

PLANNING COMMITTEE AGENDA - 9th October 2024

Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	24/01252/FULL - Enlargement of window and door openings to the front elevation, replacement of 1 window on the East and South elevations; erection of bike store and pergola and installation of flue at Former Drop In Centre, Newport Street, Tiverton . RECOMMENDATION Grant permission subject to conditions.
02.	24/00557/FULL - Change of use of agricultural building to Use Class B2 (General Industrial) at Venn View Barn, Sampford Peverell, Tiverton. RECOMMENDATION Grant permission subject to conditions.
03.	24/00746/FULL - Conversion of former animal rescue centre to 8 dwellings at Chilton Gate Kennels, Bickleigh, Tiverton. RECOMMENDATION Refuse permission.

Application No. 24/01252/FULL

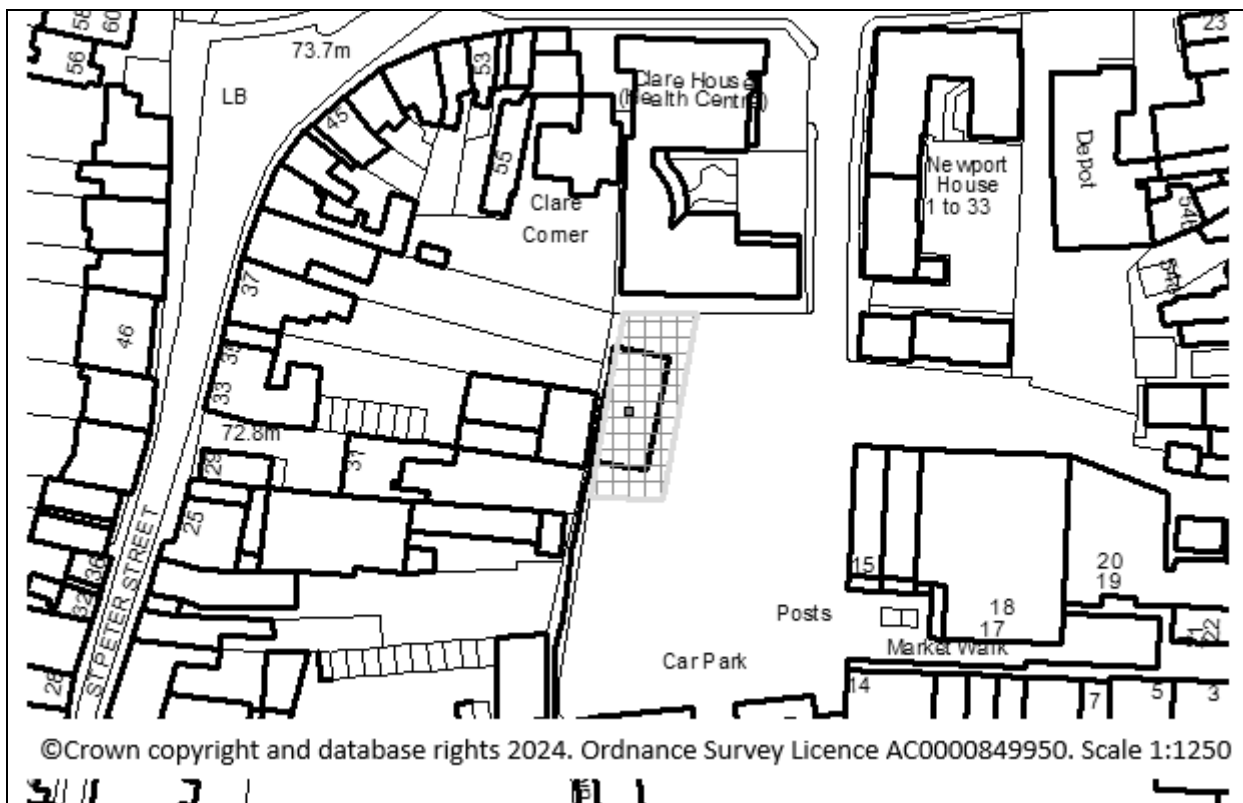
Grid Ref: 295480: 112723

Applicant: Mrs Claire Parker, Mid Devon District Council

Location: Former Drop In Centre
Newport Street
Tiverton
EX16 6BL

Proposal: Enlargement of window and door openings to the front elevation, replacement of 1 window on the East and South elevations; erection of bike store and pergola and installation of flue

Date Valid: 30th August 2024



APPLICATION NO: 24/01252/FULL

Site Visit: Yes

Date of Site Visit: 17th September 2024

MEMBER CALL-IN

No - the application is to be determined by the Planning Committee because Mid Devon District Council are the applicants.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

The proposed development is for the enlargement of window and door openings to the front elevation, replacement of 1 window on the East and South elevations; erection of bike store and pergola and installation of flue at Former Drop In Centre, Newport Street, Tiverton.

The site is in the Tiverton settlement limit and Conservation Area although the building itself is not listed. Change of use of the building to offices was approved under planning application reference 24/00814/FULL whilst this application seeks permission for the physical alterations to window and door openings, erection of a bike store, pergola and installation of a flue.

APPLICANT'S SUPPORTING INFORMATION

Design and access statement, site location plan, BNG statement, existing and proposed plans.

RELEVANT PLANNING HISTORY

89/00738/FULL - PERMIT date 12th July 1990 Erection of shopping centre comprising shop units public toilets, surface car parking, public house and refurbishment of existing Market Hall

93/01098/FULL - PERMIT date 15th October 1993 Partial demolition of former dairy shed to form a bund wall to contain recycling skips

93/01099/CAC - PERMIT date 12th October 1993 Conservation Area Consent for the partial demolition to form a bund wall to contain recycling skips

94/01909/FULL - PERMIT date 17th January 1995 Change of use and alteration of existing building to form Youth Centre

98/00126/FULL - PERMIT date 21st May 1998 Renewal, on a permanent basis, of existing temporary consent 4/52/94/1909 for the use of building as a Youth Centre and retention of associated alterations to the building

01/00640/FULL - PERMIT date 29th May 2001 External alterations to install fire door and insert two windows

03/00589/FULL - PERMIT date 3rd June 2004 Environmental enhancement scheme for the erection of new market buildings, alterations to existing market buildings, re-roofing of youth centre, rebuilding of western boundary wall, alterations to footpath, car park and landscaping

24/00814/FULL - PERCON date 1st August 2024 Change of use from F2 (community use) to Eg(i) Offices to include creation of outside seating area

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013 – 2033

S1 Sustainable development

S10 Tiverton

DM1 High quality design

DM5 Parking

DM25 Development affecting heritage assets

Tiverton Neighbourhood Plan 2020 to 2033

T4 Character of development

T5 Design of development

CONSULTATIONS

Environment Agency:

Operational development less than 1ha within Flood Zone 1 - No consultation required - see surface water management good practice advice - see standard comment.

Highway Authority, 2nd August 2024:

Standing advice.

Tiverton Town Council, 3rd September 2024:

Support

Public Health, 24th September 2024:

We have considered the application and do not anticipate any environmental health concerns.

South West Water, 4th September 2024:

Surface Water Services

The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):

1. Water re-use (smart water butts, rainwater harvesting, grey flushing toilets)
2. Discharge into the ground (infiltration); or where not reasonably practicable,
3. Discharge to a surface waterbody; or where not reasonably practicable,
4. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
5. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

Having reviewed the applicant's current information as to proposed surface water disposal for its development (domestic roof and driveway run off only). Please note that discharging to the public combined sewerage network is not an acceptable proposed method of disposal, in the absence of clear evidence to demonstrate why the preferred methods listed within the Run-off Destination Hierarchy have been discounted by the applicant.

For Highway run off please contact the Highway Authority to agree disposal method.

I trust this provides confirmation of our requirements, however should you have any questions or queries, please contact the Planning Team on 01392 442836 or via email: DeveloperServicesPlanning@southwestwater.co.uk.

Conservation Officer:

No formal written comments, verbal discussions only:

Confirmed no objection – change of use was already approved and the physical alterations will bring life and vitality back to a tiring building.

REPRESENTATIONS

This planning application has been advertised by means of a site notice erected by an officer, by notifying immediately adjoining neighbours in writing and by advertising in a local newspaper in accordance with the legal requirements for publicity on planning applications, and the Council's Adopted Statement of Community Involvement July 2020.

