



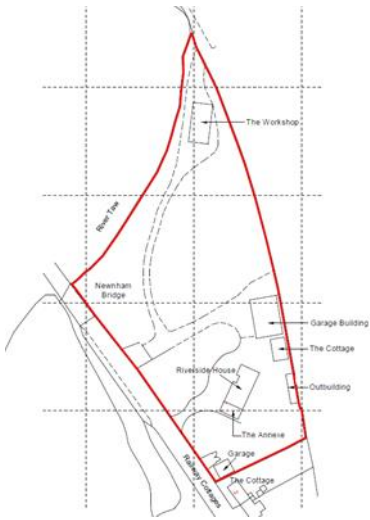
Application Report

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

Application No:	76435
Application Type:	Full Application
Application Expiry:	3 March 2023
Extension of Time Expiry:	
Publicity Expiry:	9 March 2023
Parish/Ward:	BURRINGTONCHULMLEIGH/CHULMLEIGH
Location:	Riverside House Newnham Bridge Umberleigh Devon EX37 9EU
Proposal:	Demolition of existing workshop building and erection of a detached house with an integral garage, amenity space, car parking, access and landscaping, together with a change of use from two houses to one house by the re-integration of an existing annex dwelling into the main house
Agent:	Mr Kevin Davies
Applicant:	Mrs J Glenister
Planning Case Officer:	Mrs D. Butler
Departure:	N
EIA Development:	
EIA Conclusion:	Development is outside the scope of the Regulations.
Decision Level/Reason for Report to Committee (If Applicable):	Committee – Cllr Davies is agent for the application and as such it is required to go to committee.

Site Description

The site is adjacent to the A377 and Newnham Bridge between Lapford and Umberleigh. The site is around 1.09ha with a sloping topography down towards the river. There is a large two storey detached dwelling with annexe, large garage building, detached cottage and other outbuildings. The site is bounded by fences, trees and hedges although it is visible from the road. There are some neighbouring cottages to the east and North.



Site Plan



Photograph of site



Block Plan

Recommendation

Refused – Please note, the applicant has appealed against non-determination and as such the Committee Members are requested to make a resolution to be put forward to the Planning Inspector.

Legal Agreement Required: No

Planning History

Reference Number	Proposal	Decision	Decision Date
16004	Proposed extension to dwelling. at Greenvale, South Molton Road, Umberleigh, EX37 9EU	Full Planning Approval	22 September 1992
40952	Extension to dwelling together with conversion of garage to form additional living accommodation at Riverside House, Newnham Bridge, Umberleigh, Devon, EX37 9EU	Full Planning Approval	23 December 2005
48447	Demolition of steel framed building & erection of double garage with office & storage above at Riverside House, Newnham Bridge, Umberleigh, EX37 9EU	Full Planning Approval	12 August 2009
50063	Application for a Lawful Development Certificate in respect of an existing use of agricultural land as domestic garden at Riverside House, Newnham Bridge, Umberleigh, Devon, EX37 9EU	Cert Of Lawfulness Refused	18 August 2010
60829	Application for a Lawful Development Certificate for the existing use of land as domestic garden & for the siting of the existing shed at Riverside House, Newnham Bridge, Umberleigh, Devon, EX37 9EU	Cert. Of Lawfulness Issued	3 July 2016
74839	Application for a lawful development certificate for existing use as a dwellinghouse at The Cottage Riverside House, Newnham Bridge, Umberleigh Devon EX37 9EU	Approved	10 May 2022
75571	Application for a lawful development certificate for existing use of two storey building attached to Riverside House as an independent dwellinghouse at Annexe Riverside House, Newnham Bridge Umberleigh, Devon EX37 9EU	Approved	9 September 2022
76435	Demolition of existing workshop building and erection of a detached house with an integral garage, amenity space, car parking, access and landscaping, together with a change of use from two houses to one house by the re-integration of an existing annex dwelling into the main house at Riverside House, Newnham Bridge, Umberleigh Devon EX37 9EU		

