

## **Planning Committee - 12 December 2018 Report Index**

### **PART 1**

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| SWIMBRIDGE    | 65497           | DEER HAVEN GREEN LANE, SWIMBRIDGE, | REF         | 2           |

### **PART 2**

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| LANDKEY       | 65685           | LAND OFF BIRCH ROAD, LANDKEY, | REF         | 18          |

**Total Items:2**

**Please note that applications shall normally be considered in the numerical order as shown above. However, the order does change from time to time with the agreement of the Chairman and the consent of the Committee.**

# Schedule of Planning Applications for Consideration

*In the following order:*

*Part 1) Deferred Applications*

*Part 2) New Applications*

With respect to the undermentioned planning applications responses from bodies consulted thereon and representations received from the public thereon constitute background papers within the Local Government (Access to Information) Act 1985.

## **ABBREVIATIONS USED THROUGHOUT THE TEXT:**

|             |   |  |
|-------------|---|--|
| <b>AGLV</b> | - | <b>Area of Great Landscape Value</b>         |
| <b>AONB</b> | - | <b>Area of Outstanding Natural Beauty</b>    |
| <b>ASAC</b> | - | <b>Area of Special Advertisement Control</b> |
| <b>CA</b>   | - | <b>Conservation Area</b>                     |
| <b>CDA</b>  | - | <b>Critical Drainage Area</b>                |
| <b>CPA</b>  | - | <b>Coastal Preservation Area</b>             |
| <b>CPO</b>  | - | <b>Chief Planning Officer</b>                |
| <b>DCC</b>  | - | <b>Devon County Council</b>                  |
| <b>EA</b>   | - | <b>Environment Agency</b>                    |
| <b>ES</b>   | - | <b>Environmental Statement</b>               |
| <b>ENP</b>  | - | <b>Exmoor National Park</b>                  |
| <b>GPDO</b> | - | <b>General Permitted Development Order</b>   |
| <b>HC</b>   | - | <b>Heritage Coast</b>                        |
| <b>LPA</b>  | - | <b>Local Planning Authority</b>              |
| <b>LB</b>   | - | <b>Listed Building</b>                       |
| <b>NDLP</b> | - | <b>North Devon Local Plan</b>                |
| <b>NPPF</b> | - | <b>National Planning Policy Framework</b>    |
| <b>PC</b>   | - | <b>Parish Council</b>                        |
| <b>PROW</b> | - | <b>Public Right of Way</b>                   |
| <b>SSSI</b> | - | <b>Site of Special Scientific Interest</b>   |
| <b>TPO</b>  | - | <b>Tree Preservation Order</b>               |

## PART 1 DEFERRED APPLICATIONS

1

App. No.: **65497** Reg. : **04/09/2018** Applicant: **MR BIRD**  
L. Bldg. : Expired: **30/10/2018** Agent : **CLAYEWATER PLANNING GROUP LTD**  
Parish : **SWIMBRIDGE**  
Case Officer : **Miss T Blackmore**

Proposal: **CONVERSION OF AGRICULTURAL BUILDING TO FORM LIVE / WORK UNIT (PART RETROSPECTIVE)**  
Location: **DEER HAVEN GREEN LANE SWIMBRIDGE BARNSTAPLE EX32 0FF**

### **REPORT UPDATE**

Members will recall that this application was considered by them at their last Planning Committee Meeting on the 14<sup>th</sup> November 2018. At this meeting members resolved:

RESOLVED (7 for, 4 against and 0 abstained) that the application be DEFERRED for one cycle pending a report to be prepared by the Head of Place outlining the implications associated with taking a decision against the officer's recommendation

Since the November Committee, the Authority's Planning Policy Officer has been consulted on this application, in particular if this proposal is compliant with the objectives of sustainable development contained within the National Planning Policy Framework and the adopted North Devon and Torridge Local Plan (2011-2031). The Planning Policy Officer also considered whether the proposal meets the criteria of Policy DM14 (Rural Economy) and Policy DM27 (Re-use of Rural Buildings) of the adopted North Devon Local Plan.

### **Planning Policy Officer Response:**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan in the determination of a planning application then the determination must be made in accordance with the development plan unless material considerations indicate otherwise. The Council have a recently adopted Local Plan (October 2018) which was considered by the Inspector to be 'Sound' and in general conformity with the NPPF; therefore, policies in the Local Plan are up to date. The NPPF is a material consideration in planning decisions.

As set out within the NPPF (July 2018), the purpose of the planning system is to contribute to the achievement of delivering sustainable development by meeting the three overarching objectives in terms of economic, social and environmental. This is further clarified at paragraph 11 of the NPPF which clearly sets out that 'plans and decisions should apply a presumption in favour of sustainable development'. This approach is also supported within Policy ST01 of the adopted Local Plan (October 2018).

Chapter 6 of the NPPF supports the building of a strong, competitive economy both in urban and rural areas. This approach is clearly set out in paragraphs 81(d) which includes the delivery of new and flexible working practices such as live/work units and paragraph 83(a) which seeks to expand all types of business in rural areas, both through conversion of existing buildings and well designed new buildings. Policy ST07 seeks to achieve an economically resilient and active rural area. Generally, development in rural areas should be focussed within the principal built form of identified Local Centres, Villages and Rural Settlements although development may be permitted in the countryside where it is limited to the reuse of a rural building such as this. Paragraph 4.16 of the Local Plan seeks to control dispersed development in the countryside, guarding against new development in unsustainable locations whilst ensuring the character of the countryside is conserved and enhanced.

Whilst the NPPF is generally supportive of rural based businesses, paragraph 84 recognises that *'sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport'*. Paragraph 84 continues *'in these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist'*.

Policy DM14 (criterion a) of the adopted Local Plan supports the change of use of permanent and soundly constructed buildings subject to the **scale of employment being appropriate to the accessibility of the site** and the **standard of the local highway network**, proposals respect the character and qualities of the landscape and its setting and include effective mitigation measures to avoid adverse effects or minimise them to an acceptable level. Therefore, the principle of new small scale economic development is supported subject to the stated criteria of which there are policy concerns regarding criterion (e) and (f) of DM14.

Paragraph 7.20 supports the principle of live / work proposals where they accord with relevant policies of the Local Plan.

