

Application No. 22/00687/HOUSE

Grid Ref: 313674 : 113186

Applicant: Mr K Philips

Location: Old Parsonage Cottage  
High Street  
Hemyock  
Cullompton

Proposal: Retention of building for use as additional living accommodation

Date Valid: 6th April 2022



**APPLICATION NO: 22/00687/HOUSE**

**Site Visit: Yes    Date of Site Visit: 12<sup>th</sup> May 2022**

**Decision Delayed Reason: EOT agreed to allow to go before committee.**

**MEMBER CALL-IN**

Cllr Simon Clist called the application in to discuss:

- Whether the building respects the character, scale, setting and design of the existing dwelling,
- Whether it is an over-development of property curtilage
- Is there significant adverse impacts on the living conditions of neighbouring occupants?
- Is the design and location acceptable?

**RECOMMENDATION**

Grant permission subject to conditions

**PROPOSED DEVELOPMENT**

The proposal is for the retention of building for use as additional living accommodation at Old Parsonage Cottage, Hemyock. The site is within the Hemyock settlement limit, just off of High Street. The cottage is detached and set back from the main street, it is also located in the Blackdown Hills AONB. The site is not within a flood risk area.

**APPLICANT'S SUPPORTING INFORMATION**

Plans including site location plan.

**RELEVANT PLANNING HISTORY**

None.

**DEVELOPMENT PLAN POLICIES**

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

Policy S1 (Sustainable Development)

Policy S13 (Villages)

Policy DM1 (High Quality Design)

Policy DM5 (Parking)

Policy DM11 (Residential Development)

## **CONSULTATIONS**

### **Hemyock Parish Council, 6<sup>th</sup> June 2022:**

The parish council is not content with the application. This building has been erected without planning permission and exceeds the height and area allowable under permitted development. It has concerns with regard to the surface water discharging onto a neighbour's land and also concurs with the comments made by both the neighbouring properties. The parish council is concerned with the increasing number of retrospective planning applications in the parish and believes there should be a penalty - possibly higher fees than a normal planning application to discourage this.

### **Highway Authority, 12<sup>th</sup> April 2022:**

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

### **Environment Agency:**

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

## **REPRESENTATIONS**

The application was advertised by means of site notice and by neighbour notification. The application was also advertised in the local paper.

A total of 9 letters of objection have been received at the time of writing this report. These are from 3 separate households with the bulk of the objections coming from the occupants of Old Parsonage who have commented at different stages of the application process. They provided a clear letter of objection on the 30<sup>th</sup> of June 2022 to capture all of their concerns in one clear document. The concerns raised across the letters of objection have been summarised here:

- The retrospective nature of the application
- Lack of building regulations for the structure
- The intended use of the building
- Impact on neighbourhood amenity
- Parking concerns
- Fire risk concerns
- Impact of lighting
- Impact on services – water, drainage etc.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

- 1. Policy, procedure and principle of development**
- 2. Design and neighbourhood amenity**
- 3. Impact on AONB**
- 4. Ecology**
- 5. Parking**
- 6. Flooding**
- 7. Use of the building**
- 8. Other matters**
- 9. Conclusion**

### **1. Policy, procedure and principle of development**

This retrospective application has come about from an enforcement complaint. The building is proposed to be used as an annexe for the applicant's son and therefore does not qualify as being an outbuilding that can be achieved via Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). In any case, the building would be 0.2m too tall to fall within this permitted development criteria.

The site is in the Hemyock settlement boundary so policy S13 (villages) applies which permits appropriately scaled residential development such as extensions, outbuildings and annexes. More specifically, DM11 sets out the requirements of residential development which are assessed in full in Section 2 of this report. The site also falls within the Blackdown Hills Area of Outstanding Natural Beauty so Policy DM27 applies which is discussed in Section 3 of this report.