The following properties were written to:

Mrs Gills 9 Market Walk Tiverton Devon EX16 6BL
Exe Valley Catering Ltd 8 Market Walk Tiverton Devon EX16 6BL
LLoydsPharmacy 12 - 14 Market Walk Tiverton Devon EX16 6BL
15 Market Walk Tiverton Devon EX16 6BL
Sue Ryder 16 Market Walk Tiverton Devon EX16 6BL
17 Market Walk Tiverton Devon EX16 6BL
Cafe Licious 11 Market Walk Tiverton Devon EX16 6BL
Sorriso 10 Market Walk Tiverton Devon EX16 6BL
PEACOCKS 18 - 20 Market Walk Tiverton Devon EX16 6BL
Head Kandi 7 Market Walk Tiverton Devon EX16 6BL
Audio Destination Ltd 7A Market Walk Tiverton Devon EX16 6BL
Post Office 5 - 6 Market Walk Tiverton Devon EX16 6BL
Superdrug Clare House Newport Street Tiverton Devon EX16 6NJ
Clare House Practice Clare House Newport Street Tiverton Devon EX16 6NJ

No letters of representation have been received at the time of writing this report.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. Principle of development
2. Design and amenity
3. Impact on the Conservation Area
4. Highways and parking
5. Ecology and biodiversity
6. Flood risk and drainage
7. Planning balance

1. Principle of development

- 1.1. The use of the building as offices was previously approved under application reference 24/00814/FULL. This application seeks the enlargement of window and door openings to the front elevation, replacement of 1 window on the East and South elevations; erection of bike store and pergola and installation of flue. Policy S10 of the Local Plan refers to development in Tiverton and supports development that will allow the town to continue functioning as a medium sized market town in the District. As such, the principle of development is considered to be established subject to the design of the physical alterations complying with specific development management policies as discussed below.

2. Design and amenity

- 2.1. Policy DM1 of the Local Plan seeks to ensure high quality design by creating visually attractive places and avoiding adverse amenity impacts whilst T4 and T5 of the Tiverton Neighbourhood Plan also refer to design and seek to ensure development has a positive visual impact and responds and integrates to its surroundings.
- 2.2. The main visual difference to the building will be the alternative front door and windows, as well as the pergola extending from the principle eastern elevation. It is considered that the alterations on this elevation will add interest to the building and are sensitively handled. The pergola does not exceed the height of the main building so appears subservient to the host building whilst the use of materials across the scheme are generally sympathetic. The bike store is to be sited in the north eastern corner of the site and will also appear as an ancillary feature given its set back positing, final design details are secured by condition. Overall, it is considered that the proposed alterations will not detract from the appearance of the building and suitably in-keeping with the surrounding area in accordance with policies DM1, T4 and T5. Similarly, owing to the single storey nature of the proposals, distance from neighbouring properties and fact that replacement windows largely existing in existing openings, neighbourhood

amenity is also considered to be protected.

3. Impact on the Conservation Area

3.1. In coming to this decision the council must be mindful of the duty as set out in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area, and have given it importance and weight in the planning balance.

3.2. The site is within the Tiverton Conservation Area so Policy DM25 also applies which seeks to preserve and, where possible, enhance heritage assets and their settings. Whilst no formal written comments have been provided, the case officer has discussed the scheme with the Council's Conservation Officer who has verbally confirmed that they have no objection to the application. They stated that the physical alterations are suitably handled and given that the change of use has already been established, the physical works will give life and vitality to a tiring building within the Conservation Area. As such, it is not expected that the proposals will harm the Conservation Area in accordance with DM25 of the Local Plan.

4. Highways and parking

4.1. Given that the change of use has already been approved, it is not expected that the physical alterations proposed under this application will impact vehicle movements so the local highway network will be protected.

4.2. There was a minor loss of car parking as part of the previously approved application but there will be no further loss as a result of these scheme. A one way system in this area of the car park will no longer be able to be followed as result of the extensions but the applicant has confirmed that this has already been agreed with the Parking Services Department of the Council, with the arrows on the tarmac due to be removed. There is no planning policy reason for there to be a one way system in this area of car park and as such there are no concerns regarding this.

5. Ecology and biodiversity

5.1. A Wildlife Trigger List has been submitted to support the application which indicates that no Ecological Appraisal is required to be submitted. Similarly, given than less than 25sqm of priority habitat will be impacted as a result of the development, there is no requirement to demonstrate 10% Biodiversity Net Gain.

6. Flood risk and drainage

6.1. The site is within Flood Zone 1, which represents the lowest probability of sea and river flooding as per Environment Agency guidance. The development will

be on existing hardstanding so there are no concerns in relation to increase water run-off. South West Water raised concern about the method of drainage but it has since been confirmed by the applicant that it will be the same approach as the existing building so there is no objection to this. In any event, the disposal method is something to be agreed outside of the planning process with SWW in any event and is not considered to warrant refusal of planning permission in this case.

7. Planning balance

- 7.1. In summary, the principle of the change of use has already been established and the physical alterations are considered respectful to the host building and character of the area including the Conservation Area. There will be no ham to neighbourhood amenity, highways or car parking. As such, officers recommend approval.

REASON FOR APPROVAL

The proposed enlargement of window and door openings to the front elevation, replacement of 1 window on the East and South elevations; erection of bike store and pergola and installation of flue at Former Drop In Centre, Newport Street, Tiverton is considered acceptable in policy terms. The overall scale, design and appearance of the alterations are acceptable and will not harm the character of the Conservation Area, local highway network or car parking. As such, the development complies with policies S1, S10, DM1 and DM25 of the Mid Devon Local Plan (2013-2033), T4 and T5 of the Tiverton Neighbourhood Plan and guidance in the National Planning Policy Framework.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Details of secure cycle storage facilities shall be submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall not be occupied until the approved cycle storage has been provided in accordance with the approved details. Following their provision these facilities shall be maintained and retained for the lifetime of the development.

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. To promote sustainable travel and in the interests of highway safety, in accordance with policies DM3 and DM5 of the Mid Devon Local Plan 2013 and the aims and objectives of the National Planning Policy Framework.

BNG – Biodiversity Net Gain

Is BNG Required? No

Is BNG Offsite only N/A

Onsite only N/A

Offsite and Onsite N/A

Is a S106 agreement required? No

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be Mid Devon District Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply.

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
 - (i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or
 - (ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.
4. The permission which has been granted is for development which is exempt being:
 - 4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

- i) the application for planning permission was made before 2 April 2024;
 - ii) planning permission is granted which has effect before 2 April 2024; or
 - iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).
- 4.2 Development below the de minimis threshold, meaning development which:
- i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
 - ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).
- 4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A “householder application” means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.
- 4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).
- 4.5 Self and Custom Build Development, meaning development which:
- i) consists of no more than 9 dwellings;
 - ii) is carried out on a site which has an area no larger than 0.5 hectares; and
 - iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).
- 4.5 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

* “original planning permission means the permission to which the section 73 planning permission relates” means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permission

INFORMATIVES

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.

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.