Policy DM27 also supports the re-use of disused and redundant rural buildings for residential, tourism or economic uses subject to the stated criteria. Of particular concern with the current scheme is compliance with criterion (b) which seeks to ensure that proposals would have a positive impact on the immediate setting of the building and wider rural character is protected. I note from the application file and corresponding enforcement file that boats and supporting paraphernalia appear to be stored outside of the building which, in my opinion has a detrimental impact on the immediate setting of the building and on the wider rural character, which could be further exacerbated if approximately 66% of the existing building is lost to a three bed residential unit. Whilst the site is not visually prominent in the wider landscape, criterion (b) of DM27 concerns it's immediate setting, and through the presented material and potential for future expansion, **it does not appear that the proposal would result in a positive impact on the immediate setting of the building and wider rural character.**

Turning to the wider landscape impact, the site is located within the landscape character type 'Estate Wooded Ridges and Hilltops' as set out within the Landscape Character Assessment 2010. Within this area the overall strategy is 'to protect the distinctive

character of the landscape, with areas of heathland extended and managed through grazing, long views from the hills protected and enhanced, and parkland estates traditionally managed and strengthened to build resilience to the effects of climate change'. The assessment also seeks to 'protect the landscape's ancient trackways and network of quiet rural lanes, resisting unsympathetic highway improvements or signage'.

Criterion (d) of Policy DM27 requires a suitable highway access be provided as well as the wider highway network having the capacity to support the proposed uses. Policy DM05 (paragraph 13.45) requires development proposals that would give rise to significant levels of vehicular movement and are likely to create or exacerbate a particular traffic problem or have an impact on the local highway network must be accompanied by a Transport Assessment (TA) and a Travel Plan (TP). Other development proposals, where it is agreed that the resulting transport issues are limited, should be accompanied by a Transport Statement (TS) and a Travel Plan (TP). Transport Assessments, Statements and Travel Plans should be appropriate to the scale and impact of the proposed development. I note the application has not been supported by a TA, TS or TP as required by Policies ST10 and DM05 so I am unable to fully assess the likely traffic generation from this particular development and whether it is likely to have an unacceptable impact on the local highway network.

**However, it is my informal opinion that the surrounding local highway network from the main routes of the A377 and A361 cannot adequately support a marine engineering business use within this remote rural building where vehicles towing boats will need to access through very narrow rural lanes.** In the absence of evidence to demonstrate that the proposal will not have an unacceptable impact on the local highway network, it is not possible to conclude that it would comply with criterion (f) of Policy DM27.

From a policy perspective, I would suggest the proposed development should be located within an existing unit on a recognised business park closer to the coast which, in my opinion would be very much in line with the overall concept of the business to service the boating community and not within a rural location that is approximately 15 miles from Appledore, 13 miles from Bideford, 11 miles from Instow, and 17 miles from Ilfracombe all recognised coastal settlements with greater opportunities exist within or nearby to deliver a marine engineering business. I would also suggest that opportunities should be explored at Chivenor Business Park although it is accepted the current access on to the A361 requires improvements.

**Therefore, I do not consider the proposed development is delivering sustainable development as it is contrary to provisions within policies ST10, DM05, DM14 and DM27 of the adopted Local Plan.**

#### Reason for Approval

Members were unable to provide planning reasons for approving this application contrary to Officer's Recommendation.

#### Implications

Members are entitled consider the evidence before them and to reach a different view on an application providing they can arrive at sound planning reasons for doing so. The starting point for the Planning Committee has to be determining the application **in accordance with the Development Plan unless material considerations indicate otherwise**. Any decision should be supported by proper reasoning of why a proposal should be approved contrary to the advice provided by their Officers. The Committee will need to decide and articulate the material considerations that would lead them to a contrary view and decide whether they are significant enough to over ride the policies in the Development Plan. National Planning Policy Guidance makes it clear that an inability to justify a reason for approval will undoubtedly be seen as unreasonable behaviour.

Whilst each application must be considered on its own merits, there is also a duty on Local Planning Authorities to be consistent, both in terms of officers' recommendations and also its final decision making. Your Officers have reviewed the advice set out above and consider that it does not alter the original recommendation and maintain the view that this application should be refused.

The Planning Authority has control over the use of agricultural buildings for alternative commercial uses. In this instance there is no valid planning permission in place for this marine engineering business to be operating from this specific location. In your officers opinion there is no justification for the business to be operating from this rural location. This is not a sustainable location for this type of business to be operating from. The inadequacies of the access roads leading to the site are highlighted within the Policy response above and the use of this specific site and the transportation of boats/yachts on trailers along these rural lanes is not comparable to an agricultural use or a rural based activity. Whilst both national and local policy supports the development of businesses in rural areas this does not give carte blanche for **any** business to be sited in **any** location. There does not appear to be any unique factors about the work being carried out that requires a rural location or this specific rural location and in this instance the distance from the marine environment will result in significant traffic movements to gain access to launch sites.

Members have been provided a clear planning policy response from their Policy Officers and that their interpretation is that this application does not meet criteria E & F of Policy DM16 or criteria b & d of Planning Policy DM27 of the recently adopted North Devon & Torridge Local Plan.

It should be remembered that this is not an authorised business and is currently the subject of an enforcement investigation. The applicants have expressed a view that this will reduce their travel time but it should be emphasised that they should not be travelling to this site in the first place as it does not have a lawful use. Similarly there are no environmental gains as this piece of agricultural land should not be used for the storage and repair of boats.

Whilst each application has to be considered on its own merits, this decision will be used to support/justify other incompatible commercial uses being run from similar countryside locations; which is clearly not meeting the principles of sustainable development and contrary to the core objections of the National Planning Policy Framework and the Authority's recently adopted North Devon & Torridge Local Plan. The Local Plan allocates significant amount of employment land and has policies which support the location of business premises on the edge of settlements. The unfettered use of agricultural buildings

for any alternative use will result in the dispersal of non conforming uses to the open countryside and an increase in traffic movements undermining the delivery of the Plan and contrary to the principles of sustainable development.

It has also been set out in the report that once most of the building has been converted to a workshop use that there would be inadequate space within the building for the business which would result in the demand for yet more buildings/outside storage which would then be hard to resist. Members need to question whether they wish to see a boat yard in this location.

The principal arguments being put forward by the applicant for residing on site relates to personal circumstances. The Planning Committee will be fully aware that personal circumstances need to be considered very judiciously and only on an exceptional basis particularly when an application will result in building works that will remain long after any personal circumstance has ceased to apply. Appeal decision have highlighted that such circumstances need to be based on 'very strong compassionate grounds' and where the 'circumstances in the (this) case are highly unusual'. This would not apply in this instance as there are many self employed business people who run businesses but do not need to live on site albeit may prefer to do so if the opportunity arose. There is no functional need for the applicants to live here but is for their own convenience.

