

Committee Report

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

Application No: 77389
Application Type: Full Application
Application Expiry: 31 October 2023
Extension of Time Expiry: 31 October 2023
Publicity Expiry: 8 September 2023
Parish/Ward: SWIMBRIDGE/LANDKEY
Location: Summermoor Farm
Swimbridge
Barnstaple
Devon
EX32 0QF

Proposal: Retrospective application for extension to dwelling to link the building and garage to provide additional living space (resubmission of resubmission of permission 75903)

Agent: Mr Mike Kelly
Applicant: Mr David Down
Planning Case Officer: Mr R. Bagley
Departure: N
EIA Development:
EIA Conclusion: Development is outside the scope of the Regulations.
Decision Level/Reason for Report to Committee (If Applicable): COMMITTEE

Reason for call in to Planning Committee

The application has been called to Planning Committee by Councillor Lane for the following reason:

'Would you please except this e/mail as my formal request to call this application to the planning committee for determination for the following reasons: Look at the planning supplementary document adopted 2009 and included in the local plan in 2018 and the updated document adopted 2020 and the relationship on sizes and the original application date and retrospective works, Look at the relationship of the farm managers dwelling and size and previous local plan HSG9 and the updated DM28'

Site Description

Site location



The site is located in the open countryside approximately 1.5 miles from Swimbridge. The applicant's agent has stated that Summermoor Farm forms part of the wider agricultural operation of the applicants holding, amounting to around 2500 acres.

Photo of the extended dwelling



The agricultural workers dwelling approved through outline planning permission 53258 is subject to a planning condition to restrict the occupiers of the dwelling to be an agricultural worker. This was to provide a Stockman to meet the demands of 24 hour supervision of the mix of livestock and the operation of the holding, which at the time of the permission for the dwelling extended to approximately 51 Ha (126 acres) with a mix of permanent pasture or long term lets for grazing, and an element of free range egg production as shown in the history below, and a flock of sheep. It is evident on site that the egg aspect of the Summermoor site has not been in operation for some time and the approved 2 x mobile poultry houses are no longer in use (Approved under 48216). The agricultural building previously sited, has been partly converted to a dwelling under Class Q (agricultural buildings to dwellinghouse) permitted development rights under the Town and Country Planning Order 2015.

Site photos of dwelling with infill section (light rendered section) and Site photo showing the existing dwelling (right) and dwelling under construction (left)



Members will see that the dwelling has been enlarged, in excess of the approved floor area (for an agricultural workers dwelling), including the extension linking the garage into the main dwelling. The extension is constructed of render exterior materials and pitched tiled roof with roof lights. This link has been carried out without planning permission.

The wider site is sloping to the south west and is bounded on all sides by the rising topography of the landscape and intervening existing mature hedge banks and tree lines with agricultural land beyond.

Proposal Description and dimensions of extensions to habitable space

The current application seeks retrospective planning permission for the extension of the dwelling to link the building and garage together to provide additional living accommodation.

Proposal plans



The original dwelling was approved with floor area of 119.5 m² and the calculations below show the dimensions of the new internal living areas created by the extension comprising the area shown in blue, as well as the conversion works within the garage. The measurements of the internal area dimensions are set out below:

- Ground floor Bootroom and shower room/WC 19.8m²
- Ground floor Lobby/Utility 15.9m²
- 1st floor Playroom 19.8m²
- 1st floor landing leading to storage area 15.9m²

Total –71.4 m² additional internal floor area living space created.

Total Minus 15% (10.6m²) – **61.3 m²**

The calculated difference in the area of the dwelling which forms that habitable area comprises:

- Dwelling as approved (57279) (1st and ground floor measurements): total 119.5m²
- Dwelling as proposed (1st and ground floor measurements minus 15%): total additional uplift area measurement **61.3 m²**
Total combined = **180.8 m²**

The dwelling as approved in 57279 has a total floor area measurement of 119.5m². The dwelling as proposed (1st and ground floor measurements minus 15%) shows an uplift internal floor area measurement **61.3 m²**. therefore the Total combined floor area measurement is **180.8 m²**.

