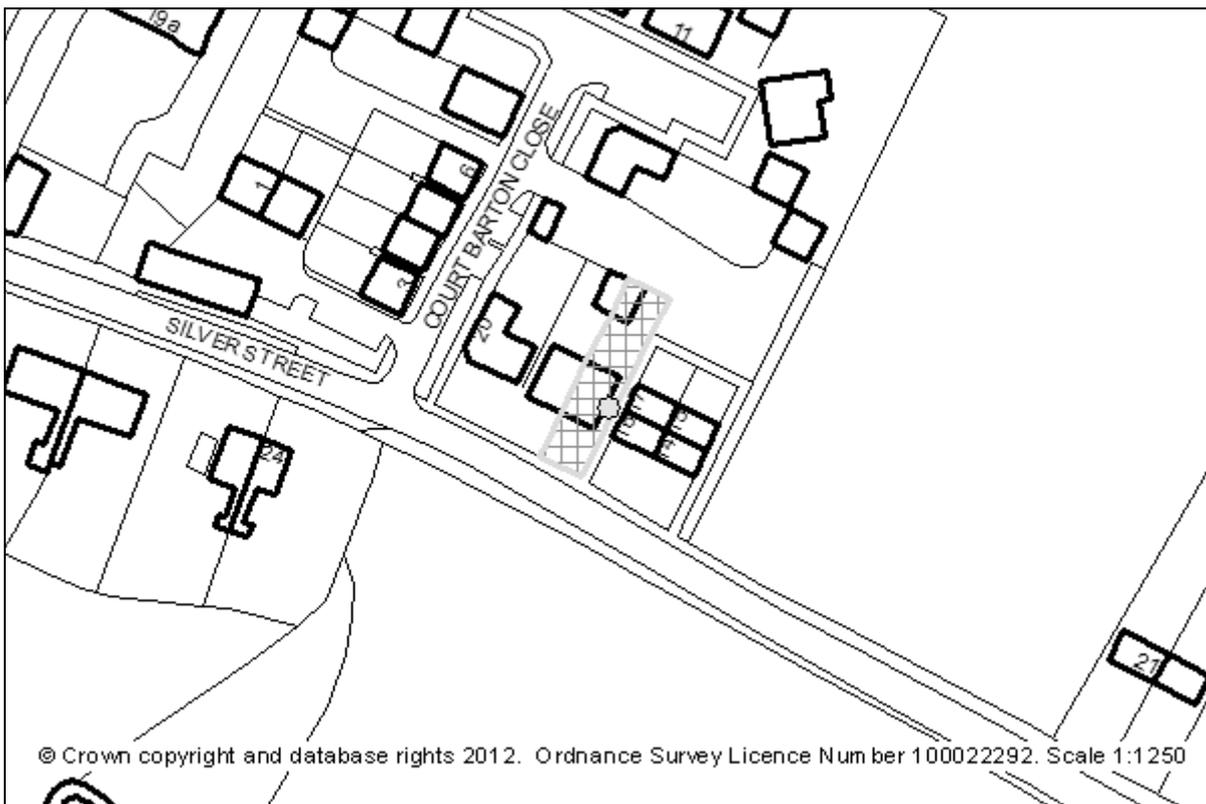
Grid Ref: 292927 : 101942

Applicant: Mr Robert Deed

Location: Bluebell House  
18 Court Barton Close  
Thorverton  
Exeter

Proposal: Erection of side porch

Date Valid: 26th May 2021



## **APPLICATION NO: 21/01086/HOUSE**

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

The applicant seeks planning permission for the erection of side porch at Bluebell House, 18 Court Barton Close, Thorverton

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

Site Location Plan;  
Block Plan A100  
Proposed Plan A102  
Existing Plan A101

### **RELEVANT PLANNING HISTORY**

14/00528/SCR - CLOSED date 2nd May 2014

Request for screening opinion in respect of demolition of agricultural buildings; redevelopment to form 20 dwellings (50% affordable), conversion of existing single storey building; formation of access and drainage infrastructure works

14/00537/MFUL - PERMIT date 6th October 2014 Demolition of agricultural buildings; redevelopment to form 20 dwellings (50% affordable), conversion of existing single storey building; formation of access and drainage infrastructure works

14/00537/MFUL/NMA - PERMIT date 25th November 2016 Demolition of agricultural buildings; redevelopment to form 20 dwellings (50% affordable), conversion of existing single storey building; formation of access and drainage infrastructure works - Non-Material Amendment for the substitution of previously approved plans

17/01541/PNHH - PDA date 31st October 2017

Prior Notification for the erection of an extension, extending to 4m to the rear, maximum height of 3.70m, eaves height of 2.70m

### **DEVELOPMENT PLAN POLICIES**

Mid Devon Local Plan 2013 – 2033

Policy S1 - Sustainable development priorities

Policy S9 – Environment

Policy S13 – Villages

Policy DM1 - High quality design

Policy DM11 - Residential extensions and ancillary development

National Planning Policy Framework

National Planning Practice Guidance

## **CONSULTATIONS**

County Highway Authority – recommends the use of standing advice is used to assess the impacts on the highway.

## **REPRESENTATIONS**

1 letter of objection is reporting which identifies the following material planning considerations:

- Impact of porch on day lighting.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main issues in the determination of this application are:

Policy S1 Sustainable development priorities, under section (g) of the Mid Devon Local Plan recognises the importance of delivering a wide choice of quality homes through a diverse mix of housing. This is an existing dwelling house and the extension of it to provide a porch will help create a wide choice of quality homes. As a result the principle of a residential extension can be supported in principle through Policy S1 of the Mid Devon Local Plan.

Furthermore Policy S13 Villages of the Mid Devon Local Plan recognises Thorverton as a rural settlement suitable for limited development. As a result it is considered that a small domestic extension is again supported through this policy.

In terms of the specifics of this development Policy DM11 Residential extensions and ancillary development of the Mid Devon Local Plan is the key policy to consider in relation to this application. This policy identifies:

Extensions to existing dwellings and other ancillary development will be permitted provided that they:

- a) Respect the character, scale, setting and design of 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.

This application is for a small domestic porch which will replace an existing canopy of the existing entrance. The site is located outside of the Thorverton Conservation Area. The form of the porch has been well designed to relate well to the form of the original dwelling. The proportions relate well to the architectural form of the existing dwelling and the use of matching materials include a slate roof and rendered walls will ensure that this development is assimilated into the form of the original dwelling.

The scale of the porch is appropriate for the form of the dwelling and its curtilage.

In terms of impact on amenity, one letter of objection has been received from an adjacent neighbour who is concerned about light. Whilst the porch is located on the party boundary there is already an existing canopy and the buildings are separated by a path. Whilst the porch will have an impact on amenity it is separated by a path and the scale of the porch is relatively small in relation to the outlook from the neighbour. As such it is not considered that this development will not have a significantly adverse impact on the living conditions of the occupants of neighbouring properties.

### Highways

As this is an existing entrance for pedestrians this development will not impact on highway safety or on the current parking provision for the property.

### **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.

### **REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT**

The application for the erection of a porch is considered acceptable in policy terms. This modest extension is considered to respect the character, scale, setting and design of the existing property and has been designed to minimise its impact upon the external appearance of the dwelling. It is not considered that the proposal will result in an overdevelopment of the site or have any significant adverse impact upon the living conditions of occupiers of neighbouring property. In the absence of any identified harm, it is considered reasonable to grant planning permission for the development in accordance with policies DM1 and DM11 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.

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.