In that there is no functional or essential need for the applicants to live at the place of employment, to be readily available at most time of the day and night, a contrary decision where no exceptional circumstances can be demonstrated will again be used to support other unsuitable mixed use schemes. There are no exceptional circumstances in this instance which would warrant a departure from the development plan. Members need to remain mindful if they allow this application they will find it hard to resist other similar proposals in the open countryside which express similar personal circumstances. This is not a finely balanced decision where personal circumstances could exceptionally tip a decision as your officers have articulated why and how the scheme is contrary to policy. The reasons for refusal are robust and are in line with Planning Policy.

In light of the above the recommendation remains one of REFUSAL for the reasons set out below.

## **PROPOSAL**

This application is for the conversion of a building to form a live/work unit (part retrospective). This application seeks to regularise the commercial use of this building, and add a residential element to the building to enable it to be used as a live/work unit.

A live/work unit can be defined as "the provision of segregated living and working accommodation in a single, self contained unit". A live/work unit does not fall within a specific use class under the Town and Country Planning (Use Class Order) 1987; it is therefore a sui generis use.

The submission shows a 3-bedroom dwelling, with a split of 98 m<sup>2</sup> floor area (utilising the ground floor and mezzanine floor) for the proposed residential use with 51 m<sup>2</sup> allocated for the business use. The proposed conversion works include the installation of a number of new large double glazed windows opening to the south and east elevations, two domestic windows openings to the north elevation, a new roller shutter door to be re-

located to the south elevation to enable the building to facilitate a primary residential/domestic use.

The applicant is a marine engineer and has owned the site since July 2016. The building has already been converted and is subject to enforcement investigation (ENF6827). Currently the entire building is being used as an unauthorised workshop/store and office area for ARB Marine.

The ARB Marine's website advises they have fully trained technicians that can service and repair all brands of outboard motors. They also offer full engine, gearbox and powertrim re-builds. Their website also advises products for sale including Mercury engines and inflatables. Their website also confirms they are agent for Admiral Trailers, offering to service trailer at this site. They provide a covered and uncovered storage facility at this site for the winter months.

The applicant currently lives in Northam, near Bideford and is running the Marine business on a full time basis with 2 other employees on a part-time basis. The applicants, partner works full time in another profession away from this site but she also carries out administrative work in conjunction with the marine business. The submitted business plan advises the applicant currently travels from Northam to the site on a daily basis, equating to a 32 mile trip every day. The applicant considers it would be beneficial for him and his partner to live on site to allow a better work/life balance and allow the applicants to move the business forward in a productive way without having a detrimental effect on them or their young children.

## **RECOMMENDATION**

REFUSE

## **SITE AND SURROUNDINGS**

Deer Park Haven is located outside of any settlement boundary being in the countryside, approximately 1.5 miles to the North East of the village Swimbridge. The site is accessed east off Green Lane, a narrow rural lane, via an existing gated entrance to the site.

The site consists of 4.8 hectares of agricultural land with an unauthorised converted building being used as a workshop for a marine engineering business (ARB Marine). The building comprises of a steel framed building, clad on the top half with steel sheeting and concrete blocks to the ground floor, with corrugated sheets on the roof.

The use of the building subject to enforcement investigation (ENF6827). The entire building is being used as an unauthorised workshop/store and office area for ARB Marine business and has been since September 2016.

There is a hardstanding area immediately adjacent to the building. A pond is sited to the east of the site and the remaining site consists of agricultural land. The boundary of the site consists of mature trees and an established hedgerow. The surrounding area consists of agricultural land

The Landscape Character Type is 1D Estate Wooded Ridges & Hilltops which is primary characterised by a strong sense of tranquillity and history with little modern development.



## **REASON FOR REPORT TO MEMBERS**

Councillor Luggar has requested that the application be considered by the Planning Committee for the following reasons:-

*To consider – Live/Work policy on buildings, landscaping, sustainable business & living space in the open countryside, economic viability assessment, transport & access for business use and economic growth.*

## **POLICY CONTEXT**

The North Devon and Torridge Local Plan has recently been adopted and the following policies are relevant:

North Devon and Torridge Local Plan (2011 – 2031)

ST01: Principles of Sustainable Development  
ST04: Improving the quality of Development.  
ST07: Spatial Development Strategy for Northern Devon’s Rural Area.  
ST11: Delivering Employment and Economic Development  
ST14: Enhancing Environmental Assets.  
DM01: Amenity Considerations  
DM02: Environmental Protection  
DM04: Design Principles  
DM05: Highways  
DM08: Biodiversity and Geodiversity  
DM14: Rural Economy  
DM27: Re-use of Rural Buildings  
DM28: Rural Worker Accommodation.

## **CONSULTEE RESPONSES**

### **Swimbridge Parish Council:**

Following our site visit, we fully support this application.

### **Environmental Health Officer:**

I have reviewed this application in relation to Environmental Protection matters and I have no objections.

## **REPRESENTATIONS**

At the time of preparing this report there has been no letters of representation had been received.

## **PLANNING HISTORY**

| Reference | Proposal   | Decision  | Date     |
|-----------|--|-----------|----------|
| 64831     | Conversion of agricultural building to form live/work unit (part retrospective). | Withdrawn | 30.08.18 |

|       |   |                         |          |
|-------|---|-------------------------|----------|
| 36441 | Application for a Certificate of Lawfulness in respect of an existing use of agricultural building as dwelling. | COL Refused             | 01.10.04 |
| 27568 | Agricultural Building Notification in respect of erection of agricultural storage building.                     | Prior App not required. | 12.08.99 |
| 26346 | Proposed erection of agricultural storage building.   | Refused                 | 08.01.99 |

### **ENFORCEMENT HISTORY**

| Reference & date of breach | Nature of Breach   | Action taken   |
|----------------------------|--|--|
| 6827 - August 2016         | Unauthorised change of use – Agricultural building used for an Industrial use. | No action taken pending result of part retrospective planning application. |

### **SUMMARY OF ISSUES**

The main considerations in the determination of the application are:

- The principle of development
- Highway considerations
- Design, scale and materials
- Neighbouring Amenity
- Drainage
- Ecology

### **PLANNING CONSIDERATIONS**

#### **Principle of Development:**

Section 38 (6) of the Planning and Compulsory Act 2004 states the key consideration in the determination of a planning application is the development plan. For the purposes of development planning application the statutory development plan is comprised of the North Devon and Torridge Local Plan (2011-2031).