Constraints/Planning Policy

Constraint / Local Plan Policy	Distance (Metres)
Advert Control Area Area of Special Advert Control	Within constraint
Ancient Woodland: BRIDGE WOOD Ancient & Semi-Natural Woodland	50.68
Ancient Woodland: HEAD WOOD (NORTH) Ancient & Semi-Natural Woodland	388.90
Ancient Woodland: HEAD WOOD (NORTH) Ancient Replanted Woodland	371.13
Ancient Woodland: NEWHAM WOOD Ancient & Semi-Natural Woodland	439.82
Burrington Radar Safeguard Area consultation required for: All buildings, structures, erections & works exceeding 15 metres in height.	Within constraint
Burrington Radar Safeguard Area consultation required for: All buildings, structures, erections & works exceeding 45 metres in height.	Within constraint
Class I Road	
Land is potentially contaminated, site was used for:Railways, Is ranked:MEDIUM, Year:1891	12.07
Land is potentially contaminated, site was used for:Railways, Is ranked:MEDIUM, Year:1906	12.07
Land is potentially contaminated, site was used for:Railways, Is ranked:MEDIUM, Year:1964	12.07
Landscape Character is: 3C Sparsely Settled Farmed Valley Floors	Within constraint
USRN: 27506537 Road Class:A Ownership: Highway Authority	2.84
Within 10m of Network Rail Line	9.09
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint
Within Surface Water 1 in 1000	Within constraint
DM01 - Amenity Considerations DM04 - Design Principles DM05 - Highways DM06 - Parking Provision DM08 - Biodiversity and Geodiversity DM08A - Landscape and Seascape Character DM27 - Re-use of Rural Buildings ST01 - Principles of Sustainable Development ST04 - Improving the Quality of Development ST07 - Spatial Development Strategy for Northern Devon's Rural Area	

Consultees

Name	Comment
Burrington Parish Council	None received
Reply Received	

Name	Comment
<p>Chulmleigh Parish Council</p> <p>Reply Received 2 February 2023</p>	<p>Chulmleigh Parish Council wishes to recommend approval of this application.</p>
<p>Councillor K Davies</p> <p>Reply Received</p>	<p>Cllr Davies is agent for the planning application.</p>
<p>Environmental Health Manager</p> <p>Reply Received 16 January 2023</p>	<p>I have reviewed this application in relation to Environmental Protection matters and comment as follows:</p> <p>1 Railway Noise</p> <p>The proposed dwelling and outside amenity spaces would be close to the operational railway line at the eastern boundary. Noise and/or vibration generated when trains pass by has the potential to significantly impact residential occupiers of such a development. The proposed dwelling has a number of windows, doors and outdoor amenity space close to the railway line including at upper floors.</p> <p>I recommend the Applicant be asked to provide an environmental noise assessment that considers the potential for railway noise and vibration to impact the proposed development. The assessment report should be prepared by a suitably qualified and experienced person (Member of the Institute of Acoustics or equivalent) and have regard to relevant standards and guidance. The assessment should take account of the character and level of train noise events and consider the impact significance during the day and at night within the proposed dwelling and at outside amenity areas. The assessment report should include recommendations relating to any site constraints or mitigation measures as appropriate.</p> <p>2 Land Contamination</p> <p>Residential developments are recognised as having high sensitivity to the presence of any land contamination affecting the site. In this case, the proposals include creation of a garden area on land currently occupied by a large workshop. The site may also incorporate made ground next to a railway line. In order to ensure that any potentially significant contamination risks are adequately considered, I recommend the following conditions be included:</p> <p>- Contaminated Land Phase 1 Condition Prior to the commencement of any site clearance, groundworks or construction, the local planning authority shall be provided with a Phase 1 Preliminary Risk Assessment Report for potential ground contamination for written approval. The report shall be prepared by a suitably qualified competent person and be sufficient to identify any and all potential sources of</p>