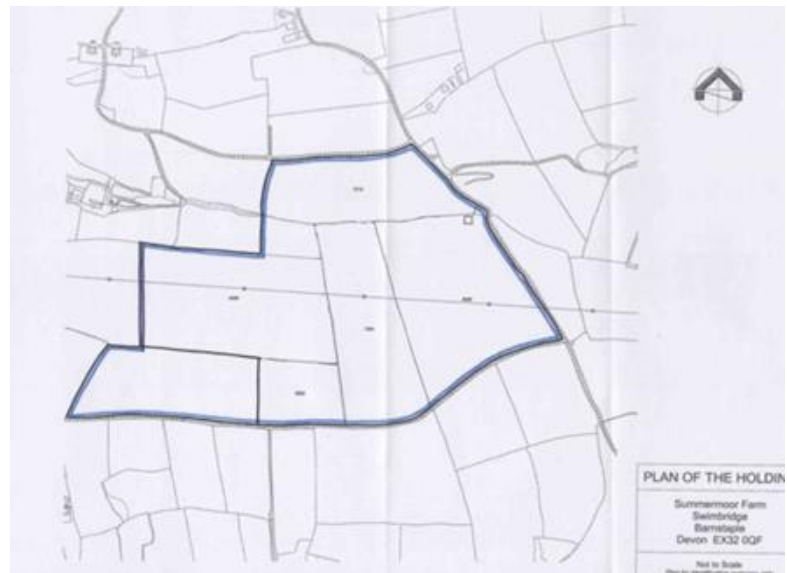
The retrospective extension introduces the boot room/wc/shower and play room. The extension enables internal links from the main dwelling extending the 'habitable area' into the boot room/shower/wc and play room, and then into the garage area containing the lobby and stairwell area, utility and landing area. The garage and storage remains to the north east and is not considered as 'habitable room area' for the dwelling, effectively merging the space from the car port and garage to the main dwelling into one unit.

The proposal therefore exceeds the floor space area of the dwelling as limited by condition 9 (140m²) and within the SPD for an agricultural workers dwelling.

Site history

The following history provide useful background information to inform Members what was originally approved, and the subsequent design in the Reserved Matters application, and the recent refusal was in relation to this decision:

53258 – Outline application for erection of agricultural dwelling to replace temporary dwelling (amended plan) – Approval 16th April 2013 (subject to s106 to tie the dwelling to the holding as agricultural workers dwelling).



The above plans show the extent of the outline position of the dwelling and the red outline of the site approved through the s106 (Plan NDDC2). The outline permission was approved

in line with policy HSG9 of the previous North Devon Local Plan to provide essential agricultural support to meet the needs for 24 hour supervision of livestock.

The plans show the extent of the holding and shows the poultry units to the south. These are no longer present, and the agricultural barn to the immediate south, which is now a dwelling under construction

The agricultural workers dwelling approved through outline planning permission 53258 is subject to a **planning condition to restrict the occupiers of the dwelling to be an agricultural worker and to restrict the external size of the dwelling to no more than 140m².**

The following conditions attached to outline 53258 are relevant and restrict the use of the dwelling as follows:

(7) The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed, in the locality in agriculture as defined in Section 336 of the Town and Country Planning Act 1990 (as amended) or in forestry, or a dependant of such a person residing with him or her, or a widow or widower of such a person.

Reason: To ensure that the dwelling is occupied by persons connected with agriculture or forestry, as the site is located where residential development would not normally be permitted but the dwelling is intended to serve the needs of agriculture or forestry.

Condition 8 of this permission removed 'permitted development rights' under the Town and Country planning (General Permitted Development) Order 2020 (As amended). The reason for this condition was to ensure that the size of the dwelling remained commensurate with the agricultural needs of the holding and not unduly large in relation to the income the agricultural unit can sustain in the long term.

(8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order), express planning permission shall be obtained for any development within class(es) A, B, C, and E of Part 1 and class B of Part II of Schedule Two of the Order.

Reason: To protect the appearance and character of the development in the area and to ensure the dwelling remains of a size and specification appropriate for an agricultural worker.

Condition 9 restricts the external measurement of the building to 140 m² or below to ensure the dwelling is of a size commensurate with the functional needs of the holding and neither unduly large in accordance with the Authority's Supplementary Planning Document on Agricultural, Forestry & Other Essential Occupational Dwellings Guidance

(9) The gross external floor space of the dwelling, excluding the garage, shall not exceed 140 square metres.

Reason: To ensure the dwelling is of a size commensurate with the functional need of the holding and neither unduly large or expensive to construct in relation to the income the unit can sustain in the long term.

This application was accompanied by a Section 106 agreement where at schedule 1 the owner shall keep the agricultural holding and the agricultural dwelling in one ownership and shall not sell/lease or otherwise dispose of the agricultural holding or dwelling.