The National Planning Policy Framework is also a material consideration of significant weight.

In terms of development plan policies, the site is outside of the defined development boundary therefore falls within the open countryside.

#### **Commercial use in the open countryside:**

One of the core principles of the NPPF is to proactively drive and support sustainable economic development. Paragraph 10 and 11 of the NPPF states at the heart of the Framework is a presumption in favour of sustainable development. . Paragraphs 83 of the NPPF states that planning policies should promote a strong rural economy and support

the sustainable growth and expansion of all types of businesses in rural areas, both through conversion of existing building and well designed new buildings.

Planning Policy DM14 (Rural Economy) of the Local Plan seeks to support the rural economy, new small scale economic development at rural settlements and in the countryside will be supported on the following basis, including a change of use or conversion of a permanent and soundly constructed building provided that the scale of employment is appropriate to the accessibility of the site and the standard of the local highway network and proposals respect the character and qualities of the landscape and the setting of protected landscape.

The current authorised use of this building is for agricultural purposes. The marine engineering business is being run on an unauthorised basis from this building; this is subject to enforcement investigation ENF6827. This application is part retrospective and seeks to regularise the unauthorised commercial use of the building, as a B2 Use (Marine Engineering).

From the information submitted with this application, the Local Planning Authority does not consider there is a rational for a marine engineering business to be operating in this location, in the middle of inland agricultural countryside, where boats on trailers will need to access/egress through narrow roads to reach the coast or estuary.

A rural location is not essential for a marine engineering business. This type of business should be located near to a costal town/village or even on an industrial estate on the edge of a town/village. There is no reasonable justification for this business to be located on this site. There has been no rational provided for this unsustainable location.

The submitted business plan advises that the workshop is situated within easy distance of Appledore, Instow, Ilfracombe, and Lynmouth which have thriving harbours and business which offers water based activities. The Local Planning Authority does not agree that the workshop is within easy distances of these coastal resorts. The workshop area is 15 miles from Appledore, 17 miles from Ilfracombe and 27 miles from Lynmouth. Interestingly, the applicant considers that the distance to these coastal resorts is within easy distance of their workshop. However, their residence in Northam which is 12 miles away is not within easy traveling distance to the workshop and the main justification behind this live/work unit.

The applicants had previously advised at the time of the enforcement investigation that they were not able to raise the funds for a unit of an industrial unit. The submitted business plan confirms that the annual turnover for the business in £80k with a profit margin of 25%. Therefore, the LPA would question why this business is not able to afford to rent suitable accommodation in a near by town or village or on an industrial unit given the success of the business.

The key concern is there is no justification for the business to be operating from this rural location which is not a sustainable location. There does not appear to be any unique factors about the work being carried out that requires a rural location. The only justification that has been presented was the site and building was at a low cost compared to other buildings within coastal town/village or a workshop unit on an established industrial unit.

In respect to the economic role, the provision of the workshop would generate some economic benefit due to the employment. In regard to the social role, the proposal may make a small contribution to the vitality of local services however this is unlikely to be significant and it is noted that the site is remote and isolated from these services. As far as the environmental role is concerned the development would not help towards a low carbon economy because it does not concentrate development close to infrastructure, (would be heavily reliant on car and heavier vehicle movements) and services and it would not protect or enhance the natural environment.

Therefore the unsustainable location of the development outweighs the economic and social benefits of this proposal. In light of this the proposal is not considered to comply with policy Policy DM14 of the adopted North Devon and Torridge Local Plan and the sustainable objectives with run through the NPPF.

#### Live/work unit:

The North Devon and Torridge adopted Local Plan advises that live/work development will be considered as a form of residential development and will be afforded support where it accords with the relevant policies of the Local Plan.

The justification for the live/work unit being advanced in this application is that the applicant currently travels from Northam to the site on a daily basis and allowing living on site would allow a better work/life balance and allow the business to move forward in a productive way without it having a detrimental effect on the applicants or their children.

Paragraph 78 of the NPPF states to promote sustainable development, housing should be located where it will enhance or maintain the vitality of rural communities.

The Council's current position is that it can demonstrate a 5 – year Housing Supply therefore its housing supply policies continue to be the starting point for development and therefore housing development well outside of the development boundary for Swimbridge is not acceptable in principle. Where schemes do not comply with the development plan they should be refused, unless material considerations indicate otherwise.

In terms of polices which facilitate development in rural areas, Policy ST07 within the adopted Local Plan sets out strategic aims for development in the countryside. Policy DM27 (Re-use of Rural Buildings) supports the reuse of redundant or disused rural building for residential, tourism or economic uses subject to satisfying a range of criteria and being in conformity with other relevant policies within the Development Plan when taken as a whole. A fundamental principle underpinning the policy is protection of the rural character. The conversion must ensure that the immediate setting of the building is enhanced. Development proposals should pay particular regard to matters such as highway access, landscaping and means of enclosures and the provision of domestic paraphernalia to ensure that these are designed in such a manner so as to offer a positive contribution to the setting of the building and not detract from the wider rural character of the countryside.

The proposed conversion of this building to a live/work unit to include a commercial marine workshop/storage building where the adjacent hardstanding area is used for the storage of boats and equipment, is not considered to create a positive impact on the immediate setting of the building and the wider rural landscape is not protected therefore the proposal is contrary to the criteria of Policy DM27 of the Local Plan.

Policy DM28 (Rural Workers Accommodation) corresponds with Paragraph 79 of the NPPF. Paragraph 79 states Local Planning Authority's should avoid the development of new isolated homes in the countryside unless there are special circumstances such as:

- a) the essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside; or
- b) where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- c) where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- d) the development would involve the subdivision of an existing residential dwellings; or
- e) the design is of exception quality in that it is;
  - truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
  - reflect the highest standard in architecture;
  - significantly enhance its immediate setting; and
  - be sensitive to the defining characterises of the local area.

The provision of residential accommodation on this site in the open countryside would have to meet the same tests that are applied for an agricultural/rural workers dwelling. The LPA would need to establish there is a 'functional' or essential need to live at the place of employment and whether the business was financially sound to be sustainable in the long term and hence require residential accommodation in the long term.