Name	Comment
	<p>ground contamination affecting any part of the development site. Thereafter, depending on the outcome of Phase 1, a proposal for any Phase 2 (intrusive) survey that may be required shall be presented to and agreed with the planning authority.</p> <p>Where remediation of any part of the site is found to be required, a remediation scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of any necessary quality assurance, verification and certification requirements in accordance with established best practice.</p> <p>The construction phase of the development shall be carried out in accordance with the agreed details and, where relevant, verification reports and completion certificates shall be submitted for the written approval of the local planning authority.</p> <p>Reason: To ensure that risks from land contamination to future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems are identified and, where necessary, remediated in accordance with the National Planning Policy Framework.</p> <p>- Contaminated Land (Unexpected Contamination) Condition</p> <p>Should any contamination of ground or groundwater not previously identified be discovered during development of the site, the Local Planning Authority shall be contacted immediately. Site activities within that sub-phase or part thereof shall be temporarily suspended until such time as a procedure for addressing the contamination is agreed upon with the Local Planning Authority or other regulating bodies.</p> <p>Reason: To ensure that any contamination exposed during development is remediated in accordance with the National Planning Policy Framework</p> <p>3 Construction Phase Noise</p> <p>In order to reduce the risk of nearby residents being significantly impacted by noise during the construction phase of the development I recommend the following condition be imposed:</p> <p>- Construction Times Condition</p> <p>During the construction phase of the development no machinery shall be operated and no noisy processes undertaken outside the following times:</p> <p>a) Monday - Friday 08.00 - 18.00, b) Saturday 08.00 - 13.00 c) nor at any time on Sunday, Bank or Public holidays.</p> <p>Reason: To protect the amenity of local residents</p> <p>4 Advisory Note: Foul Drainage</p>

Name	Comment
	<p>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 Environment Agency's General Binding Rules for small sewage disposal systems or Permitting requirements where applicable.</p>
<p>Network Rail Reply Received 1 February 2023</p>	<p>Thank you for your email dated 6 January 2023 together with the opportunity to comment on this proposal.</p> <p>Network Rail has no objection in principle to the above proposal but due to the proposal being next to Network Rail land and our infrastructure and to ensure that no part of the development adversely impacts the safety, operation and integrity of the operational railway we have included asset protection comments which the applicant is strongly recommended to action should the proposal be granted planning permission. The local authority should include these requirements as planning conditions if these matters have not been addressed in the supporting documentation submitted with this application.</p> <p>SAFETY</p> <p>Any works on this land will need to be undertaken following engagement with Asset Protection to determine the interface with Network Rail assets, buried or otherwise and by entering into a Basis Asset Protection Agreement, if required, with a minimum of 3months notice before works start. Initially the outside party should contact assetprotectionwestern@networkrail.co.uk.</p> <p>DRAINAGE</p> <p>A soakaway is mentioned as part of the proposals but does not indicate the distance of this from NRs boundary.</p> <p>Soakaways / attenuation ponds / septic tanks etc, as a means of storm/surface water disposal must not be constructed near/within 5 metres of Network Rail's boundary or at any point which could adversely affect the stability of Network Rail's property/infrastructure. Storm/surface water must not be discharged onto Network Rail's property or into Network Rail's culverts or drains. Network Rail's drainage system(s) are not to be compromised by any work(s). Suitable drainage or other works must be provided and maintained by the Developer to prevent surface water flows or run-off onto Network Rail's property / infrastructure. Ground levels – if altered, to be such that water flows away from the railway. Drainage does not show up on Buried service checks.</p> <p>FOUNDATIONS</p> <p>Network Rail offers no right of support to the development. Where foundation works penetrate Network Rail's support zone or ground displacement techniques are used the works will require specific approval and careful monitoring by Network Rail. There should be</p>

