

## **Application Report**

Planning, Housing and Health  
North Devon Council  
Lynton House, Commercial Road,  
Barnstaple, EX31 1DG

<b>Application No:</b>	76371
<b>Application Type:</b>	Permission in Principle Not Brownfield
<b>Application Expiry:</b>	30 March 2023
<b>Extension of Time Expiry:</b>	30 March 2023
<b>Publicity Expiry:</b>	14 January 2023
<b>Parish/Ward:</b>	KNOWSTONE/BISHOPS NYMPTON
<b>Location:</b>	Land opposite 2 Traceys Cottages Knowstone South Molton Devon EX36 4RY
<b>Proposal:</b>	Application for permission in principle for erection of 1 local needs dwelling
<b>Agent:</b>	Mr J Clarke
<b>Applicant:</b>	Mr J Westacott
<b>Planning Case Officer:</b>	Mr D. Jeffery
<b>Departure:</b>	N
<b>EIA Development:</b>	
<b>EIA Conclusion:</b>	Development is outside the scope of the Regulations.
<b>Decision Level/Reason for Report to Committee (If Applicable):</b>	Committee – Councillor Ley called the application to Planning Committee ‘to consider the site’s location, in relationship to the Knowstone settlement. To be aware the affordable housing site, just to the north west, (East Hill) approved in 2018/19, for which permission has now expired’

### **Site Description**

The application site is located on a lane running south from the centre of Knowstone where there is a cluster of historic development - Tracey’s farm and Cottages on its east side. The application lies a further 150 m beyond these cottages and comprises a narrow parcel of land running parallel to the road. Access to this land is via a gateway around 400m south of the main built up area of Knowstone. The lane connecting the site to the village is an unlit single track lane enclosed by high hedgebanks. The site consists of grass paddock which is bound by hedgerows and with existing vehicular access in the south eastern corner.

The site is not located within a designated landscape nor is it constrained by being within the setting of any designated heritage assets. The site is in Flood Zone 1 where there is a low risk of flooding.

The site is within Landscape Character Type 1F Farmed Lowland Moorland and Culm Grassland.



Site access



South towards access



North towards Knowstone



View south along highway towards access

## **Recommendation**

### **REFUSE**

Legal Agreement Required: No

## **Planning History**

No relevant planning history.

## **Constraints/Planning Policy**

<b>Constraint / Local Plan Policy</b>	<b>Distance (Metres)</b>
Advert Control Area Area of Special Advert Control	Within constraint
Ancient Woodland: HARPSON/BEAPLES WOODS Ancient Replanted Woodland	495.66
Class III Road	
Landscape Character is: 1F Farmed Lowland Moorland and Culm Grassland	Within constraint
Public Right of Way:Footpath 238FP4	3.11
Unclassified Road	
USRN: 27503203 Road Class:C Ownership: Highway Authority	2.93
USRN: 27505945 Road Class:YFP Ownership: Highway Authority	3.11
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint

<b>Constraint / Local Plan Policy</b>	<b>Distance (Metres)</b>
Within:, SSSI 5KM Buffer in North Devon, consider need for AQIA if proposal is for anaerobic digester without combustion plant	Within constraint
Within: Culm Grasslands, SAC 10KM Buffer if agricultural development consider need for AQIA	Within constraint
Within: Exmoor and Quantock Oakwoods, SAC 10KM Buffer if agricultural development consider need for AQIA	Within constraint
Within: Exmoor Heaths, SAC 10KM Buffer if agricultural development consider need for AQIA	Within constraint
SSSI Impact Risk Consultation Area	Within constraint
SSSI Impact Risk Consultation Area	Within constraint
DM01 - Amenity Considerations DM02 - Environmental Protection DM04 - Design Principles DM05 - Highways DM06 - Parking Provision DM08 - Biodiversity and Geodiversity DM08A - Landscape and Seascape Character DM24 - Residential Development in Rural Settlements ST01 - Principles of Sustainable Development ST04 - Improving the Quality of Development ST07 - Spatial Development Strategy for Northern Devon's Rural Area ST14 - Enhancing Environmental Assets	

### **Consultees**

<b>Name</b>	<b>Comment</b>
Building Control Manager	No comment received.
Councillor E Ley	Called to Planning Committee to consider the site's location, in relationship to the Knowstone settlement. To be aware the affordable housing site, just to the north west, (East Hill) approved in 2018/19, for which permission has now expired'.
DCC - Public Rights Of Way	No comment received.
Environmental Health Manager	Based on the limited information provided, I do not anticipate having any objections from an Environmental Health perspective.
Reply Received 3 January 2023	I may wish to comment further once any more detailed proposals are received and if a formal planning application raises any unexpected issues.  Advisory Note: Foul Drainage  If the intention is to use a private system for disposal of foul drainage from the dwelling, the system (including any drainage field) will need to comply with Building Regulations and the