57359 – Reserved Matters application for erection of agricultural workers dwelling to replace temporary dwelling (outline Planning consent 53258). Approved 9th June 2014

Following the outline permission, Reserved Matters application 57359 was submitted.

The internal floor area of the dwelling approved under Reserved Matters is shown below:

Ground floor internal floor area - 7.4m x 10.4m = 59.7 m²

First floor internal floor area – 7.4m x 10.4m = 59.7 m²

Total internal floor plan layout – **119.5 m²**



The reserved matters originally proposed a link between the garage and the dwelling which exceeded the amount of habitable area enabled within the SPD at the time of consideration. The Local Planning Authority sought amended plans to remove the link and approved an amended layout, design, and massing showing separate dwelling and garage for the agricultural tied dwelling illustrated on Reserved Matters plan 30620B above.

Members will see that the floor area of 119m² comprises a utility room, wc kitchen, dining room and lounge at ground floor with bedroom, bathroom/wc and storage at first floor. The garage provides a car port and garage facility.

The garage and car port had a combined ground and 1st floor measurement of 125.6m². This measurement is not included in the restrictions of condition 9 of the approval and in line with the Supplementary Planning Document as this was not habitable space at the time of the decision.

The separate dwelling and garage were approved which limited the habitable space to a size which was considered adequate to provide a good sized agricultural workers dwelling for family use, and to provide the facilities which would be required for an agricultural workers dwelling, in accordance with the relevant Agricultural workers dwelling policies at the time of the decisions.

75903 – Retrospective application for extension to dwelling to link the building and garage to provide additional living space. Refused 3rd April 2023.



Application 75903 sought retrospective permission to verify the works linking the garage to the dwelling. This permission was refused as the size increase of the habitable space is excessive and contrary to the requirements of Development Plan policy DM28(1)(b) where *'the size and nature of the development is such that it can be sustained by the scale of the operation, reflective of the location and setting and proportionate to the intended needs of the occupants'*, and the Adopted Agricultural workers SPD paragraphs 3.29 and 3.30.

Recommendation

Refused

Legal Agreement Required: No

Planning History

Reference Number	Proposal	Decision	Decision Date
44986	Siting of 2 mobile poultry houses together with formation of access track at Summermoor Farm (Pt Dinnaton), Swimbridge, Barnstaple, Devon, EX32 0QF	Full Planning Approval	16 October 2007
45824	Retrospective Application for temporary siting of 2 joined mobile homes for use as 1 Agricultural Workers Dwelling at Summermoor Farm, Swimbridge, Barnstaple, EX37 9RJ	Outline Refusal	6 August 2008
46936	Restrospective Application for re-siting of 2 mobile poultry houses at Summermoor Farm (Pt Dinnaton), Swimbridge, Barnstaple, EX32 0QF	Full Planning Approval	15 August 2008
48216	Retrospective Application for siting of a temporary agricultural dwelling at Summermoor Farm, Swimbridge, Barnstaple, Devon, EX32 0QF	Full Planning Approval	21 May 2009
50437	Approval of Detail in respect of Discharge of Conditions 7 (Site Access & Visibility Splays) & Condition 8 (treatment &	Discharge of Condition Approve	1 September 2010

Reference Number	Proposal	Decision	Decision Date
	boundary definition of visibility splay) attached to Planning Permission 46936 at Summermoor Farm, Swimbridge, Barnstaple, Devon, EX32 0QF		
53258	Outline Application for erection of agricultural dwelling to replace temporary dwelling (amended plan) at Land at Summermoor Farm, Swimbridge Barnstaple Devon	Outline +S106 Approval	16 April 2013
57359	Reserved matters application for erection of agricultural workers dwelling to replace temporary dwelling (outline planning consent 53258) at Summermoor Farm Swimbridge Barnstaple Devon	Full Planning Approval	9 June 2014
71511	Notice of an application to modify a planning obligation under regulation 3 of the T & C P (modification & discharge of planning obligations) Regulations 1992 in respect of the Section106 Agreement attached to planning permission 53258 (to release the dwelling approved by 66506 and its curtilage from the provisions of this agreement) at Summermoor Farm Swimbridge Barnstaple Devon EX32 0QF	Approved	8 March 2021
75903	Retrospective application for extension to dwelling to link the building and garage to provide additional living space at Summermoor Farm, Swimbridge Barnstaple Devon EX32 0QF	Refused	3 April 2023