Name	Comment
	<p data-bbox="443 197 1406 264">no additional loading placed on the cutting and no deep continuous excavations parallel to the boundary without prior approval.</p> <p data-bbox="443 304 831 338">GROUND DISTURBANCE</p> <p data-bbox="443 342 1394 562">The works involve disturbing the ground on or adjacent to Network Rail's land it is likely/possible that the Network Rail and the utility companies have buried services in the area in which there is a need to excavate. Network Rail's ground disturbance regulations applies. The developer should seek specific advice from Network Rail on any significant raising or lowering of the levels of the site.</p> <p data-bbox="443 600 659 633">SITE LAYOUT</p> <p data-bbox="443 638 1406 891">It is recommended that all buildings be situated at least 2 metres from the boundary fence, to allow construction and any future maintenance work to be carried out without involving entry onto Network Rail's infrastructure. Where trees exist on Network Rail land the design of foundations close to the boundary must take into account the effects of root penetration in accordance with the Building Research Establishment's guidelines.</p> <p data-bbox="443 896 555 929">PILING</p> <p data-bbox="443 934 1385 1153">Where vibro-compaction/displacement piling plant is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of Network Rail's Asset Protection Engineer prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.</p> <p data-bbox="443 1191 916 1225">EXCAVATIONS/EARTHWORKS</p> <p data-bbox="443 1229 1410 1697">All excavations / earthworks carried out in the vicinity of Network Rail's property / structures must be designed and executed such that no interference with the integrity of that property / structure can occur. If temporary compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Engineer should be undertaken.</p> <p data-bbox="443 1736 651 1769">DEMOLITION</p> <p data-bbox="443 1774 1401 2067">The demolition works on site must be carried out so that they do not endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures and land. The demolition of the existing building, due to its close proximity to the Network Rail boundary, must be carried out in accordance with an agreed method statement. Approval of the method statement must be obtained from the Network Rail Asset Protection Engineer before the development and any demolition works on site can commence.</p>

Name	Comment
	<p>Network Rail would like to add that the applicant is strongly recommended to employ companies to demolish buildings/structures belonging to the National Federation of Demolition Contractors. This will ensure that all demolition works are carried out to professional standards and the company itself will also include liability insurance as part of its service.</p> <p>PLANT, SCAFFOLDING AND CRANES Any scaffold which is to be constructed adjacent to the railway must be erected in such a manner that, at no time will any poles or cranes over-sail or fall onto the railway. All plant and scaffolding must be positioned, that in the event of failure, it will not fall on to Network Rail land.</p> <p>NOISE Network Rail would remind the council and the applicant of the potential for any noise/ vibration impacts caused by the proximity between the proposed development and the existing railway, which must be assessed in the context of the National Planning Policy Framework (NPPF) and the local planning authority should use conditions as necessary. The current level of railway usage may be subject to change at any time without prior notification including increased frequency of trains, night time train running and heavy freight trains. There is also the potential for maintenance works to be carried out on trains, which is undertaken at night and means leaving the trains' motors running which can lead to increased levels of noise. We therefore strongly recommend that all future residents are informed of the noise and vibration emanating from the railway, and of potential future increases in railway noise and vibration.</p>

Neighbours / Interested Parties

Comments	No Objection	Object	Petition	No. Signatures
0.00	0.00	0.00	0.00	0.00

No representations received.

Considerations

Proposal Description

This application seeks demolition of existing workshop building and erection of a detached house with an integral garage, amenity space, car parking, access and landscaping, together with a change of use from two houses to one house by the re-integration of an existing annex dwelling into the main house

Committee status:

The application has been appealed against non-determination and as such the Committee are requested to make a resolution to be put forward to the Planning Inspector.

Planning Considerations Summary

- Principle of the development
- Fallback position
- Design and scale
- Amenity
- Landscape impact
- Ecology and Biodiversity
- Highways and parking.
- Others

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 National Planning Policy Framework (NPPF) is a material consideration.

Principle of development:

Policy setting:

The site is within the countryside outside of any development boundary or settlement edge and as such is to be considered under policy ST07 (Spatial Development Strategy for Northern Devon's Rural Area) of the NDTLP.

Policy ST07 states that in the Countryside, beyond Local Centres, Villages and Rural Settlements, development will be limited to that which is enabled to meet local economic and social, needs, rural building reuse and development which is necessarily restricted to a Countryside location. This application is essentially for the creation of one single private open market dwelling which would not meet any social or identified housing need of the parish.

Paragraph 79 of the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

The Framework at paragraph 11 makes clear that housing development will be considered in light of the presumption in favour of sustainable development, which includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites. North Devon Council and Torridge District Council Published a Five Year Housing Land Supply Statement on the 28th April 2023. The Statement shows that the Council is able to demonstrate a five-year housing land supply, identifying a 5.9-year supply of deliverable housing land when considered against the relevant housing requirement.