On the basis of the information submitted the LPA are not convinced there is a functional need for the applicants to live on site. The working hours of the business stated on the applicant's website (ARB Marine) states Monday – Friday 10 am – 4pm on the 1<sup>st</sup> October – 31<sup>st</sup> March and 9 am – 5 pm on the 1<sup>st</sup> April – 30<sup>th</sup> September. Taking into consideration these very standard working hours and the nature of the marine engineering work the proposal fails to demonstrate there is a functional need for the proper functioning of the enterprise for one or more workers to be readily available at most time of the day and night.

Notwithstanding the above, the proposed work/live unit appears to more resemble a detached house in the countryside with a workshop area attached. There is no meaningful integration between residential and works elements of this proposal. In terms of the usable space only about 20% is for the "work" element. Currently the whole building is being used as the commercial use and this will be reduced to just 20% of the building. It would be more representative for the work unit to represent around 50% of the floor area to ensure that its functions as a live/work unit is successful.

The applicant is seeking to develop and move the business forward; however, this proposal includes only 20% of the workshop building remaining, which is a substantial reduction to how the business is currently being run currently. It would appear that the rational for this proposal is to primarily achieve a residential dwelling in the countryside for the applicants to live in, not to enable the business to grow. It is questionable if the applicants could provide the services advertised on their website (ARB Marine) including servicing and repairs and selling or boats, trailers etc., and a winter storage faculty at this

unauthorised workshop with only 20% of the workshop space remaining. Therefore, this application if approved is likely to lead to substantially more development, including more commercial buildings being required, in this rural, countryside location to enable this business to operate from this site.

The principal arguments being put forward by the applicant for residing on site relates to personal circumstances of having a better live/work life balance with wishing to run a business with the pressures of raising a young family.

From the information submitted whilst living on the site in close proximity to a business (all be it an unauthorised business) may be desirable it is not considered essential. There is no functional or essential need for the applicants to live at the place of employment, to be readily available at most time of the day and night. There are not considered to be exceptional circumstances in this instance which would warrant a departure from the development plan. The development is therefore contrary to Policy DM27 and DM28 of the Local Plan and contrary to Paragraph 79 of the NPPF

**Highway considerations:**

The site is within the open countryside being 1.5 miles from the village of Swimbridge. The road network leading to this site is poor. The site is accessed via a single track road with few passing places.

In terms of the overall sustainability of the site, as referred to within the principle of development, this site is not within a development boundary or within a coastal town/village. There seems little rational for the siting of a marine engineering business in the middle of an inland countryside, where boat trailers will need to access through narrow rural roads. The LPA will have further concerns about the retail parts of the business and the associated traffic movements.

One of the core principles of the NPPF is to actively manage patterns of growth to make the fullest use of public transport, walking and cycling.

In consultation with the Highway Authority they refer to standing advice with regard to this application.

Live/work practices are considered to be at the core of sustainable transport objectives as they negate the need for people to travel to work.

However, in this instance there is no rational to be running marine engineering business in the middle of inland agricultural countryside, where boats on trailers will need to access the coast and estuary through narrow roads. A rural location is not essential for a marine engineering business. This type of business should be located near to a coastal town/village or even on an industrial estate on the edge of a town/village to minimise these types of traffic movements.

As such the provision of a commercial business of this type and a live/work unit in a location which is remote from other essential services and facilities and alternative means of transport results in an unsustainable form of development contrary to Policies ST10 and DM05 of the Local Plan. It would also not meet the sustainable transport aims of Paragraph 103 of the NPPF.

**Design, scale and materials:**

Paragraphs 124 and 130 of the NPPF states that development should respond to local character, history and reflect the identity of local surroundings. Planning Policy DM04 of the adopted Joint North Devon & Torridge Local Plan sets out the design principles that should be achieved within a planning proposal. The design principles include design being of high quality and the need to integrate effectively with its surroundings and reinforce local distinctiveness.

The building originally took the appearance of an agricultural building. The proposed works include a new roller shutter door with a number of UPVC window and doors and solar panels to the roof. As such the proposal is considered to appear an overly large domestic dwelling within this countryside location and is considered to have a degree of harm to the character and appearance of this rural location. The proposed conversion of this agriculture building to a live/work unit by virtue of its domesticated design and scale is considered to be an inappropriate form of development which does not integrate effectively with its surroundings in this site within the open countryside.

The proposed development would therefore not accord with the design principles set out in paragraph 124 and 130 of the NPPF and Policy DM04 of the North Devon & Torridge Local Plan.

**Residential amenity:**

The nearest dwellings to the site are The Coach House and Hearson House located approximately 180 metres away from the location of the proposed live/work unit. Due to this separation distance the proposal would not have an unacceptable impact upon residential amenities providing controls were applied over the commercial elements. A B” use has potential to result in noise issues . Given this separation distance involved it is unlikely this proposal would have a significant impact on neighbouring amenity that would warrant a refusal on amenity grounds given the ability to apply controls over the operation of the business.

The Authority’s Environmental Health Officer has not raised any objections to this application.

It is considered the application can comply with Policy DM01 of the North Devon & Torridge Local Plan.

**Drainage:**

The site lies within Flood Zone 1 and would not be of a size which would require the submission of a formal Flood Risk Assessment. In terms of surface water drainage, the development proposes soakaways to deal with surface water generated by the development. The foul drainage is proposed to be dealt with via a septic tank.

**Ecology:**

Local Planning Authorities have a statutory duty to ensure that the impact of development on wildlife is fully considered during the determination of a planning application under the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006. The conservation of Habitats and Species Regulations 2010 (Habitats Regulations 2010).

The proposed application is accompanied by a wildlife survey trigger list which concludes that the development (part retrospective) does not require the submission of a wildlife survey as it is unlikely to result in any impacts to protected species or their habitats. As the

building was previously in use the proposal are not considered to present any adverse impacts to protected species or their habitats.

## **CONCLUSION**

The key concern is there is no justification for the business to be operating from this rural location. This is not a sustainable location for this type of business to be operating from. There does not appear to be any unique factors about the work being carried out that requires a rural location. The only justification that has been presented was the site and building was at a low cost compared to other buildings within coastal town/village or a workshop unit on an established industrial unit.

In respect to the economic role, the provision of the workshop would generate some economic benefit due to the employment. In regard to the social role, the proposal may make a small contribution to the vitality of local services however this is unlikely to be significant and it is noted that the site is remote from these services. As far as the environmental role is concerned the development would not help towards a low carbon economy because it does not concentrate development close to infrastructure and services and it would not protect or enhance the natural environment.