Constraints/Planning Policy

Constraint / Local Plan Policy	Distance (Metres)
Advert Control Area Area of Special Advert Control	Within constraint
Burrington Radar Safeguard Area consultation required for: All buildings, structures, erections & works exceeding 45 metres in height.	Within constraint
Chivenor Safeguard Zone Consultation Structure or works exceeding 10.7m	Within constraint
Chivenor Safeguard Zone Consultation Structure or works exceeding 15.2m	Within constraint
Landscape Character is: 1D Estate Wooded Ridges & Hilltops	Within constraint
Landscape Character is: 5D Estate Wooded Farmland	Within constraint
Unclassified Road	
USRN: 27503486 Road Class:R Ownership: Highway Authority	3.62
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint
Within Surface Water 1 in 1000	Within constraint

Constraint / Local Plan Policy	Distance (Metres)
Within:, SSSI 5KM Buffer in North Devon, consider need for AQIA if proposal is for anaerobic digester without combustion plant	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
DM28 - Rural Worker Accommodation
ST01 - Principles of Sustainable Development
ST03 - Adapting to Climate Change and Strengthening Resilience
ST04 - Improving the Quality of Development
ST07 - Spatial Development Strategy for Northern Devon's Rural Area
ST14 - Enhancing Environmental Assets

Consultees

Name	Comment
Councillor G Lane Reply Received 21 August 2023	Would you please except this e/mail as my formal request to call. this application to the planning committee for determination for the following reasons, Look at the planning supplementary document adopted 2009 and included in the local plan in 2018 and the updated document adopted 2020 and the relationship on sizes and the original application date and retrospective works, Look at the relationship of the farm managers dwelling and size and previous local plan HSG9 and the updated DM28
Councillor M Haworth-Booth Reply Received	No comments received
Swimbridge Parish Council Reply Received 30 August 2023	The Parish Council objects to the resubmission of the retrospective application on the grounds that the house as built flouted the conditions placed on it by NDC: a labourer's dwelling plus a separate garage were approved by NDC to lessen the impact on the landscape. What has been built is one large unit which is unacceptable.

Neighbours / Interested Parties

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

No representations received

Considerations

Planning Considerations Summary

- Principle of Development
- Design
- Amenity
- Ecology
- Flood Risk and Drainage
- Highways and Parking

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 the development

Policy DM28 (Rural Workers Dwelling) of the North Devon & Torridge Local Plan seeks to ensure agricultural workers dwellings are of a size commensurate with the functional need of the holding and to ensure a dwelling would not be unduly large or expensive to construct in relation to the income the agricultural unit/worker can sustain in the long term.

The retrospective link is unauthorised, and increases the scale and mass in excess of the guidance of the SPD which refers to internal floor areas of the building. The LPA considers the additional works are excessive and unnecessary extensions which increase the likelihood that the dwelling will not remain available in accordance with the agricultural occupancy tie and conditions.

Members are asked to consider that, given that the function of the holding appears to be reduced from the time of the original permission, with the free range egg laying element no longer apparently in operation, and the barn converted to a residential unit, it is unclear why the applicants requires the extension to support the functioning of the agricultural holding.

Members are also asked to take account of Condition 9 of outline approval 53258 which, as set out above, shows a restriction on the external size of the original approved dwelling, in accordance with the SPD considered at the time of the application. Albeit, as pointed out by the applicants agent, the permission was considered under the remit of the former SPD which refers to external area calculations, and the current SPD refers to internal areas, the proposal remains significantly at odds with the current internal areas set out in the up to date SPD.

The Rural Workers' Dwelling Supplementary Planning Document (SPD) adopted in January 2020 states the following in relation to the size of rural workers dwellings:

3.29 'Dwellings should be designed to meet the functional need of the enterprise they serve and relate to the financial viability of the enterprise that supports it. Dwellings that are unusually large in relation to the rural enterprise, or unusually expensive to construct in relation to the income it can sustain in the long term will not be permitted.