Application No. 24/00557/FULL

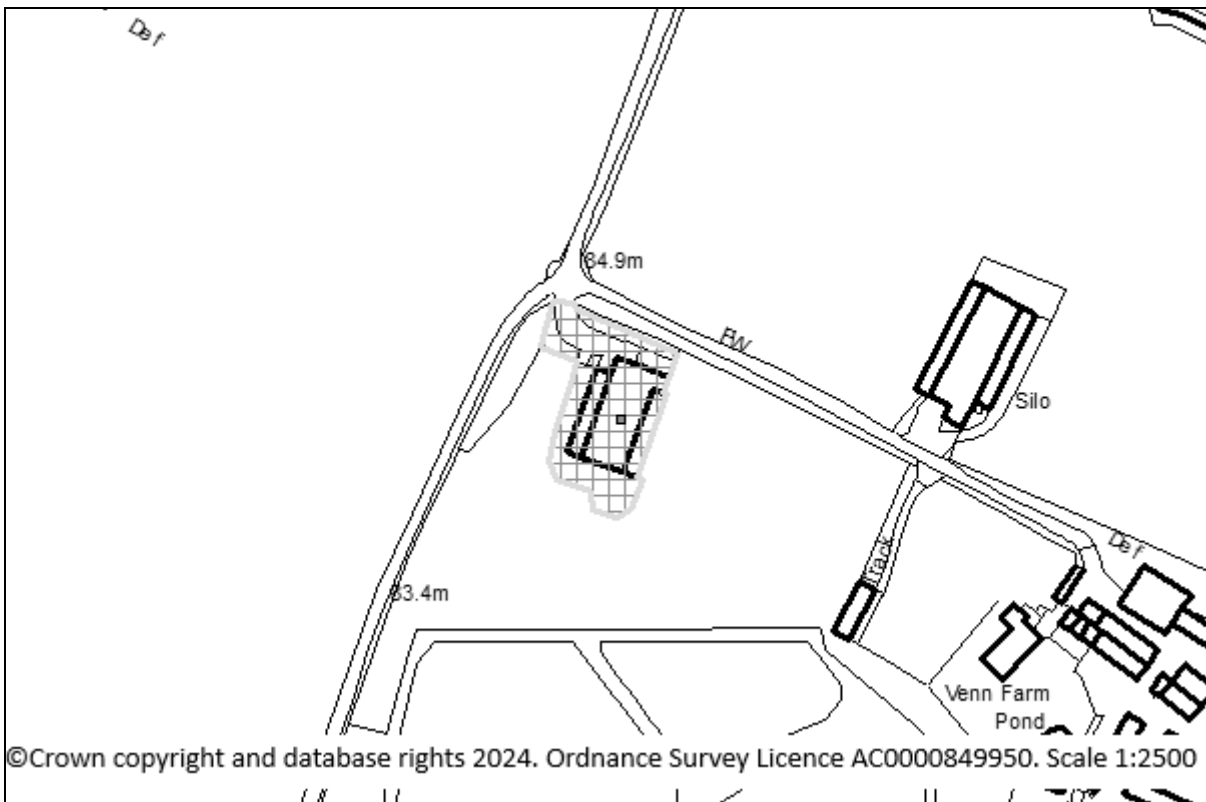
Grid Ref: 303331: 113503

Applicant: Mr L Persey

Location: Venn View Barn
Sampford Peverell
Tiverton
Devon

Proposal: Change of use of agricultural building to Use Class B2 (General Industrial)

Date Valid: 22nd April 2024



APPLICATION NO: 24/00557/FULL

Site Visit: Yes

Date of Site Visit: 22nd May 2024

Decision Delayed Reason:

Negotiations and for additional information to be submitted.

MEMBER CALL-IN

The application was called in by Cllr Gwen DuChesne on the 29th May 2024 to consider highways and amenity impacts.

RECOMMENDATION

Grant planning permission subject to conditions.

PROPOSED DEVELOPMENT

The proposed development is for the change of use of agricultural building to Use Class B2 (General Industrial) at Venn View Barn, Sampford Peverell, Tiverton. The application site is in the open countryside approximately 550m south of the village of Sampford Peverell. It is not in an area of high flood risk and not within a Conservation Area, the nearest listed building is some 350m south west of the site.

The proposal seeks to change the use of an existing 770sqm agricultural building to a general industrial building (Class B2) to allow use by a vehicle bodies manufacturing business. The physical alterations are limited to the internal layout and the provision of roof lights, windows and doors.

APPLICANT'S SUPPORTING INFORMATION

Ecology report, BNG information, transport statement, planning statements, foul drainage assessment form, surface water statement, noise impact assessment, air quality assessment, site location plan, existing plans and proposed plans.

RELEVANT PLANNING HISTORY

None relevant.

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan Review 2013 – 2033

S1 – Sustainable development

S9 – Environment

S14 – Countryside

DM1 – High quality design

DM3 – Transport and air quality

DM4 – Pollution

DM5 – Parking

DM9 – Conversion of rural buildings

DM18 – Rural employment development

DM25 – Development affecting heritage assets

CONSULTATIONS

Halberton Parish Council, 17th June 2024:

At its meeting on 11 June 2024, Halberton Paris Council RESOLVED to strongly object to this application and to support MDDC Councillor DuChesne's call in request.

The Parish Council considered both the application for Class E development (deadline for comment 12 June) and the revised Class B development (deadline for comment 18 June) and believed that in both cases there was sufficient non-compliance with Planning Policy and sufficient material planning considerations to support the application being called in.

The Parish Council also considered that the information displayed on the Planning Portal was insufficient to warrant a decision being made. In particular, the Parish Council would wish to see:

- A full traffic assessment together with visibility splays especially given the revised access route
- A justification of need
- Detailed plans with dimensions of the proposed building(s)
- A Landscape and Visual Impact Assessment Report
- The Conservation Officer being a Consultee

In terms of Planning Policies, the Parish Council considered that the following polices were relevant in determining the application:

Policy DM3 ' Transport and Air Quality

The Parish Council considers that the access road, Chains Road, whether from Sampford Peverell or from Willand is as a narrow country lane and thus not suitable for the type of vehicle that would be accessing the development. The proposed route for vehicles would put other road users at risk.

With vehicles comes a reduction in the air quality through dust and carbon dioxide emissions.

Policy DM4 ' Pollution

Class E was not the appropriate Class for the proposed use of the site and Class B2 is for industrial process which cannot be carried out in a residential area without detriment to the amenity of that area.

The proposed use will provide for noise, dust and odour pollution and, though not clearly detailed in the application, light pollution.

The site is close to residential properties and the conservation area of the Grand Western Canal.

Policy DM9 ' Conversion of rural properties

Any development should not adversely affect the rural character of the surrounding area. From the application, it cannot be determined in the proposed development will convert the existing buildings and remain within their curtilage with no significant alteration.

Policy DM18 ' Rural Employment Development

Given the proximity of existing industrial/business parks, the Parish Council does not believe that there is a need for another industrial location in a rural area particularly when existing industrial/ business parks have availability and the transport links are in place to accommodate the proposed use.

Moving on the material planning considerations:

Highway Safety and Traffic

The access route is a narrow lane unsuitable for the type of vehicles being proposed and has insufficient passing spaces to accommodate a greater number of vehicles. Whilst the application indicates four employees, it appears to be of a scale that significant more employees could be accommodated on site.

It passes a nursery which uses the lane to access the Grand Western Canal with young children in prams and on foot during the day.

The road is widely used by pedestrians, cyclists and horse-riders.

Layout and density of building

Without dimensions it is difficult to assess the full impact of the building on the Grand Western Canal but it would appear overly large for the proposed purpose.

Noise

The proposed use and the number of vehicles would create a significant noise factor both in terms of road noise and through metal cutting equipment which would disturb the rural environment and, in particular, the enjoyment of the Grand Western Canal and its associated area.

No noise assessment appears to have been provided.

Effect on a conservation area

The proposed development would be clearly visible from the Grand Western Canal and thus have a detrimental effect on this conservation area and its amenity value.

Nature conservation

From viewing the plans, it would appear that the applicant would need to take down trees and hedgerow to provide a sufficient visual display.

This would affect the natural habitat of the area and result in a bio-diversity loss.

In addition, whilst the Parish Council understands that each application must be considered independently, a review of the cumulative effect on traffic that all recent developments have produced is important in this case, particularly, given the changing aspect of the residential and business uses approved in the area. This is a rural area and there are industrial sites near the proposed development that would be more suitable for the proposed use.

Sampfords Peverell Parish Council, 14th May 2024:

At its meeting on 13 May 2024, Sampfords Peverell Parish Council RESOLVED to strongly object to this application. The Parish Council believes that it does not comply with several Planning Policies.

Policy DM3 ' Transport and Air Quality

The Parish Council considers that Chains Road, as a narrow country lane is not suitable for the type of vehicle that would be accessing the development to and from the village of Sampford Peverell. The proposed route for vehicles would put other road users at risk. The lack of information provided regarding traffic movements is of concern and the Parish Council would ask that more detailed information be submitted by the applicant. A full traffic assessment would be beneficial together with visibility splays. Whilst the Parish Council understands that each application must be considered independently, a review of the cumulative effect on traffic that all recent developments have produced is important. This is a rural area and there are industrial sites near the proposed development that would be more suitable for the proposed use. These sites have empty units.

Policy DM4 ' Pollution

The Parish Council does not believe that the proposed use falls under Class E development and the application should be requesting Class B use. Class B2 is for industrial process which cannot be carried out in a residential area without detriment to the amenity of that area.

The proposed use will provide for noise, dust and odour pollution and, though not clearly detailed in the application, light pollution.

The site will be clearly visible from nearby properties and from the Grand Western Canal.