The proposal results in a residential use and a marine engineering business being located in the open countryside. A rural location is not essential for a marine engineering business this type of business should be located near to a coastal town/village or even on an industrial estate on the edge of a town/village. There is no reasonable justification for this business to be located on this site. There has been no rational provided for this unsustainable location. Therefore the unsustainable location of the development outweighs the economic and social benefits of this proposal

For the above reasons a recommendation of refusal is recommended.

## **HUMAN RIGHTS ACT 1998**

The provisions of the Human Rights Act and principles contained in the Convention on Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols identified below were considered of particular relevance:

Article 8 – Right to Respect for Private and Family Life  
THE FIRST PROTOCOL – Article 1: Protection of Property

## **DETAILS OF RECOMMENDATION**

### **REFUSE for the following reasons:**

- (1) The conversion of the agricultural building to a live/work unit in a rural location where policies of rural restraint state that development will not be permitted unless it has a strong functional link to a local, agricultural, forestry or other existing rural activity, essentially demands a rural location and the scale of employment is appropriate to the accessibility of the site and standard of the local highway network. The proposal would introduce an unsustainable, unjustified and unnecessary commercial development (marine engineering business) within an isolated rural location that is considered to be unsustainable due to its remoteness

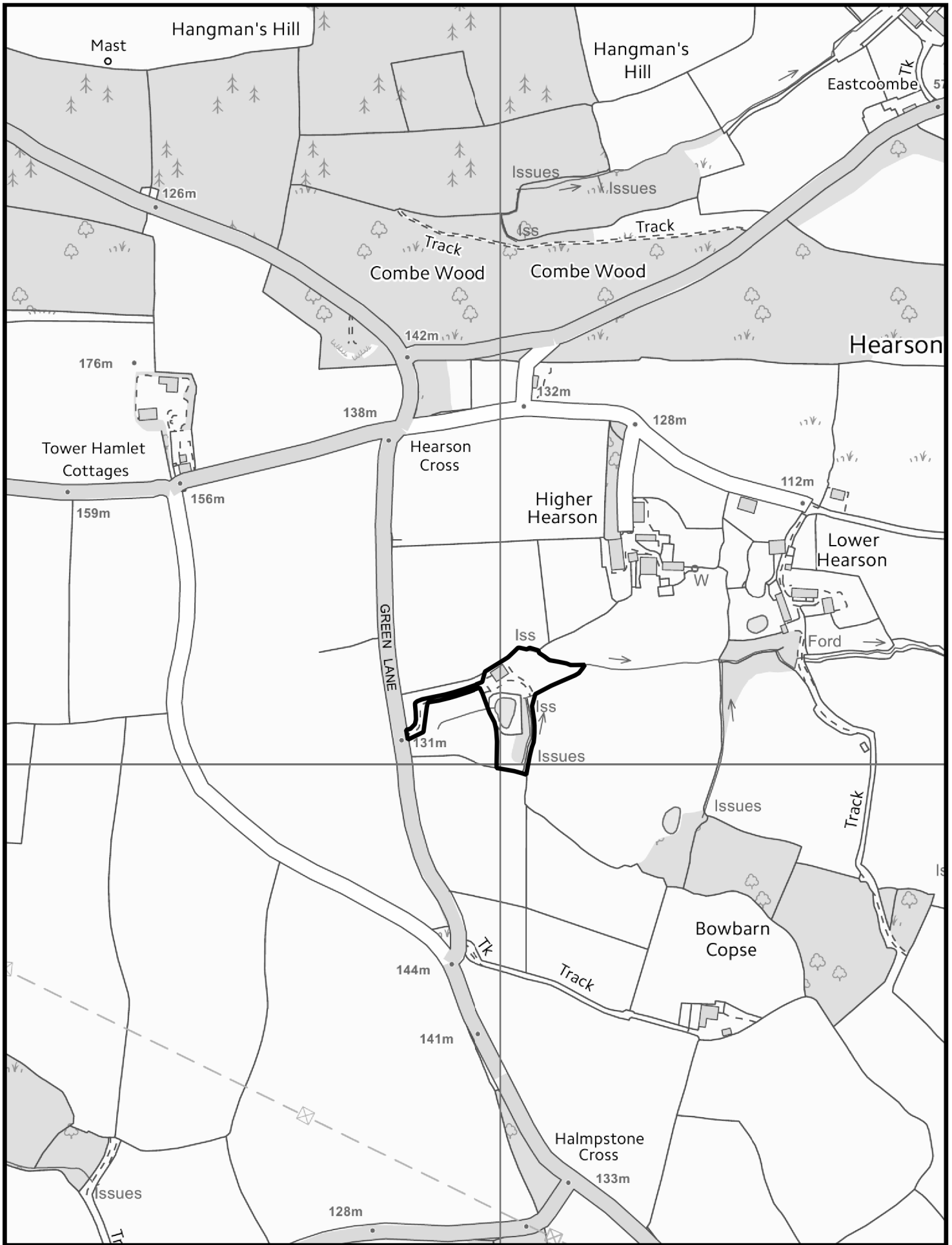


from customers and substandard local highway network. The proposal is therefore considered to be contrary to Policies ST11, DM05, DM27 and DM14 of the Joint North Devon & Torridge Local Plan and does not meet the sustainable development aims of Paragraphs 10 and 11 of the National Planning Policy Framework which run throughout this document.

- (2) The site is in the open countryside where there is a presumption against new residential development unless in the interest of agriculture or where special justification exists. Although the application has been proposed as a live-work unit no justification has been submitted to prove there is a functional need for this accommodation at this site in the open countryside. In such circumstance the proposal is considered contrary to Policies ST07, DM27 and DM28 of the Joint North Devon and Torridge Local Plan and Paragraph 79 of the National Planning Policy Framework which states to Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances.

INSERT(S) TO FOLLOW OVERLEAF

1. OS Location Plan



Lynton House, Commercial Road,  
Barnstaple, EX31 1EA

# 65497 - Deer Haven, Swimbridge

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Committee Report

Scale: 1:5000  
Date: 14/11/18  
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## PART 2 NEW APPLICATIONS

2

App. No.: **65685** Reg. : **11/10/2018**

Applicant: **MR LANE**

L. Bldg. : Expired: **06/12/2018**

Agent : **NPAS DEVON LIMITED**

Parish : **LANDKEY**

Case Officer : **Miss T Blackmore**

Proposal: **ERECTION OF AGRICULTURAL BUILDING**

Location: **LAND OFF BIRCH ROAD LANDKEY**

### **PROPOSAL**

The proposal is seeking planning permission for the erection of an agricultural building to be used to accommodate livestock (lambing and feeding) and for the storage of bedding and agricultural implements.