<b>Name</b>	<b>Comment</b>
	Environment Agency's General Binding Rules for small sewage disposal systems (or Permitting requirements where applicable).
Housing Enabling Officer  Reply Received 20 December 2022	20/12/2022 15:38 - Thank you for your consultation.  Housing Enabling does not deal with Local Needs housing as it is not classified as Affordable Housing. A Local Needs housing application should not be speculative and must be to meet an identified local need at the time of submission. Local connection must be evidenced.
Knowstone Parish Council  Reply Received 25 January 2023	Knowstone Parish Council discussed this application for permission in principle at its Council meeting on 24th January 2023.  It was strongly felt that this application represented a good opportunity to provide a local needs affordable house for the parish which would help prevent a young person, who had grown up in the parish, from having to move elsewhere as the cost of property within the parish is prohibitive. Therefore, the Council agreed to wholeheartedly support this application.
Planning Policy Unit	From a policy perspective, I would suggest the proposed site (red outline) is very finely balanced in terms of it being an acceptable location for additional housing in accordance with the stated criteria within Policy DM24 and you may wish to explore other areas of land within the applicant's ownership (blue land), particularly on land immediately adjacent to 2 Traceys Cottages although I accept this may not be possible under this type of application as at this stage you can only establish whether a site is suitable in principle and limited to location, land use and amount of development. I do note though that the proposed site is in close proximity to a PROW which connects to Knowstone village centre.
Sustainability Officer	No comment received.

### **Neighbours / Interested Parties**

<b>Comments</b>	<b>No Objection</b>	<b>Object</b>	<b>Petition</b>	<b>No. Signatures</b>
4	0	0	0	0

Four letters of representation have been received offering support for the proposals. These letters draw attention to the need to accommodate local people in the village where there is a lack of available housing stock. Comments also support the suitability of the site for development in terms of highways impacts and neighbour amenity.

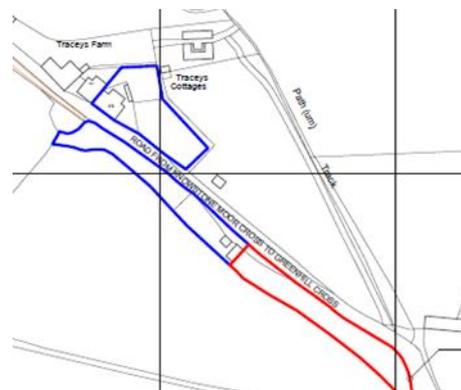
## **Proposed Description**

This application is seeking 'permission in principle' for the erection of one local needs dwelling.

The submitted Planning Statement states that the applicant is seeking to obtain planning permission for one detached dwelling for their daughter who is reported to have lived locally all of her life and therefore has very strong connections to the village of Knowstone. The daughter is reported to be employed locally by her father (the applicant). On the basis of the above, Officers are satisfied that this is not a speculative development and would meet an identified local need, which would need to be secured via an S106 agreement. However, as the application is for permission in principle only, this would need to be secured at the Technical Details application stage, if the proposals were considered to be acceptable in all other respects.



Aerial image – Google



Location Plan

## **Planning Considerations Summary**

The scope of considerations for a 'permission in principle' application are limited to the principle of development including: location; land use; and the amount of development. All other matters are considered as part of a subsequent Technical Details Consent application, if 'permission in principle' is granted.

## **Planning Considerations**

In the determination of a planning application, Section 38 of the Planning & Compulsory Purchase Act 2004 is relevant. It states that for the purpose of any determination to be made under the planning Acts, the determination is to be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for this area includes the Devon Waste Plan and North Devon and Torridge Local Plan. The relevant Policies are detailed above.

The NPPF is a material consideration.

The application is made under the provisions of the Town and Country Planning (Permission in Principle) (Amendment) Order 2017, which came into force on 1st June 2018. This amends the Town and Country Planning (Permission in Principle) Order 2017 to allow Local Planning Authorities to grant permission in principle on receipt of a valid application for housing-led development.