Accordingly, the Council no longer consider it necessary to apply the tilted balance in accordance with paragraph 11(d) of the National Planning Policy Framework on the basis

of not being able to demonstrate a five-year supply of deliverable housing land; with the primacy of the development plan (i.e. the local plan) re-established.

Whilst it is acknowledged there would be some social benefit in the supply of housing and economic benefits in terms of employment relating to construction, these benefits are limited. The site does not represent a sustainable location for development and would be contrary to Policy ST07 of the NDTLP and guidance in the Framework.

Proposed replacement dwelling:

There are 3 residential units on site which are as follows:

- The main dwellinghouse – substantial 2 storey dwelling
- The annex – 1 bed two storey unit attached to the main dwelling (granted a certificate of lawful development under application 75571 in May 2022 following a breach of condition)
- The Cottage – detached building previously used as a garage but it was converted into a self-contained unit. (Granted a certificate of lawful development under application 74839 in 2022)

Part of the justification for the new dwelling house is that there are 3 residential units on site however the annex is to be incorporated into the main dwelling so that would only leave two existing. The granting of a Certificate of Lawful development does not automatically mean that permission will be granted for a replacement building or new build.

Policy DM26: Replacement Dwellings in the Countryside also states that proposals for the replacement of an existing dwelling in the Countryside will be supported, subject to:

- (a) the replacement dwelling respecting the character of the surroundings and is no more visually intrusive than that of the existing dwelling; and
- (b) the new dwelling offering a positive enhancement to the quality of design and /or level of sustainability when compared to that being replaced.

The annexe is a 1 bed small scale unit and the proposed 'replacement' dwelling would be a large 4 bed detached dwelling and would not be a comparable replacement in term of scale, design, position and visual impact. The LPA does not accept this as being a justification as a detached large replacement dwelling and in any event is not satisfied that this would be less intrusive or provide a positive enhancement to the site.

Fallback Position

The additional material considerations which require consideration are the Mansell v Tonbridge and Malling Borough Council (2017) Court of Appeal decision and the planning history of the prior approval decision. The Mansel case referred to Class Q development and concluded that there was a 'real prospect' that the site could be developed for residential purposes under the Class Q regulations. In this case the recent permission demonstrates that the site has an authorised residential use, which could be implemented, and therefore there is a realistic prospect that a residential use could be implemented in this rural location.

In the Mansel case the Court of Appeal upheld the view that where there are opportunities to improve the site this can be taken into account where there was clear evidence that there was in fact a 'fall-back position' where the Class q development could be carried out.

The applicants have been advised by the case officer to establish a class Q application (to evidence a 'fall back position') however no application has been submitted. The applicants

did submit a structural survey for the garage demonstrating it could be suitable for conversion however there is no permission to establish this and therefore no fall-back position has been achieved. Equally, the planning application has not been formally amended for the case officer to consider this proposal as a fall-back position.

Summary of principle:

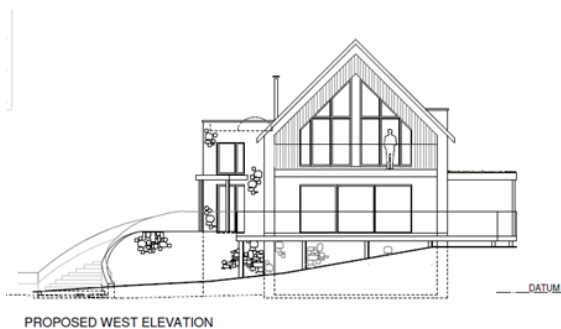
The development essentially relates to the provision of a new 2 storey detached dwelling in the countryside with no established fall-back position and does not form part of an acceptable replacement scheme. Notwithstanding this, the fall back position would be more visually intrusive than that of the existing dwelling (discussed in further detail below).

As such the development is considered to be contrary to policies ST07 and DM26 of the NDTLP.