The agricultural building would measure 27.450 metres x 18.280 metres with an eaves height of 4.2 metres with the overall ridge height being 6.8 metres. The building would be constructed from block walls with Yorkshire vertical timber boarding above and a grey corrugated fibre cement roof.

### **RECOMMENDATION**

APPROVAL

### **SITE AND SURROUNDINGS**

The site consists of an agricultural field located off Birch Road, to the northern edge of Landkey

There is vehicle access to the southern boundary of the site which leads onto Birch Road. There is agricultural land surrounding the site. The site is bounded by a Devon Hedge Bank. There are currently no buildings to serve this site.

The site is not within any protected landscape and is within the 'Estate Wooded Ridges & Hilltops' landscape character type.

The applicant farms agricultural land in Landkey, Swimbridge and Chittlehamholt amounting to approximately 69 acres as well as an additional 9 acres which is rented. The applicant has a flock of approximately 180 - 190 sheep on this land.

### **REASON FOR REPORT TO MEMBERS**

The applicant is a District Councillor.

## **POLICY CONTEXT**

The North Devon and Torridge Local Plan has recently been adopted and the following policies are relevant:

North Devon and Torridge Local Plan (2011 – 2031)

ST01: Principles of Sustainable Development

ST04: Improving the quality of Development.

ST07: Spatial Development Strategy for Northern Devon's Rural Area.

ST11: Delivering Employment and Economic Development

ST14: Enhancing Environmental Assets.

DM01: Amenity Considerations

DM02: Environmental Protection

DM04: Design Principles

DM05: Highways

DM08: Biodiversity and Geodiversity

DM14: Rural Economy

National Planning Policy Framework

## **CONSULTEE RESPONSES**

**Landkey Parish Council:** Recommend approval of this application.

**Environmental Health Officer:** There do not appear to be any sensitive receptors such as residential properties in close proximity to the proposed building. As such, I have no comments or objections.

**Environment Agency:** Standing advice applies – not within a flood risk area and surface water can be dealt with on site.

**Highways Authority:** Standing advice applies.

## **REPRESENTATIONS**

At the time of preparing this report there have been no letters of representation received.

## **PLANNING HISTORY**

There is no planning history relating to this site.

## **SUMMARY OF ISSUES**

1. Principle of the development
2. Impacts on the character and appearance of the area
3. Amenity
4. Highway Considerations
5. Ecology.

## **PLANNING CONSIDERATIONS**

### **1. Principle of development**

The site is located outside the Landkey settlement boundary and should therefore be considered against countryside policies. The National Planning Policy Framework advises that the purpose of the planning system is to contribute to achieving sustainable development and establishes a presumption in favour of sustainable development. One of the core planning objectives is to proactively drive and support sustainable economic development. Sustainable development has three dimensions – social, environmental and economic. In terms of the latter the NPPF states that significant weight should be placed on the need to support economic growth through the planning system.

Paragraph 83 of the NPPF seeks to support a prosperous rural economy and supports the sustainable growth and expansion of all types of businesses in rural areas. In particular, planning policies and decisions should support the development and diversification of agricultural land and other land – based rural businesses.

Policy ST07 of the North Devon and Torridge Local Plan is the overarching countryside policy which seeks to ensure that development in the countryside will only be permitted where a rural location is required; it provides economic or social benefits and protects or enhances the landscape.

Policy DM14: Rural Economy of the North Devon and Torridge Local Plan states to support the rural economy, new small scale economic development in the countryside will be supported on the following basis:

- (a) Change of use or conversion of a permanent and soundly constructed building; or
- (b) Sites or buildings adjoining or well related to a defined settlement or a Rural Settlement;
- (c) The proposed employment use has a strong functional link to local agricultural, forestry or other existing rural activity;

Provided that:

- (d) There is no adverse impact on the living conditions of local residents;
- (e) The scale of employment is appropriate to the accessibility of the site and the standard of the local highway network; and
- (f) Proposals respect the character and qualities of the landscape and the setting of any affected settlement or protected landscape or historic assets and their settings and include effective mitigation measures to avoid adverse effects or minimise them to acceptable levels.

The site is agricultural and the proposal is for the erection of an agricultural building to facilitate agricultural practices, such as the housing of livestock, lambing, feeding and storage of bedding and agricultural implements.

The proposed agricultural building, sited in this location, would not be visually prominent from the adjacent highway, Birch Road, because of the existing hedge banks .

The above policies indicate there is a strong national and local policy support for development of agricultural businesses. The erection of an agricultural building to

facilitate agricultural practices is therefore deemed to be a suitable form of development in the countryside.

Given the above, it is considered there is sufficient basis to warrant support the principle of development in terms of the economic tests of sustainable development to further expand this agricultural enterprise in line with Policies ST07 and DM14 of the North Devon and Torridge Local Plan.

## **2. Impact on the character and appearance of the area**

Policy DM04 (Design Principles) of the North Devon and Torridge Local Plan support good design and the integration of new development into the natural, built and historic environment.

The proposed building would be 27.4 metres by 18.2metres and 6.8 metres in height with a shallow pitched roof. The walls will be covered in Yorkshire timber boarding over concrete blocks and the roof will be grey fibre cement sheeting. The site is not within any designated landscape and is a levelled piece of land. In terms of the siting, the rural location is justified by its agricultural purpose. The proposed building will be sufficiently screened from public view points by the adjacent mature Devon Hedge Bank along the southern boundary of the site. The visual harm from the development would be minimal. The proposed building will be of a style and design typical for agricultural building within the district and accords with the design principles set out in Policy DM04 (Design Principle) of the North Devon and Torridge Local Plan.

## **3. Amenity**

The nearest neighbouring property to the site would be in excess of 200 metres of the site. Due to the existing use and the separation distances from third party residential properties it is considered there would be no undue impact on neighbouring amenity in accordance with Policy DM01 (Amenity Considerations) of the North Devon and Torridge Local Plan. Furthermore, the Authority's Environmental Health Officer has been consulted on this application and raises no objections.

## **4. Highway Considerations**

The building would be accessed via an existing vehicle access on the southern boundary. There are no alterations proposed to the access. The new building is not considered to increase vehicular movements to and from the site. There is sufficient parking and turning for vehicles on site. The development is therefore considered to be in accordance with Policy DM05 (Highway Considerations) of the North Devon and Torridge Local Plan.