Policy DM9 ' Conversion of rural properties

Any development should not adversely affect the rural character of the surrounding area. From the application, it cannot be determined in the proposed development will convert the existing buildings and remain within their curtilage with no significant alteration. In this regard, the Parish Council would like to see more details plans and visual panoramas of the development and its impact on the adjacent area.

Policy DM18 ' Rural Employment Development

Given the proximity of existing industrial/business parks, the Parish Council does not believe that there is a need for another industrial location in a rural area particularly when such locations have availability.

The Parish Council does not believe that there is sufficient information provided by the applicant to show compliance with the above policies.

From the Planning Portal there does not appear to have been a planning notice displayed and an extension to the consultation period should be given to comply with the three week display of such a notice.

South West Water, 24th April 2024:

South West Water has no comment.

Highway Authority, 21st August 2024:

Most recent comments only – previous comments viewable in full on the public application portal.

Observations:

I have visited the site and reviewed the planning documents.

The change of use for the building from agricultural use to proposed Class E use (formerly B2) will require a change of vehicle type attendance for deliveries of sheet metal per week, utilising 26 tonne, 6 wheeled lorries. However in terms of trip generation itself, I do not believe the proposed use and employee requirement will create an unacceptable trip generation compared to the permitted benchmark of the agricultural use.

I believe the visibility splay which as stated in the Transport Statement is limited, can be improved through the applicants ownership, however a visibility plan would be required to satisfy this visibility concern.

Additionally, a conditioned routeing plan will be required to demonstrate the measures proposed in order to ensure delivery vehicles utilise the better approach from Willand.

Addendum 21/08/2024

Additional information has been submitted as part of this application and re-consulted with the highway authority, I am satisfied with the additional visibility splay plan and visibility photos which conform with Manual for Streets our current best practice design guidance. The 2m 'X' distance instead of 2.4m, can be utilised when the vehicle trip generation is below average of a typical road. Furthermore, the Lanes geometry and topography allow for speed reduction and therefore I am satisfied with the visibility splays provided of 25m and 43m which roughly provide for vehicle speeds between 20 - 30mph, appropriate for this road.

The site also has existing permitted agricultural use which could be re-enacted at any point and therefore is the benchmark of vehicle trip generation which during its chicken poultry farm use included large articulated vehicle movements, this application therefore provides a betterment in both vehicle trip generation numbers and clarification.

The additional information also includes the proposed vehicle route to Willand Road. Therefore in summary, the County Highway Authority (CHA) is now satisfied with this application and has no objection to this planning application.

Recommendation:

THE DIRECTOR OF CLIMATE CHANGE, ENVIRONMENT AND TRANSPORT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT

Economic Development, 29th August 2024:

Most recent formal comments only, previous comments viewable in full on the public application porta.

The review of units currently available on the market is noted. It is recognised that there is an ongoing requirement for further business units within Mid Devon; the Local Plan through policies S1, S2 and S6 identifies Tiverton, Cullompton and Crediton as being the most sustainable locations or that a business park location/ allocated employment site would be suitable for this use.

In terms of allocated employment sites, the following are available or coming forward:
Stoneyford Business Park - plots currently available
Cullompton Business Park - plots currently available
Venn Farm - in development

There is also a major planning application outline consent for North West Cullompton that includes employment land. See planning applications: 19/01592/MOUT & 19/02058/MOUT .

As previously stated, Economic Development are concerned about piecemeal industrial development proposals coming forward and would wish to see a more planned and strategic approach to this type of development through allocated employment sites being brought forward through the Local Plan process to ensure that commercial/ industrial developments are coherent quality developments (clusters) in sustainable locations supported by appropriate infrastructure. However, it is noted that this development proposal is the Change of Use of an existing building and statutory consultees are now content with the proposals.

Public Health, 22nd July 2024:

Most recent formal comments only. Previous comments viewable in full on the public application portal.

We have reconsidered the application and the additional documents requested. We have no concerns regarding the conclusions of the air quality assessment. The noise impact assessment provided data of measured lowest background noise levels at the nearest noise sensitive property (34dBLa90), and measured noise output of the machinery to be installed. A BS4142 assessment has been correctly carried out and this concludes that it is not likely that process noise will be audible at the boundary of any nearby residence. There is potential for other plant noise, activity in the yard area and on-site vehicle noise to be audible and we therefore recommend the following noise condition, compliance with which will ensure no unacceptable impact from all sources. The condition is:

"The specific noise level of any plant installed and operated on the site must not exceed the lowest background noise level (taken as 34dBa, La90 (1 hour) measured at the boundary of the nearest noise sensitive premises.

Reason: To protect the amenity of local residents."

In addition there is the potential for unacceptable external noise and we therefore recommend the following condition:

"No work activities or storage shall be carried on outside the buildings.

Reason: To protect the amenity of local residents from noise."

Working hours are specified within the application and we recommend that these are conditioned:

"No machinery shall be operated, no processes carried out and no deliveries accepted or despatched except between the hours of 7am and 5pm Monday to Friday, and not at all on Saturdays, Sundays or Bank Holidays.

Reason: To protect the amenities of local residents from noise."

A concern has been raised locally regarding the potential for light pollution, and this can be conditioned as below:

"Prior to occupation, a lighting scheme shall be provided for the site which complies with the requirements of the Institute of Light Engineers guidance on the avoidance of light pollution. The lamps used shall not be capable of reflecting light laterally, upwards or off the ground surface in such a way that light pollution is caused. No area lighting shall be operated outside the agreed working hours of the site, although low height, low level, local security lighting may be acceptable.

Reason: To comply with planning policy for the avoidance of light pollution."

REPRESENTATIONS

This planning application has been advertised by means of a site notice erected by the case officer, by notifying immediately adjoining neighbours in writing and by advertising in a local newspaper in accordance with the legal requirements for publicity on planning applications, and the Council's Adopted Statement of Community Involvement July 2020.

The following properties were written to:

Acorns Higher Shutehanger Sampford Peverell Tiverton Devon EX16 7EB

Acacia Cottage Sampford Peverell Tiverton Devon EX16 7EB

Flat 1 Oak Cottage Sampford Peverell Tiverton Devon EX16 7EB

Higher Shutehanger Sampford Peverell Tiverton Devon EX16 7EB

Flat 2 Oak Cottage Sampford Peverell Tiverton Devon EX16 7EB

Applegarth Silver Street Culmstock Cullompton Devon EX15 3JE

Applegarth Silver Street Culmstock Cullompton Devon EX15 3JE

Kingwood Children Ltd Muddifords Court Sampford Peverell Cullompton Devon EX15 2QG

Acacia Cottage Sampford Peverell Tiverton Devon EX16 7EB

Shutehanger Sampford Peverell Tiverton Devon EX16 7EB

A total of 14 letters of objection have been received at the time of writing this report. Some come from the same households but at different times in the application process. All comments can be read in full on the public application portal but the key matters raised have been summarised below:

- Noise impacts and quality of Noise Assessment
- Traffic/highways impacts and quality of Transport Assessment
- Safety of access
- Pollution from gases that might be used and air quality
- Impact on character of the area
- Impact on Grand Western Canal Conservation Area
- Light pollution
- Impact on neighbourhood amenity
- Concerns around flexibility of Class E use (application since amended to Class B2)
- Compliance with policies DM9 and DM18

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. Principle of development
2. Highways impacts, access and parking
3. Design and amenity
4. Heritage assets
5. Ecology
6. Other material considerations
7. Planning balance

1. Principle of development

1.1. The application seeks to change the use of an existing agricultural building to a general industrial building falling under use Class B2 for use by a vehicle bodies manufacturing business, as well as some minor physical alterations. The site is not within a defined settlement and is therefore classified as being in the open countryside where Policy S14 of the Local Plan generally supports the diversification of the rural economy.

1.2. Policy DM9 refers to the conversion of rural buildings and supports this subject to a number of criteria as set out below:

- a) A suitable access to the building is in place or can be created without damaging the surrounding area's rural character and the road network can support the proposed use;
- b) The building can be converted without significant alteration, extension or rebuilding;
- c) The design will retain the original character of the building and its surroundings; and
- d) The development will retain any nature conservation interest associated with the site or building, and provide net gains in biodiversity where possible.