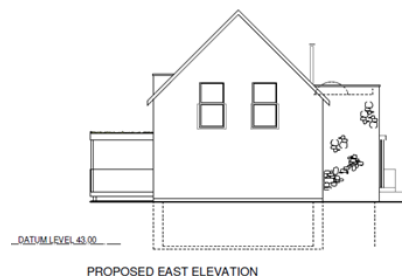
Design

Policy DM04: Design Principles states that good design seeks to guide overall scale, density, massing, height, landscape, layout, materials, access and appearance of new development. It seeks not just to manage land use but support the creation of successful places and respond to the challenges of climate change.

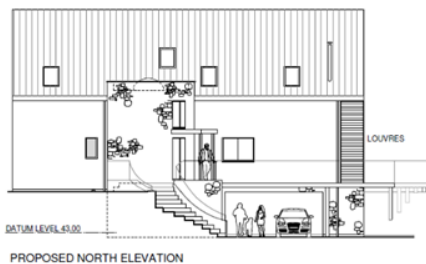
The proposed dwelling would be a large two storey modern designed building with a steeply pitched roof and glazed frontage. There will be a mixture of external materials (set out on the proposed elevations plans) with stone, render and timber clad walls, zinc roof, dormer windows and gable trim. Due to the topography the dwelling would be on sloping ground meaning that retaining walls area required. The garage will be under the property with a large veranda above and curved stairs leading to the entrance. The plans below show the proposed elevations:



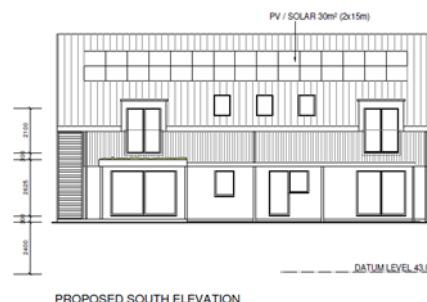
Proposed elevations



Proposed elevations



Proposed elevations



Proposed elevations



Existing site



Proposed site

The existing dwelling is a large traditional property although it is not of any particular architectural merit it is simple in design with rendered walls and dark roof which is reflective of the local character. The surrounding outbuildings are also simple in design and are reflective of agricultural sheds and other rural buildings.

The proposed dwelling would be prominent within the group of buildings all of which are visible from the A377 and would appear at odds with the traditional character, scale and bulk of this group. Whilst the garage is to be removed the proposed dwelling would be higher and extend the residential paraphernalia and domestic use of the site. There would be increased lighting, movements and other activities associated with the proposed dwelling which would

be above what is currently experienced from the garage building. The LPA does not consider that the proposed dwelling would comply with the design principles set out in policy DM04.

The LPA has requested amendments to reduce the scale/massing of the proposed dwelling however nothing has been submitted. The LPA does not consider that the proposed dwelling would comply with the design principles set out in Policy DM04.

Amenity

Policy DM01 (amenity considerations) of the NDTLP states that development will be supported where:

- (a) It would not significantly harm the amenities of any neighbouring occupiers of uses; and
- (b) The intended occupants of the proposed development would not be harmed as a result of existing or allocated uses.

The closest neighbour is Riverside and Riverside Garage sited at around 80m to the North West of the site. There is a good separation distance and intervening trees and planting in between the two sites. The other residential units on the site are all within the same red line and as such are controlled by the applicant with no resulting amenity issues.

Landscaping and setting

Policy DM08A states that development should be of an appropriate scale, mass and design that recognises and respects landscape character of both designated and undesignated landscapes. The site is not in a designated landscape but is within the Sparsely Settled Farmed Valley Floors Landscape Character Area. Special qualities of this area include the following:

- Unspoilt, 'natural' and peaceful landscapes.
- Valued riparian and floodplain habitats / wildlife.
- Trees and woodlands tracing watercourses.
- Historic features including old barns, stone bridges and mills.
- Importance for recreation and 'escapism'.

The tranquillity of this site is already eroded by the close proximity of the railway and A377 but it still includes lots of the other valued features. Part of the Landscape Strategy for this area is to:

“Protect the landscape’s traditional building styles, including cream, whitewash and pale yellow coloured cottages with slate or thatched roofs, with some use of local sandstone with red brick detailing. Any new development should utilise the same materials and building styles wherever possible (whilst seeking to incorporate sustainable and low carbon building construction and design).”