### **2. Design and Neighbourhood Amenity**

DM11 of the Mid Devon Local Plan deals with residential extensions and other ancillary development, more specifically it supports this development subject to the following criteria:

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

A summary assessment against these criteria is set out below:

- a) The building is located in the rear garden area and measures approximately 4m

X 5m, it compromises a mono-pitched roof design, measuring approximately 2.7m to its highest point. There is a high level window on the southern (side) elevation but the main windows and doors are on the western (front) elevation. If it was not to be proposed for annexe/living accommodation, then an outbuilding that is just 0.2m shorter could be achieved in this location under the permitted development legislation as cited above. The building is timber clad and has a high quality appearance, allowing it to sit comfortably in the location. Given the natural materials, modest scale and high quality finishes, the building is considered to respect the character, scale, setting and design of the existing dwelling.

- b) The property benefits from a reasonable garden area and the reasonably modest outbuilding does not significantly detract from this. There is ample space remaining for the enjoyment of current and future occupiers and as such there are no concerns relating to over-development of property curtilage.
- c) The key consideration in the determination of this application is whether the building is significantly, adversely impacting the living conditions of neighbouring properties. Firstly, in terms of overshadowing and overbearing impacts, the modest 2.7m height of the building is considered to prevent any significant loss of light or overbearing impacts. The current fence between Old Parsonage Cottage and Old Parsonage is falling down and low in height. Permitted development allows a 2m high fence to be achieved which has been included on the latest plans and can be secured by way of condition. This screening combined with the modest height of the building is considered to suitably prevent any overbearing impacts. Similarly, any overlooking from the annexe into the neighbouring garden would be well restricted with anybody inside the building having to look over a 2m high fence to see into the neighbouring dwelling. There may be some viewpoints where the neighbouring garden can be spotted but this is considered likely to be a rare occurrence and fairly typical of neighbourly relationships in defined towns and villages such as Hemyock. There is also a high level window on the south elevation but given the position of the window and separation distance between the building and southern neighbouring dwelling, currently known as Waterside, there are no concerns regarding this. The comments relating to noise have also been carefully considered but ultimately it is not expected that an annexe for one individual will produce enough noise to warrant refusal of the planning application on amenity grounds and in any case, there is public health legislation which could be enforced should the neighbours have significant noise complaints on any particular occasion. Overall, there are not considered to be any significant adverse impacts on the amenity of residents of nearby properties.

### **3. Impact on the AONB**

Given the site's position in the AONB, Policy DM27 must be considered. DM27 states that proposals affecting the Blackdown Hills Area of Outstanding Natural Beauty, Dartmoor National Park, Exmoor National Park and the North Devon Biosphere

Reserve must demonstrate that:

- a) Cultural heritage and the character, appearance, setting and other special qualities of the landscape will be conserved or, where possible, enhanced; and
- b) Biodiversity will be conserved and enhanced where possible through improved linking of habitats, appropriate landscaping and habitat creation.

As set out above, the building is modest in terms of its scale and is finished with high quality materials. It sits comfortably within the garden area and is well screened from more distant vantage points. The erection of the outbuilding, many of which can be achieved via permitted development is not expected to significantly impact the biodiversity of the AONB and overall the building is considered compliant with DM27.

#### **4. Ecology**

As set out above, biodiversity is not expected to be impacted upon as a result of the erection of an outbuilding, particularly given the scale of the building itself. The wildlife trigger list indicates that an ecological impact appraisal is not required for this development, however, the comments regarding lighting have been considered. Whilst the Council cannot control internal lighting which could be achieved via Class E permitted development buildings in any case, a condition has been added to prevent any external lighting to ensure ecology and biodiversity are protected as much as possible.

#### **5. Parking**

The comments relating to parking have also been considered. DM5 of the Local Plan required two parking space per residential development. This proposal is for annexe accommodation linked to the main house and therefore the requirement for parking is not increased. The existing parking area is not impacted upon and as such, the application is policy compliant.