The Local Planning Authority are tasked with considering whether the location, land use and amount of development are acceptable in accordance with the relevant policies in the Development Plan unless there are material considerations, such as those within the National Planning Policy Framework and national guidance, which indicate otherwise.

The Planning Practice Guidance states: "The scope of permission in principle is limited to location, land use and amount of development. Issues relevant to these 'in principle' matters should be considered at the permission in principle stage. Other matters should be considered at the technical details consent stage".

## **Location**

The application is seeking 'permission in principle' for the erection of one local needs dwelling.

The application site is located outside of the village of Knowstone, which is identified as a 'Rural Settlement' under part (3) of the North Devon and Torridge Local Plan (NDTLP). Policy ST07 (3) states 'In Rural Settlements which contain at least one prescribed service or community facility, appropriately located development of a modest scale will be enabled to meet local generated needs'.

Knowstone is a small village with a Village Hall, a Church (St Peters) and Public House (The Masons Arms). The village would therefore qualify as a Rural Settlement where Policies ST07(3) and DM24 apply. Policy ST07 (3) states that '*appropriately located development of a modest scale will be enabled to meet locally generated needs*'.

Policy DM24: (Rural Settlements) of the NDTLP set out the following criteria for residential development:

In qualifying Rural Settlements, proposals for local occupancy dwellings to meet a locally identified housing need will be supported where:

- a. *The development site forms part of a small closely grouped or contiguous built form of housing that is physically separate from urban areas of other defined settlements;*
- b. *The scale is proportionate to the settlements size, form and character;*
- c. *The site is within or directly adjoining the built form of the settlement;*
- d. *The size of the dwellings are no larger than can be justified by the established need;*
- e. *It would harm the settlements rural character and setting; and*
- f. *Secure arrangements are made to ensure the dwellings remain available to meet the locally identified housing need of the local community both initially and in the long term provided the need exists.*

Part (a) requires an assessment of whether site forms part of a *small closely grouped or contiguous built form of housing*. Knowstone is a small rural settlement mostly centred around the church and public house on an east-west axis. The application site is located on a lane running south from Knowstone beyond a small cluster of historic development - Tracey's farm and Cottages. The current access to the application site lies a further 150 m beyond these cottages and comprises a narrow parcel of land running parallel to the road on the opposite side to Tracey's Cottages and Farm.

Given the site's location as described above, it is difficult to argue that it would form part of a small closely grouped or contiguous built form of housing as required by part (a) of the above policy. There is therefore conflict with DM24 (a) in terms of the site's location. The

conflict with this policy would however be reduced if development were focused towards the northern edge of the identified site.

Part (c) requires that development is within or directly adjoining the built form of the settlement. The site's access is around 400m south of the main built up area of Knowstone. As such, the site cannot be described as being within or directly adjoining the built form of Knowstone. There is therefore clear conflict with DM24 (c) in terms of the site's location.

Part (e) requires an assessment of whether a new dwelling in this location would harm the settlement's rural character and setting.

Although the degree of any landscape harm resulting from the proposals would be dependent upon detailed design at the Technical Details stage, the suitability of the site's location for development in landscape terms is of relevance. In this respect DM04 Design Principles requires that development proposals (b) reinforce the key characteristics and special qualities of the area in which the development is proposed; and (d) contribute positively to local distinctiveness, historic environment and sense of place. Policies ST14 and DM08A require development to protect and enhance landscape qualities.

The site is within Landscape character Area 1F Farmed Lowland Moorland and Culm Grassland. The Council's Joint Landscape Character Assessment (LCA) relating to this Landscape Character Type advises that '*new development is integrated into its landscape setting, avoiding prominent ridgelines*' and that '*the landscape's strong sense of tranquillity and remoteness is protected*'. It also states that development *should 'protect the landscape's sparse settlement pattern of scattered farmsteads, small clustered hamlets and nucleated villages and resist the further spread of new development outside the limits of the landscape's villages and hamlets, including along roads'*.

It is noted that there is already a cluster of development detached from the south side of the village at Tracey's Farm including two cottages. However, this is considered to represent a distribution of development that is consistent with historic patterns, where farms and cottages for their workers are often clustered in locations distinct from a village. The proposed development site does not reinforce this pattern of development but is instead physically separate from Tracey's Farm and bears little relationship to the main built up area of the village itself.

The proposed residential dwellings would not satisfy any of the criteria set out in Policy ST07 (3), ST07 (4) and Paragraph 80 of the National Planning Policy Framework, with the result that the principle of development is considered to be unacceptable in this location.