## **5. Ecology**

Local Planning Authorities have a statutory duty to ensure that the impact of development on wildlife is fully considered during the determination of a planning application under the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006 and the Conservation of Habitats and Species Regulations 2010 (Habitats Regulations 2010).

The site area and its existing use are such that it would not trigger the need for an ecological assessment. On review of the site it comprises improved pasture land, the development of which will have limited impact on biodiversity and as such the above statutory duty is considered to be met.

## **CONCLUSION**

The development will constitute sustainable development and will help facilitate the functioning of an existing agricultural enterprise. The proposed building will be in keeping with the design and material of other agricultural building in the locality.

The proposal building is justified for the purposes of agriculture and does not impact adversely on the character of the area, amenity, highway safety or ecology in compliance with the adopted North Devon and Torridge Local Plan.

## **HUMAN RIGHTS ACT 1998**

The provisions of the Human Rights Act and principles contained in the Convention on Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols identified below were considered of particular relevance:

Article 8 – Right to Respect for Private and Family Life  
THE FIRST PROTOCOL – Article 1: Protection of Property

## **DETAILS OF RECOMMENDATION**

**APPROVE**, subject to the following conditions:

1)The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason:

The time limit condition is imposed in order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2)The development hereby permitted shall be carried out in accordance with the plans submitted as part of the application numbers 638 10, 638 20, 638 30 and Design & Access Statement received on the 11<sup>th</sup> October 2018 ('the approved plans').

Reason:

To confirm the drawings to which the consent relates and to ensure the development accords with the approved plans.

(3) The site must be drained on a separate system of foul and surface water drainage, with all clean roof and surface water being kept separate from foul drainage.

Reason:

To prevent pollution of the water environment.

(4) If any foul drainage is produced, including foul surface water run-off, it must be stored and disposed of in such a way as to prevent any discharge to a well, spring or watercourse, including dry ditches with a connection to a watercourse.

Reason:

To prevent pollution of the water environment.

(5) Silage liquor must be contained within a sealed system, which should be isolated from the main drainage system, in accordance with the DEFRA "Code of Good Agricultural Practice for the Protecting our Water, Soil and Air."

Reason:

To prevent pollution of the water environment and in accordance with Policy ST03 and ST14 of the adopted North Devon Local Plan.

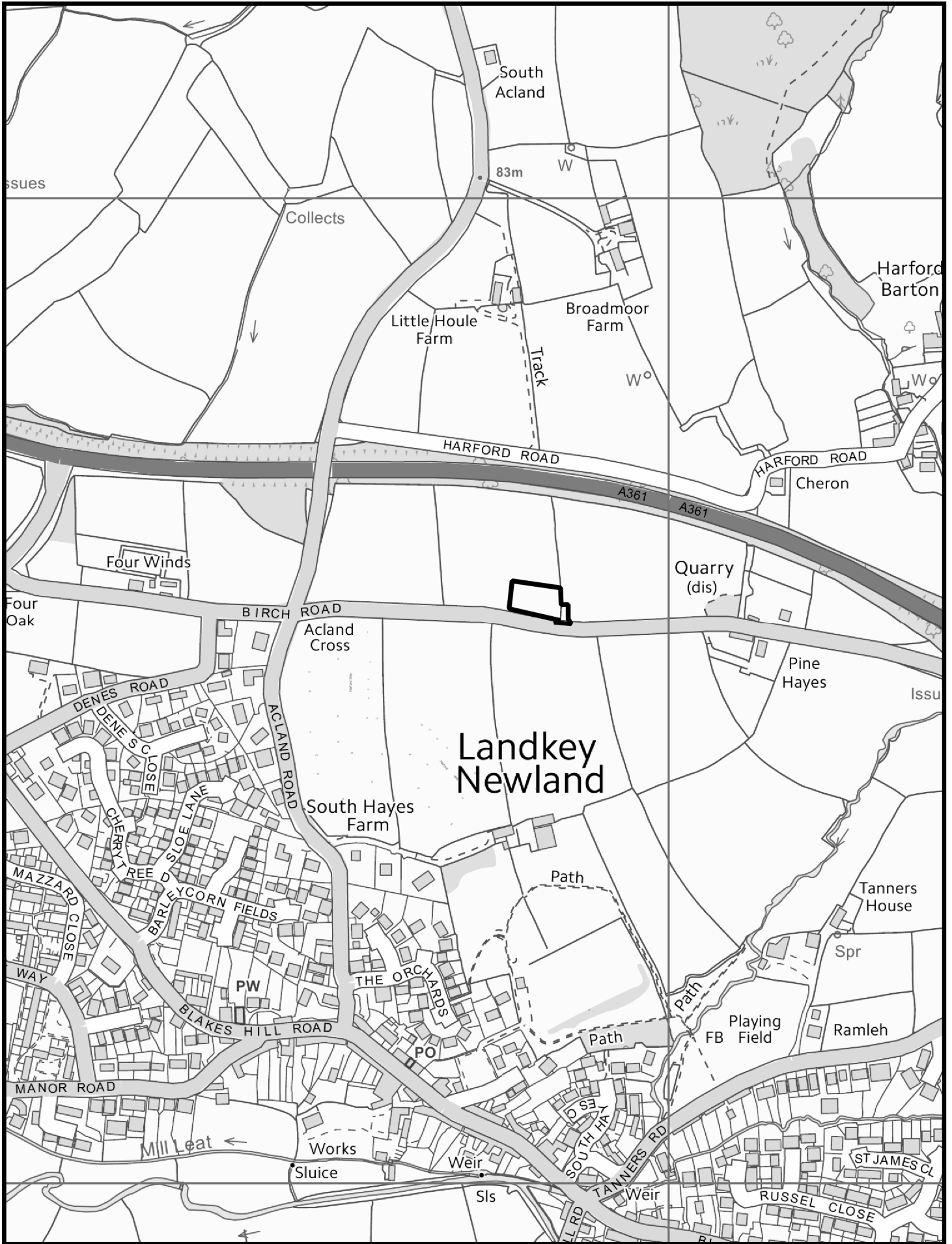
#### NOTE TO APPLICANT

1. The disposal of silage and/or slurry must be undertaken in accordance with the 2009 edition of the DEFRA Code of Good Agricultural Practice for the Protection of Water, Soil and Air. No farm effluent or contaminated surface water, including wash down water, shall be discharged into any watercourses or water sources.

#### INSERT(S) TO FOLLOW OVERLEAF

1. OS Location Plan





# Landkey Newland

## 65685 - Land off Birch Road, Landkey