A number of these considerations are addressed in greater detail throughout this report but in summary, it is considered that these criteria are complied with. An existing access is to be used with no objection from the Highway Authority, there are very few physical alterations proposed and therefore the design of the existing building is retained. There are also no objections in terms of ecology. However, the policy also requires the building to be redundant and positively contributing to the area's character. Given that it is a functional and utilitarian agricultural building, it is not considered that the building does positively contribute to the area's character and as such there is considered to be some policy conflict with DM9.

1.3. Whilst there is some policy conflict with Policy DM9, the Local Planning Authority have consistently taken the approach that commercial development in the countryside is better assessed under Policy DM18 which is considered to set a higher bar for this type of development and is more relevant to the

proposal. DM18 states that rural employment development 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.

Criterion A is assessed in greater detail later in this report but, in summary, it is not expected that trip generation will be greater than the existing agricultural use and it is noted that the Highway Authority have no objection. As above, physical alterations are very limited and there are therefore no concerns relating to the character of the area. In terms of Criterion C, supporting information has been submitted to outline that alternative sites have been considered but ruled out for various reasons such as the size of the properties or the price. Economic Development have been consulted on the application and have concerns that price is not a sufficient reason to rule out an alternative site, albeit it is recognised that an increase in sites would be expected to create competition and drive down prices. Overall, it is considered that the development generally complies with DM18 although the Economic Development team's concerns in relation to Criterion C are noted.

- 1.4. Notwithstanding the slight policy conflict with DM9 and Economic Development concerns in relation to DM18, the Town and Country Planning (General Permitted Development) Order is considered to be an important material consideration in this case. Schedule 2, Part 3, Class R of that Order permits change of use from agricultural buildings to a flexible commercial use, including Class B2, without planning permission. This permitted development right is subject to; the building being in agricultural use, the building not falling within a military explosives area or safety hazard area and the building not being listed or a scheduled monument. In addition, the LPA can consider whether prior approval is required in relation to only transport, noise, contamination or flooding - matters that are assessed as part of this planning application in any event.
- 1.5. When this planning application was first submitted, Class R permitted the change of use for buildings up to 500sqm hence the need to apply for permission. However, the part has since been updated to allow the change of use of buildings up to 1000sqm. It is therefore considered that the building subject to this application would now comply with the criteria of Class R as set out above and if a prior approval application were to be submitted, it would be granted. As such, there is a real prospect of the change of use occurring without planning permission, despite no such prior approval application being submitted to date. Therefore, it is considered that the principle of development is established.

- 1.6. The fact that a planning application has been submitted means that physical alterations can also be proposed but these are limited to the insertion of windows, doors and roof lights so are considered to be particularly minor and not impactful. The submission of a planning application also allows the LPA to consider all of the criteria under Class R plus all other material considerations. As such, it is considered that the application before members represents a planning betterment compared with what could be achieved as part of a Class R prior approval scheme.
- 1.7. In summary, whilst there is some policy conflict with DM9, and perhaps DM18, there is a real prospect of the change of use coming forward in any event under a prior approval application under Class R so the principle of the development is established, and it is not considered reasonable to refuse planning permission on these grounds.

2. Highways, access and parking

- 2.1. Significant public concern has been raised regarding the highways impacts of the proposed development. The County Highway Authority have been consulted on the application and have visited the site. The Highway Officer takes the view that the proposed vehicle trip generation as set out in the Transport Statement will not be unacceptable, particularly compared with the number of trips that could be generated from the existing agricultural use which was associated with a poultry farm and included large articulated vehicle movements. They go on to state that the proposal would actually be a betterment in terms of vehicle generation number and have no objection subject to a condition securing compliance with the Transport Statement. Further, it should be noted that the Class R permitted development right as referred to above would allow the change of use to occur without planning permission in any event. The condition requiring compliance with the Transport Statement gives the Council more control in relation to highways impacts and safety by utilising this condition.
- 2.2. Policy DM3 requires development to have safe access onto the local road network. Visibility splay plans and supporting photographs have been provided and the Highway Officer is satisfied that the access improvements can indeed be made and will result in a suitably safe access in accordance with DM3. Should a Class R prior approval application have been submitted rather than this full planning application, the Council would have had less powers to secure the access improvements.
- 2.3. Policy DM5 relates to car parking and requires 1 parking space per 30sqm of floor space for B2 uses and 2 EV charging points per 200sqm of floor space. This would amount to some 26 parking spaces including 6 EV points in the case of this relatively large building. There is significant area around the building for car parking, including along the northern boundary of the site and to the rear of the building, so it may be possible for this number of spaces to be provided on the site. However, only 5 spaces, including 1 EV point, are formally shown on the submitted block plan due to it being intended that only 4 employees are to

use the building at any one time, due to the nature of the business. This number of spaces is considered acceptable for this number of users and it should also be noted that the County Highway Authority have no objection to the application. In addition, should a prior approval application under Class R be submitted, the LPA would not be able to take Policy DM5 into account so there may be a situation whereby there is an unrestricted number of employees on the site with no necessity to provide formalised car parking. It is therefore considered that the 5 formalised spaces, including 1 EV point is a betterment compared with what could be achieved if a Class R application were to be submitted when there would be no requirement to show formalised parking spaces or EV points.

3. Design and amenity

- 3.1. Policy DM1 of the Local Plan refers to high quality design and seeks to ensure this according to a number of principles including creating visually attractive places and avoiding adverse amenity impacts. Minor external alterations are proposed to the building including replacement windows and doors as well as the insertion of roof lights. The scale or massing of the building is not increased and there will be very little change to how the building will be viewed in the rural landscape. Whilst not a particularly attractive building, it sits comfortably in the landscape and it is not expected that the minor changes proposed will alter this.
- 3.2. In terms of amenity, a number of comments have been received in terms of noise impacts in particular. Firstly, it should be noted that there could be significant noise amounting from an agricultural use and the building could change use under Class R without planning permission in any event. However, this point has still been carefully considered with Public Health consulted throughout the application process. In their latest comments, Public Health are satisfied that there will be no adverse noise impacts subject to relevant conditions relating to noise levels, preventing working outdoors and in relation to opening hours. These conditions have been included below and it should be noted that a Class R application which could result in an unrestricted B2 (or other) use with a much greater impact compared with this development, the impact of which is further reduced by the use of conditions. As such, the proposal before members is considered to be a betterment compared with what could be realistically achieved under Class R.
- 3.3. Consideration has also been given to any impacts that may amount from increased light pollution. A condition has been proposed which controls external lighting and will therefore limit any adverse light pollution. Overall it is expected that the development will have less of an amenity impact compared with a Class R prior approval proposal and any impacts that do amount from the development are not considered to be significantly adverse as a result of the use of planning conditions. As such, DM1 is considered to be complied with.

4. Heritage assets

- 4.1. Some of the comments received raise concern in relation to the impact of the development upon heritage assets. Policy DM25 of the Local Plan seeks to protect and, where possible, enhance these assets and their settings.
- 4.2. In coming to this decision the council must be mindful of the duty as set out in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building, its setting and features of special architectural or historic interest which it possesses, and have given it considerable importance and weight in the planning balance.
- 4.3. In coming to this decision the council must also be mindful of the duty as set out in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area, and have given it importance and weight in the planning balance.
- 4.4. The application site is some 650m from the Grand Western Canal Conservation area and 350m from the nearest listed building which is known as Higher Shutehanger Farmhouse and listed at Grade II. The proposed development is for a change of use of an existing building with some minor physical alterations. Owing to the minor works proposed and separation distance from the heritage assets, it is not considered that there will be any harm on these assets or their settings as a result of the development. Whilst no formal comments have been submitted, the case officer has discussed this with the Council's Conservation Officer who is satisfied that there is no heritage harm.

5. Ecology and biodiversity net gain

- 5.1. The application has been supported by an ecological appraisal which concludes that there will be a negligible impact on statutorily protected species. However, it does recommend some mitigation and enhancement measures which are secured by condition.
- 5.2. Given the nature of a change of use application, less than 25sqm of priority habitat will be impacted as a result of the development and therefore the application is considered to be exempt from national 10% biodiversity net gain requirements. The County Ecologist has confirmed this approach.

6. Other material considerations

- 6.1. In addition to the considerations discussed above, public concern has also been raised about air quality impacts. An air quality assessment was submitted with the application and Public Health raise no objections to the proposal. It should also be noted that the Highway Authority state that vehicle trip generation could be less impactful than the existing agricultural use. A condition has been used

that work is only permitted to be undertaken indoors. It is therefore not considered that air quality is a material consideration sufficient to refuse planning permission in this case.