As discussed earlier in the report the materials of the proposed dwelling are to be modern with lots of zinc, timber cladding and stone. This would not protect the landscapes traditional buildings styles.

Whilst the site is not visible within long distance views it is still visible within the immediate street scene and from public viewpoints. It is considered there would be harm to the character and special qualities of this landscape.

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 2017 (Habitats Regulations 2017).

Paragraph 175 of the NPPF and policy DM08 of the NDTLP states that adverse impact on protected species should be avoided where possible and sufficient mitigation used.

The application has been supported by an ecological report which concludes that

- *There were no Habitats of Principal Importance within the Site. The proposal would see the loss of a small area of garden lawn. The lawn had negligible ecological value. The loss of a small area of lawn to the development would not be ecologically significant.*
- *The garage contained no evidence of roosting bats. The garage had negligible value to roosting bats due to the materials used in its construction, its open and light nature, and lack of suitable roosting features.*
- *A single nest, possibly from a wren or robin was noted in a pocket of rockwool between the metal ridge beams to the southern end of the garage.*

Ecological gains will be in the form of additional planting and integrated bat and bird boxes. The proposed landscaping is shown on the plans but the LPA would need a detailed scheme to ensure there is a sufficient biodiversity gain.

Flood Risk and Drainage

The proposed siting of the dwelling is outside of the flood zone area and as such would not be at any flood risk. The surface water will be disposed of via a soakaway.

Highways

Policy DM05 of the NDTLP requires all development to have safe and well-designed access and egress. The proposal is to utilise the existing access with a new driveway being created off the existing one for the dwelling. There is adequate visibility directly onto the A377. The site is also in close proximity to Kings Nympton Station however there is no safe pedestrian access. The LPA accepts that in rural areas sustainable transport options are limited. The number of movements that would be generated by the addition of one dwelling would be unlikely to result in any severe impact on the safety and functioning of the road network.

Other Matters

Given the fact that the applicants have submitted an appeal for non-determination the LPA is seeking a resolution from the planning committee to submit to the planning inspectorate.

Conclusion

The development constitutes a new dwelling in the countryside which would conflict with policy ST07 of the North Devon and Torridge Local Plan. The design, scale and bulk of the dwelling by virtue of its materials and appearance would be contrary to the design principles of policy DM04 and would not reflect the rural character and setting of the site

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

Refused

Legal Agreement Required: No

Reason(s) For Refusal

1. The development would result in the provision of a new open market dwelling in the countryside. There are no economic, social or environmental reasons for the proposed dwelling to be sited in this location. The replacement of the existing 1 bed annexe (attached to an existing dwelling) granted under a certificate of lawful development with a 4 bed two storey, detached dwelling is not considered to be a proportionate in scale, design, position and visual impact as a replacement dwelling. The development is therefore considered to conflict with Policies ST07 and DM26 of the North Devon and Torridge Local Plan.
2. The proposed dwelling by virtue of its design, materials and scale would appear incongruous in the setting of the traditional group of buildings and would not be reflective of the locality. The development is not considered to comply with the design principles set out in Policy DM04 of the North Devon and Torridge Local Plan.

Informatives

1. INFORMATIVE NOTE: -
POLICIES AND PROPOSALS RELEVANT TO THE DECISION

Development Plan
North Devon and Torridge Local Plan 2018: -
DM01 - Amenity Considerations
DM04 - Design Principles
DM05 - Highways
DM06 - Parking Provision
DM08 - Biodiversity and Geodiversity
DM08A - Landscape and Seascape Character
DM27 - Re-use of Rural Buildings

- ST01 - Principles of Sustainable Development
- ST04 - Improving the Quality of Development
- ST07 - Spatial Development Strategy for Northern Devon's Rural Area

2. Statement of Engagement

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has looked for solutions to enable the grant of planning permission. This has included seeking information on conversions of existing buildings, trying to establish a fall-back position and amendments to design. However the proposal remains contrary to the planning policies set out in the reasons for refusal and was not therefore considered to be sustainable development.

Recommendation Date	Case Officer	Lead Officer	Admin	Check
26 July 2023	DB	TB		