Taking the above into account the proposal is in conflict with Policy ST07 and DM24 of the North Devon & Torridge Local Plan.

#### Five Year Housing Land Supply (5YHLS)

Notwithstanding, as a result of the Burwood Appeal (APP/W1145/W/19/3238460), the Council accepts that it cannot currently demonstrate a five year supply of deliverable housing sites (5YHLS); with the appeal concluding that there is a supply of 4.23 years across Northern Devon. By virtue of not being able to demonstrate a five year supply of deliverable housing sites (footnote 7, NPPF), there is a need to apply the presumption in favour of sustainable development (the 'Presumption') (paragraph 11(d), NPPF) as a material consideration in determining planning applications for housing.

Paragraph 11 (d) notes:

Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, Local Planning Authorities should grant planning permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance (National Parks, AONB, SSSI, Heritage Assets, Habitat Sites) provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

For the purposes of the Presumption, policies of the development plan are not considered to be automatically out-of-date by virtue of not being able to demonstrate a 5YHLS. Whether a policy of the development plan is out-of-date is a matter for the decision taker, in light of their substance and considering their conformity with the NPPF. As the NDTLP was adopted relatively recently, none of the policies are generally considered to be out-of-date for the application of the Presumption.

The Presumption is set out in two parts by Paragraph 11 (d) of the NPPF, however, as this proposal does not harm a 'protected area', the decision taker in this case needs to consider the NPPF's requirement to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits; the so-called tilted balance (Paragraph 11(d)(i), NPPF).

In addition to the 'tilted balance', some weight can be given to policy ST21 of the NDTLP which relates to managing the delivery of housing. In particular, ST21 (2) is relevant, which supports development outside the settlement limits (where completions are below 90% of the annual requirement). The Burwood Appeal Decision determined that ST21 (2) is currently engaged, which requires any proposal to be in a location, of a scale, and nature commensurate with the deficit in required housing (a), demonstrate the ability to contribute in a timely manner to addressing the deficit in housing supply (b), be broadly consistent with the plans spatial strategy/vision along with the relevant settlement vision and development strategy (c), and be compliant with the remaining plan where relevant (d). Dealing with each of these points in turn:

(a) The deficit of housing within Northern Devon is clearly substantial as a 5YHLS supply cannot be proven. This proposal is for one dwellings so combined with other development, it could assist in the contribution towards the 5YHLS.

The proposal is considered to accord with (a).

(b) The Council has only received a Permission in Principle application and therefore only the location, land use and amount of development can be considered at this stage with other matters considered at the technical details stage. This is designed to enable application for appropriate developments to be determined more rapidly and therefore the proposal is considered to accord with (b).

(c) As discussed earlier, the site is located within the countryside. The provision a dwelling is in conflict with the spatial development strategy for northern Devon's rural area, which seeks to guide such development towards established settlements with development boundaries that can offer some or all of the services and facilities required to support a residential use. This principle is established by Policy ST07 which adopts a hierarchical

approach in recognition of the scale of each settlement and the availability of the facilities and services that are available therein, noting that Local Centres will be the primary focus for development within the rural area, with villages also identified to accommodate more modest levels of open market residential development in accordance with local spatial strategies.

In addition to being a countryside location, the application site is in close proximity to Knowstone which is a rural settlement but falls at the bottom of the settlement hierarchy with very limited services. This would result in any future applicants relying on private transport to access day to day services.

Taking account of the above, it is considered that the proposal is contrary to criterion (c).

### **Land use**

The proposed land use is for residential purposes, specifically to serve an identified local need. The site's existing use is agricultural and adjoins land associated with Tracey's Cottages including parking and a small shed. The proposed land use is not considered likely to result in any conflicts with surrounding land uses. Purely in terms of any neighbour impact, there is no objection to the site's development in terms of the proposed land use.

Secure arrangements would need to be made to ensure the dwelling remains available to meet locally identified housing needs of the community both initially and in the long term. This however, would need to be addressed via an s106 agreement at the Technical Details stage. Subject to any dwelling being restricted to those with an identified housing need and a close connection to Knowstone, the proposed land use is acceptable in principle.

### **Amount of Development**

Whilst matters of scale and design would be reserved for future consideration at the Technical Details stage, the amount of development is a relevant consideration at the permission in principle stage. Of relevance to this, part (b) of Policy DM24 relates to whether the scale of the proposal is proportionate to the settlement's size, form and character.