- 6.2. The Parish Council have commented that there are no dimensions shown on the submitted plans but the plans are indeed to scale and meet both the local and national validation requirements.

7. Planning balance

- 7.1. Whilst there is some policy conflict in relation to Policy DM9 and some concerns around Policy DM18, there is a real prospect of the change of use occurring in any event due to the permitted development allowable under Class R, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). Should an application be submitted to change the use of the building to Class B2 under Class R, it is very likely to be supported. The application complies with other local policies in terms of design, access and heritage, and is actually considered to amount to a planning betterment compared to a potential Class R scheme. This is partially owing to the use of conditions controlling the opening hours, external lighting and noise levels. Vehicle trips generated would be less than the existing agricultural use and the Highway Authority consider the access to be safe. Officers therefore recommend approval.

REASON FOR APPROVAL

The proposed change of use of agricultural building to Use Class B2 (General Industrial) at Venn View Barn, Sampford Peverell, Tiverton is considered acceptable as a matter of principle. There is a real prospect of the change of use coming forwards under a prior approval application and as such the principle of development is considered to be established. The physical alterations are minor and will not harm the character of the area or neighbourhood amenity. Similarly, conditions have been used to control the use of the building and noise impacts. It is not expected that local ecology or the local road network will be harmed and the access is considered to be suitably safe. As such, the development complies with policies S1, S9, S14, DM1, DM3 and DM25 of the Mid Devon Local Plan (2013-2033) and guidance in the National Planning Policy Framework.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. The development hereby permitted shall be implemented strictly in accordance with the recommendations and requirements of the ecological survey report undertaken by South West Ecology dated October 2023. The proposed ecological enhancements identified within Section 5, shall be installed prior to the development hereby permitted first being brought into use and shall thereafter be retained as such.

4. Prior to occupation, a lighting scheme shall be provided for the site which complies with the requirements of the Institute of Light Engineers guidance on the avoidance of light pollution. The lamps used shall not be capable of reflecting light laterally, upwards or off the ground surface in such a way that light pollution is caused. No area lighting shall be operated outside the agreed working hours of the site, although low height, low level, local security lighting may be acceptable. The Lighting Scheme shall be so retained.
5. No machinery shall be operated, no processes carried out and no deliveries accepted or despatched except between the hours of 7am and 5pm Monday to Friday, and not at all on Saturdays, Sundays or Bank Holidays.
6. No work activities or storage shall be carried out outside of the building.
7. The specific noise level of any plant installed and operated on the site must not exceed the lowest background noise level (taken as 34dBa, La90 (1 hour) measured at the boundary of the nearest noise sensitive premises.
8. The development hereby permitted shall proceed strictly in accordance with the Transport Statement dated the 14th February 2024 which includes the preferred traffic route set out in Appendix A of the Statement.
9. Prior to the first occupation of the building following the change of use, the parking area shown on the approved plans shall be provided and shall thereafter be retained for the parking of vehicles in connection with the development only.
10. The access and visibility improvements shown on drawing no. PRO_SITEVISPLAN shall be implemented prior to the first occupation of the dwelling following the change of use. The access and visibility shall be so retained.

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. To safeguard statutorily protected species in accordance with the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010).
4. To prevent unacceptable light pollution in accordance with DM1 and DM4 of the Mid Devon Local Plan (2013-2033) and to safeguard statutorily protected species in accordance with the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010).
5. To protect neighbourhood amenity in accordance with DM1 of the Mid Devon Local Plan (2013-2033).
6. To protect neighbourhood amenity in accordance with DM1 of the Mid Devon Local Plan (2013-2033).
7. To protect neighbourhood amenity in accordance with DM1 of the Mid Devon Local Plan (2013-2033).
8. In order to protect the local highway network.
9. In the interests of highway safety.
10. In the interests of highway safety and in accordance with DM3 of the Mid Devon Local Plan (2013-2033).

BNG – Biodiversity Net Gain

Is BNG Required? No

Is BNG Offsite only N/A

Onsite only N/A

Offsite and Onsite N/A

Is a S106 agreement required? No

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be Mid Devon District Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply.

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
 - (i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or
 - (ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.
4. The permission which has been granted is for development which is exempt being:
 - 4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:
 - iv) the application for planning permission was made before 2 April 2024;

- v) planning permission is granted which has effect before 2 April 2024; or
 - vi) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).
- 4.2 Development below the de minimis threshold, meaning development which:
- iii) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
 - iv) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).
- 4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A “householder application” means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.
- 4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).
- 4.5 Self and Custom Build Development, meaning development which:
- iv) consists of no more than 9 dwellings;
 - v) is carried out on a site which has an area no larger than 0.5 hectares; and
 - vi) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).
- 4.5 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

* “original planning permission means the permission to which the section 73 planning permission relates” means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permission

INFORMATIVES

The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. This report has been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons that could be affected by the development have been identified as sharing any protected characteristic.

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

Application No. 24/00746/FULL

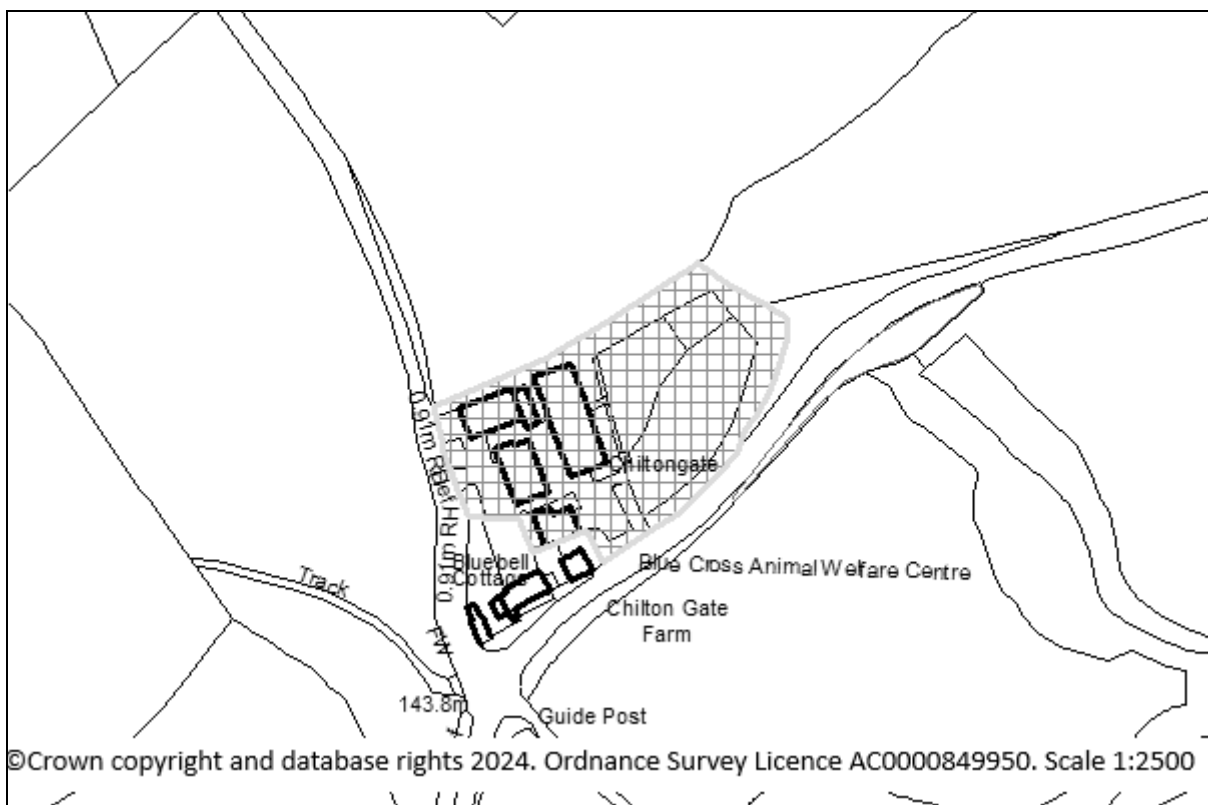
Grid Ref: 291676: 106008

Applicant: Mr Nick Helsing

Location: Chilton Gate Kennels
Bickleigh
Tiverton
Devon

Proposal: Conversion of former animal rescue centre to 8 dwellings

Date Valid: 5th June 2024



APPLICATION NO: 24/00746/FULL

Site Visit: Yes

Date of Site Visit: 21st August 2024

Decision Delayed Reason:

Negotiations.