#### **6. Flooding and drainage**

The comments from neighbours and the Parish Council in relation to flood risk have been noted. The site is not within a flood risk area and a building with the same roof area could be achieved via permitted development very comfortably. There are therefore no concerns regarding any potential increased surface water run-off. Should water be re-directed into neighbour's land then this would be a civil matter. Similarly, it is understood that the properties in the area share water and drainage piping and there is some concern about the legality of using these pipes for the additional annexe, however, this is also a civil matter as opposed to a material planning consideration in this instance.

#### **7. Use of the building**

The proposal is for annexe accommodation for the applicant's son. Further information regarding the need for this has been shown to the case officer but the applicants have

requested that it is not within the public domain. The objections relating to the use of the building are noted but the case officer is satisfied that the proposal is indeed for annexe accommodation and that there is a link to the main house in terms of amenities. In any case, a condition is proposed to limit the building to annexe use, any separate self-contained use would require planning consent, as would any proposal for other sorts of accommodation or indecently selling or letting the building.

## **8. Other matters**

Concern has been raised by both objectors and the Parish Council about the retrospective nature of the application. Whilst it is preferable for applications to be submitted before the erection of structures, the application still needs to be assessed on its planning merits as has been done throughout this report. The LPA are not able to penalise applicants for a retrospective application and application fees are set by central government. It is noted that Building Control checks may not have been carried out and applicants are reminded of their responsibilities with this. Finally, the concerns surrounding fire safety are also noted but these also come under building control regulations and there is no planning reason to refuse the scheme in terms of fire safety.

## **9. Conclusions**

Overall, the proposal is for annexe accommodation for the applicant's son. This is permissible under policies S13 and DM1 of the Local Plan and the principle of development has been established. The appearance and design of the building is considered appropriate for the AONB. Notwithstanding the concerns raised in terms of amenity, the modest scale and proposed screening are considered to negate this and on balance, any adverse impacts are not considered significant enough to warrant refusal of the application. Consideration has also been given to the other material considerations raised such as ecology and flood risk but with appropriate conditions the scheme is considered acceptable.

## **CONDITIONS**

1. The development hereby permitted shall be taken to have begun on the 6<sup>th</sup> of April 2022, the date the application was validated by the Local Planning Authority.
2. The development hereby permitted shall be in accordance with the approved plans listed in the schedule on the decision notice.
3. The fencing hereby approved, as shown on the approved plans, shall be implemented within 3 months of the date of this permission and shall be so retained.
4. There shall be no external lighting installed on the building hereby approved without the deemed written consent of the Local Planning Authority.
5. The accommodation hereby approved shall be used as ancillary accommodation to the existing dwelling on the site (currently known as Old Parsonage Cottage)

and no part shall be used, let or otherwise disposed of as a separate unit of accommodation.

## **REASONS FOR CONDITIONS**

1. In accordance with provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt in the interests of proper planning.
3. In the interests of neighbourhood amenity in accordance with DM1 and DM11 of the Mid Devon Local Plan (2012-2033).
4. To safeguard statutorily protected species in accordance with the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010).
5. The application has been submitted and determined on the basis of ancillary accommodation and it is necessary to restrict the occupation of the accommodation to protect the amenity of the neighbouring occupiers and because the establishment of a new dwelling in this location would require a full assessment against the Mid Devon Local Plan (2013-2033).

## **INFORMATIVES**

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.

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.

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.

## **REASON FOR APPROVAL**

The application for the retention of building for use as additional living accommodation at Old Parsonage Cottage, Hemyock is considered acceptable as a matter of policy. The overall scale and design of the annexe accommodation is considered acceptable and there would be no adverse impacts on the property curtilage, parking provision or Blackdown Hills AONB. There would be no significant adverse impacts on the amenity of residents of neighbouring properties. As such, the scheme complies with policies S1,

S13, DM1, DM5, DM11 and DM27 of the Mid Devon Local Plan (2013-2033) and guidance in the National Planning Policy Framework.