The proposal is for 1 dwelling. Although the site is narrow, it is considered that it is of a scale that may be able to accommodate a dwelling subject to suitable provision of garden areas, access parking and turning. The way in which any dwelling is designed, accessed and whether its size appropriately responds to the identified local need would need further consideration at the technical details consent stage if acceptable in all other respects.

The amount of development, for one dwelling is clearly considered to be of a small scale and commensurate to what would be expected where a local needs dwelling is concerned.

### **Conclusion**

With regard to the NDTLP's overarching settlement hierarchy and compliance with Policy ST07 (3), development proposals are required *to meet locally generated needs and to be appropriately located*. Officers accept that subject to this being secured via a legal agreement at the technical details stage the proposals will respond to an identified local.

However, as covered in the assessment above, Officers consider that the site fails to comply with Policies ST07 and DM24 relating to whether the site can be considered an appropriate location for new development. In particular, the site cannot be considered to form part of a

small closely grouped or contiguous built form (DM24a); is not within or directly adjoining the built form of the settlement (DM24c); and would result in harm to the settlement's rural character and setting form (DM24e). This last point of conflict is magnified by conflict with other provisions of the NDTLP and guidance for development relating to this particular landscape character type which seeks to resist development on elevated sites and the *'further spread of new development outside the limits of the landscape's villages and hamlets, including along roads'*.

Although members may choose to attribute additional weight to the locally generated need for housing in Knowstone, Officers conclude that the location of the proposed development does not comply with the NDTLP for the above reasons and on this basis, recommend the application for refusal.

In considering the principle of development for this site, it must also be acknowledged that the Council cannot clearly demonstrate a five year supply of deliverable housing sites (Due to the Burwood Appeal). Accordingly, the presumption in favour of sustainable development (paragraph 11(d), NPPF as a material consideration), should be applied for decision-taking involving applications for housing. If there is no clear reason to refuse an application based on a protected area or asset, the decision taker needs to consider as a material consideration the NPPF's requirement to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits – the so-called tilted balance (Paragraph 11(d)(i), NPPF).

However in acknowledging the minor scale of the development and the site's position, well removed from the main built up area of this rural settlement, the absence of a 5YHLS, is not considered to outweigh the above conclusion.

For the above reasons, the proposed development is not considered to represent an appropriate location for new development in that it is clearly detached from the built up area of Knowstone, does not relate well to any other existing development, does not respect the existing settlement pattern and is in a prominent position that would result in harm to local landscape character. The proposals are therefore contrary to Policies ST04, ST07, DM04, DM08A and DM24 of the joint 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

Section 149(1) 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 (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it (the Public Sector Equality Duty or 'PSED'). There are no equality implications anticipated as a result of this decision.

## **Recommendation**

### **REFUSE**

Legal Agreement Required: No

### **Reasons for Refusal**

1. The proposed development is not considered to represent an appropriate location for new housing development in that it is clearly detached and not within or directly adjoining the built form of Knowstone, does not relate well to any other existing development, does not respect the existing settlement pattern and is in a prominent position that would result in harm to local landscape character. The economic and social contribution of one local needs dwelling to the Councils Five Year Housing Supply is not sufficient to outweigh the harm. In this circumstance the proposal is contrary Policies ST04, ST07, DM04, DM08A and DM24 of the joint North Devon and Torridge Local Plan (2011-2031).

### **Informatives**

1. **INFORMATIVE NOTE: -  
POLICIES AND PROPOSALS RELEVANT TO THE DECISION**  
  
Development Plan - North Devon and Torridge Local Plan 2018: -  
DM01 - Amenity Considerations  
DM02 - Environmental Protection  
DM04 - Design Principles  
DM05 - Highways  
DM06 - Parking Provision  
DM08 - Biodiversity and Geodiversity  
DM08A - Landscape and Seascape Character  
DM24 - Residential Development in Rural Settlements  
ST01 - Principles of Sustainable Development  
ST04 - Improving the Quality of Development  
ST07 - Spatial Development Strategy for Northern Devon's Rural Area  
ST14 - Enhancing Environmental Assets
2. The following plans were considered during the determination of this application:  
  
9822/01 Location Plan and received on the 12/12/22  
9822/02 Block Plan and received on the 09/12/22
3. **Statement of Engagement**  
In accordance with paragraph 38 of the National Planning Policy Framework the Council works in a positive and pro-active way with Applicants and looks for solutions to enable the grant of planning permission. However in this case the proposal is not sustainable development for the reasons set out and the Council was unable to identify a way of securing a development that improves the economic, social and environmental conditions of the area.