MEMBER CALL-IN

The application was called in by Cllr Rhys Roberts to discuss the visual amenity of the site.

RECOMMENDATION

Refuse planning permission.

PROPOSED DEVELOPMENT

The proposed development is for the conversion of former animal rescue centre to 8 dwellings at Chilton Gate Kennels, Bickleigh. The site is in the open countryside, it does not fall within an area of high flood risk or a conservation area and there are no nearby listed buildings. The existing site is made up of four detached buildings in the western half with open land in the eastern half. The buildings were most recently used as an animal rescue centre considered by the Local Planning Authority to fall within the sui generis use class. The application seeks to convert the buildings into a total of 8 dwellings, the buildings to be converted are as follows:

Cattery to 2 dwellings

Kennels to 3 dwellings

Reception to 2 dwellings

Cat isolation unit to 1 dwelling

APPLICANT'S SUPPORTING INFORMATION

Carbon assessment, design and access statement, ecology surveys, BNG information, transport statement, structural surveys, marketing information, air quality assessment, viability report, site location plan, existing plans and proposed plans.

RELEVANT PLANNING HISTORY

83/00277/FULL - PERMIT date 22nd March 1983 Construction of a vehicular access

84/00344/FULL - PERMIT date 11th July 1984 Retention and the conversion of an outbuilding for sales purposes

84/00345/FULL - PERMIT date 8th May 1984 Erection of additional kennel accommodation, retention of existing kennels, erection of freezer room extension and installation of septic tank

84/00929/OTHER - WD date 5th June 1984 N/D

86/00850/FULL - PERMIT date 25th June 1986 Erection of field shelter for 2 Shetland ponies or donkeys

88/01222/FULL - PERMIT date 19th September 1988 Erection of kennels, reception block and septic tanks

89/02092/FULL - PERMIT date 19th October 1989 Siting of bunded oil tank

91/01852/FULL - PERMIT date 27th April 1992 Erection of new kennel block and associated drainage facilities

97/01820/FULL - PERMIT date 9th February 1998 Erection of a puppy and kitten block (existing building to be demolished)

98/00743/FULL - PERMIT date 24th June 1998 Erection of puppy and kitten block (Revised Scheme)

07/01334/FULL - PERMIT date 29th August 2007Erection of extension to reception building and extension to cattery building
23/00889/FULL - DELETE date 27th July 2023Conversion of former barn to dwelling and associated works
23/01665/CLU - REFUSE date 31st January 2024Certificate of lawfulness for the existing use of land and buildings as an animal rehoming centre (Use Class E (c) iii) for a period in excess of 10 years
24/00375/FULL - PERMIT date 3rd May 2024Conversion of barn to dwelling

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan Review 2013 – 2033

S1 – Sustainable development
S9 – Environment
S14 – Countryside
DM1 – High quality design
DM3 – Transport and air quality
DM5 – Parking
DM9 – Conversion of rural buildings

CONSULTATIONS

Bickleigh Parish Council:

No comments received.

Thorverton Parish Council:

No comments received.

Highway Authority, 11th June 2024:

The site is accessed off the A3072 County Route which is restricted to 60 MPH, the proposed access for the dwellings will be via the C road which is also restricted to 60 MPH.

This is an existing access, the number of trips eight dwellings is to be lower than the predicted trips the kennels created.

The number of personal injury collisions which have been reported to the Police in this area between 01/01/2018 and 31/12/2022 is none.

The County Highway Authority would have no objections to this application.

Recommendation:

THE DIRECTOR OF CLIMATE CHANGE, ENVIRONMENT AND TRANSPORT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT THE FOLLOWING CONDITIONS SHALL BE INCORPORATED IN ANY GRANT OF PERMISSION

Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;

- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

South West Water, 12th June 2024:

Surface Water Services

The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):

1. Water re-use (smart water butts, rainwater harvesting, grey flushing toilets)
2. Discharge into the ground (infiltration); or where not reasonably practicable,
3. Discharge to a surface waterbody; or where not reasonably practicable,
4. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
5. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that method proposed to discharge into the ground (infiltration) and into a surface water body is acceptable and meets with the Run-off Destination Hierarchy.

I trust this provides confirmation of our requirements, however should you have any questions or queries, please contact the Planning Team on 01392 442836 or via email: DeveloperServicesPlanning@southwestwater.co.uk.

Public Health, 27th June 2024:

We have considered the application and do not anticipate any environmental health concerns. The applicant proposes to utilise an existing package treatment plant which discharges to a watercourse. They must ensure that this plant has capacity to take waste from 8 dwellings because the volumes will be greater than for the former use as an animal rescue centre.

DCC Education, 16th July 2024:

Regarding the above planning application, Devon County Council has identified that the proposed increase of 8 family type dwellings would generate an additional 2 primary pupils and 1.2 secondary pupil which would have a direct impact on the local schools.

It has been forecast that Cheriton Fitzpaine Primary School and Queen Elizabeth's School both have capacity for the pupils expected to be generated by this development and as such no contribution toward primary and secondary education provision is sought.

We will however require a contribution towards primary and secondary transport costs due to the development being further than 1.5 miles from Cheriton Fitzpaine Primary School and 2.25 miles from Queen Elizabeth's School.

The cost will be worked out as follows.

£8.29 day x 2 primary pupils x 190 academic days x 7 years = £22,051

£5.82 day x 1.2 secondary pupils x 190 academic days x 5 years = £6,634

All education infrastructure contributions will be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on June 2020 rates and any indexation applied to these contributions should be applied from this date. All school transport contributions will be subject to indexation using RPI. Any indexation applied to school transport contributions should be applied from the date a section 106 agreement is signed for this application.

In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement.

Economic Development, 7th June 2024:

In accordance with Local Plan Policy DM19 - Protection of employment land, please can the applicant provide a marketing statement and supporting documentation.

In summary, a marketing statement should include all details and evidence of the steps taken to market a commercial property including:

- A copy of the letter of instruction to the agent(s)
- The methodology used by the surveyor in arriving at a valuation
- Estate agents verifiable record of all enquiries
- Copy of the sales particulars and adverts
- Evidence that the property has not been marketed on the basis of a too narrow range of potential end uses

DCC Ecology, 23rd September 2024:

(Latest comments only – full comments viewable on public portal)

I can confirm that the below answers our previous queries.

However unfortunately I have noticed a discrepancy between documents which was not previously picked up – please accept my apologies for this.

The BNG metric states that only 5m² of vegetated garden is going to be created post development, yet this is not consistent with Drawing J853 03. This drawing shows considerably more vegetated garden being provided than 5m². Please can this be explained by the consultant ecologist and the BNG metric updated to reflect the site plan? Please accept my apologies again that this was not previously picked up by us.

I should also mention alongside the below, that since our previous DCC ecology comments, the User Guide for the small sites metric was updated in July 2024 and states the following:

- record the creation of any other new habitats within private gardens
- record enhancement of any habitat within private gardens. However, habitats which are recorded in the baseline and remain within a private garden may be recorded as retained.

This means that the habitat created as part of this application which are within private homeownership must be included as 'private garden' in the metric and cannot be included as another habitat type. The small sites metric therefore needs to be updated to reflect this.

REPRESENTATIONS

This planning application has been advertised by means of a site notice erected by the applicant, by notifying immediately adjoining neighbours in writing and by advertising in a local newspaper in accordance with the legal requirements for publicity on planning applications, and the Council's Adopted Statement of Community Involvement July 2020.

The following properties were written to:

Chi Cottage Bickleigh Tiverton Devon EX16 8RS
 Bluebell Cottage Bickleigh Tiverton Devon EX16 8RS
 Foxlea Cadeleigh Tiverton Devon EX16 8RU
 Merryfield Hayes Farm Cadeleigh Tiverton Devon EX16 8RU
 Merryfield House Cadeleigh Tiverton Devon EX16 8RU

One letter of support has been received at the time of writing this report.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. Principle of development and policy
2. Design and amenity
3. Highways and parking
4. Ecology and BNG
5. Developer contributions
6. Planning balance

1. Principle of development and policy

- 1.1. The application site is in the open countryside where Policy S14 of the Mid Devon Local plan applies. The policy seeks to preserve the character, appearance and biodiversity of the countryside and does not generally permit open market housing other than the conversion of appropriate existing buildings. In this case the application seeks to make use of disused buildings, which is supported in principle by the National Planning Policy Framework (paragraph 84) and Policy DM9 of the Mid Devon Local Plan.
- 1.2. Paragraph 84 of the NPPF states that "Planning policies and decisions should avoid the development of isolated homes in the countryside unless...the development would re-use redundant or disused buildings and enhance its immediate setting."
- 1.3. Local Plan Policy DM9 expands on this further, also referring to the conversion of existing rural buildings. It however states that this will be supported where the buildings are disused or redundant and positively contributing to an area's rural character. The four buildings on the site are utilitarian and functional buildings all consisting of a similar appearance owing to the similar use of materials such as the rendered block walls and corrugated roofing. Whilst the buildings are not necessarily harmful to the rural

character of the area, it is not considered that they are positively contributing to the area's character owing to their ordinary and utilitarian appearance. The buildings have no historical or architectural interest and therefore, overall, are not considered by officers to comply with the requirements of Policy DM9.

- 1.4. Notwithstanding this, a summary assessment has been undertaken against the remainder of the DM9 criteria which is as follows:

a) A suitable access to the building is in place or can be created without damaging the surrounding area's rural character and the road network can support the proposed use;
b) The building can be converted without significant alteration, extension or rebuilding;
c) The design will retain the original character of the building and its surroundings; and
d) The development will retain any nature conservation interest associated with the site or building, and provide net gains in biodiversity where possible.

An existing access is to be used and the Highway Authority raise no objection to the proposal so there are no concerns in terms of the first criterion. In terms of B and C, the buildings are of a substantial construction and in a reasonable state of repair structurally. Structural Surveys have been submitted which indicate that all of the buildings are capable of conversion without significant alteration or rebuilding and the submitted plans indicate that the general design can be retained with some modern additions such as solar panels. Finally, an ecology survey has been submitted and any enhancement and mitigation measures would be secured by condition if approval was recommended. Overall, the development complies with the majority of DM9 but there is conflict in terms of the buildings not positively contributing to the area's rural character.

- 1.5. Due to the conflict with DM9, officers have suggested an alternative use of the buildings may be acceptable under DM18 (Rural employment development) or DM22 (tourism and leisure development). However, the applicant has submitted a Viability Report to attempt to indicate that no use other than residential would make the site viable. Ordinarily, a Viability Report would be independently assessed at the expense of the applicant, however, this exercise has not been undertaken in this case as officers consider that even if no other use was found to be viable, this would not make the application acceptable under DM9 as it is not considered that the buildings do not positively contribute to the rural character. It is therefore not recommended that Members approve the application on the basis of viability as this is not considered to be strictly relevant to this policy or this application type more broadly. If Members did approve the application, it may be because they find that the buildings are indeed positively contributing to the rural character, for example, as opposed to the viability argument.
- 1.6. In their consultation comments, Economic Development request further information in relation to DM19 which seeks to protect employment land and states that alternative uses are only permitted if there is a range of other employment sites in the area and there has been no interest in the commercial re-use of the site for at least 18 months. It is considered that this policy is more relevant to typical employment sites for more commercial B2, B8 or the old B1 uses. The site has been closed for some time and was previously operated by a charity so DM19 is not considered to apply in this case.
- 1.7. In summary, officers consider that the principle of development has not been established as the buildings do not positively contribute to the area's rural character as required under DM9, and there is no other policy reason to grant consent. The Local Plan is in-date and the LPA can demonstrate a 5 year housing land supply so it is

considered there is no reason to put aside this plan led approach in this case.

2. Design and amenity

2.1. Policy DM1 seeks to ensure high quality design according to a number of principle including creating visually attractive plans and avoiding adverse amenity impacts.

2.2. Owing to the nature of conversions, there will be no change to the scale or massing of the buildings and therefore there is not expected to be increased harm on the character of the area. Solar panels are proposed to be added to the buildings and the proposed garden areas will result in an increased domestication of the site but given the well-contained nature of the site which is set back from the main highway, there are no significant concerns in respect of visual amenities.

2.3. The proposed site plan and floor plans indicate that prospective occupants of the dwellings will benefit from garden areas and sufficient levels of natural light. Similarly, nationally described space standards are adhered to. There are no concerns in terms of overlooking, overshadowing or overbeating impacts and overall neighbourhood amenity is considered to be protected. In summary, Policy DM1 is considered to be complied with.

3. Highways and parking

3.1. Policy DM3 requires development to have a safe access onto the local road network. An existing access point is to be used and the County Highway Officer has confirmed that the number of trips generated will be less than that of the existing use so there are no concerns in relation to the access or the local road network more broadly. The Highway Authority do suggest a pre-commencement condition for a Construction Environmental Management Plan so if Members were to approved the application, this would need to be agreed with the applicant. Such a condition would ensure the local road network remains safe during the construction phase of the development.

3.2. Policy DM5 refers to car parking and requires 1.7 spaces per dwelling which amounts to 14 spaces in this instance. A total of 16 spaces are shown on the submitted plans so this policy is adhered to. Space has also been provided for turning and manoeuvring.

4. Ecology and BNG

4.1. An Ecological Impact Assessment has been submitted to support the application and finds that, subject to mitigation and enhancement measures, there would be no adverse impacts upon statutorily protected species. Should Members decide to approve the application, a condition would be recommended to secure these details. The County Ecologist did request further information around the suitability of nearby trees for protected species but this has since been addressed.

4.2. Members will be aware that there is now a need to demonstrate 10% biodiversity net gain in all new development. During the course of assessing this application the national guidance around this was updated to indicate that habitats within private gardens cannot contribute to this gain. The applicant's ecologist has since updated the BNG metric and plans to show that this will no longer be included a 10% BNG can still be achieved on site. Should the scheme be approved by Members, there will be a need to include the statutory BNG pre commencement condition that requires a detailed plan to be submitted to show the 10% BNG and management in any case. Officers are

satisfied that this could be achieved given the opportunities for additional planting and habitat creation on the site where necessary.

5. Developer Contributions

- 5.1. Devon County Council Education have requested a financial contribution amounting to £28,685 in order to offset the impact of the development on the transport associated with local schools. The applicant's agent has previously agreed that they would enter into a legal agreement to secure this should members choose to approve the scheme.

6. Planning balance

- 6.1. The site is in the open countryside whereby Policy S14 does not generally permit open market housing other than some exceptions including the conversion of appropriate rural buildings. In this case, the buildings are not considered to positively contribute to the area's rural character and as such Policy DM9 is not considered to be complied with and therefore the principle of development is also not considered to be established. The scheme does comply with the other criteria of Policy DM9 and in addition, the access, parking, ecological and design considerations are considered to be acceptable. However, given that the Local Plan is in-date and a 5 year housing land supply can be demonstrated, it is not considered that this is sufficient to put aside the plan-led approach and as such officers recommend refusal based on the conflict with Policy DM9.

REASON FOR REFUSAL

The proposed conversion of former animal rescue centre to 8 dwellings at Chilton Gate Kennels, Bickleigh is recommend to be refused for the following reason:

1. The existing buildings subject to the application are not considered to positively contribute to the area's rural character, in which case their conversion would conflict with policy DM9 of the Mid Devon Local Plan (2013-2033) and as such are not suitable for conversion to dwellings. The proposed development would therefore result in the provision of new residential development in a countryside location where policies, in particular S14 of the Mid Devon Local Plan and paragraph 84 of the National Planning Policy Framework 2023 (NPPF), seek to avoid new unrestricted dwellings in the countryside unless there are special circumstances. The proposed development does not comply with the special circumstances identified in policy DM9 or paragraph 84 of the NPPF, in respect to the reuse of an existing redundant or disused building and would therefore constitute unjustified development in the countryside, outside of defined settlement limits, contrary to policies S14 and DM9 of the Mid Devon Local Plan and guidance in the National Planning Policy Framework.

BNG – Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition)” that development may not begin unless:

- (a) Biodiversity Gain Plan has been submitted to the planning authority, and
(b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Mid Devon District Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply.

If Members are to approve the application, based on the information available, this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements listed below are considered to apply.

INFORMATIVES

The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. This report has been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons that could be affected by the development have been identified as sharing any protected characteristic.