3.30 Normally a 3 bed dwelling would extend to about 102m² which are considered to be adequately sized dwellings. It is however recognised that housing for an agricultural worker may include additional space requirements, such as a boot room, utility and ground floor shower room; and only in respect of the principal dwelling on a holding further space may be required to accommodate an office. It is anticipated that such needs could be accommodated within a 15% uplift to either 117m² (3 bed dwelling). Any uplift in property size beyond the standard must be justified, on a business basis, clearly in respect of supporting the operational needs of the related enterprise and importantly demonstrate that it must be able to be financially sustained by the 4 Technical housing standards – nationally described space standard (Table 1 – minimal gross internal floor area and storage (m²) which sets a minimum gross internal floor areas for a 2-storey 3 bed roomed dwelling at: 102m²), and the Rural Workers' Dwellings SPD 7 Rural Workers' Dwellings 3 enterprise and in the long term continue to be financially accessible as a rural workers' dwelling. For the avoidance of doubt, any uplift from the floorspace standards (102m²) would not be supported, if proposed simply to provide additional living accommodation.

3.31 Planning permission may be granted subject to conditions removing some of the permitted development rights under Part 1 and Part 2 of the Town and Country Planning Act (General Permitted Development Order) 2015 for development within the curtilage of the dwelling house. Such conditions may be used to avoid the dwelling exceeding a size that could be justified by the functional requirement, and affect the continued viability of maintaining the property for its intended use, given the income the rural enterprise can sustain. Additionally, it is important to ensure that the dwelling will continue to be financially accessible to potential future occupants who would meet restricted occupancy requirements'.

Whilst the LPA may apply a 15% uplift on the 102m² the LPA must exercise an element of discretion over the provision of a 'family home' for the agricultural worker, enabling slight increase over the prescriptive figures above, this is on the grounds that the additional space would be reasonably required to facilitate the amenities of the occupiers of the unit, and that the size is reasonable to enable the building to remain financially accessible as a rural workers dwelling to support the continuation of the holding. Full consideration must be given to the proposed use of the additional space and if this is reasonable to enable the rural workers dwelling.

It is of no consequence that this is retrospective development, the same ruling applies.

The SPD explains any uplift beyond the 15% increase requires justification on a business basis to support the operational needs of the related enterprise and to demonstrate that it must be able to be financially sustained by the enterprise and in the long term continue to be financially accessible as a rural workers' dwelling. The uplift in size presented in this case will be explored below, and has not been supported with any such business justification for the new habitable space created, and consequently these elements are not compliant with SPD or policy DM28.

The applicants argue that the additional floor area created by the unauthorised works is a relatively de-Minimis increase to the agricultural workers dwelling. The LPA does not agree

because the additional 61m² of internal area created, unduly exceeds the allowances of both the original permission, and the up-to-date SPD. There has been no evidence submitted to justify that the extended floor area is required to meet the functional needs of the agricultural holding.

The increase habitable space is not proven to be *'proportionate to the needs of the intended occupants'*. Even applying an element of discretion to the increase in scale for the use of the dwelling as a 'family' home, the increase is excessive, and not reasonably required for the purposes of supporting the continued agricultural workers use of the dwelling. The applicants have failed to provide convincing justification as to why the infilling of the gap is necessary or reasonable to provide for the needs of the agricultural worker occupying the dwelling, or why the increase is necessary to support the function of the holding, which has been eroded over time. It is considered that these needs are met by the existing dwelling. The lack of evidence does not support that the extension is functionally required to support the operation of the holding, rather it is for the occupier's benefit. The cumulative floor space within the property including the retrospective works undertaken have resulted in a property with a total habitable floor area in excess of what is enabled through policy DM28 and through the Rural workers SPD and condition 9 of the outline permission.

The combined floor area of the new areas of living space created with the existing dwelling amount to 180.8 m² which is in excess of what is required through the SPD even taking account of a 15% uplift. This extension of habitable space, would reduce the prospect of the dwelling remaining affordable to someone permanently employed in agriculture. This would affect the continued viability of maintained the property for its intended used and is therefore contrary to planning policy DM28. The LPA has received no substantial justification for the additional habitable space created through this retrospective application and there remains conflict with North Devon and Torridge Local Plan: Rural Workers Dwelling (SPD) and DM28.

Are the works Permitted Development?

The proposals cannot be considered as Permitted development for the following reasons:

The applicant's statement seeks to argue that the internal works can be considered under Permitted development rights normally attributed to a dwelling. The applicants consider that internal doors linking the garage to the house could be omitted, but, no amended plans have been submitted to reflect this, and in any event this would not restrict the use of the habitable space within the garage, nor negate the need to restrict the size to that which is enabled through the SPD and policy.

Members will see that the changes to the garage, are linked to the main dwelling, incorporating the habitable rooms into the dwelling. These are not considered as purely incidental to the main dwelling, as they extend the habitable living area forming part of the main house. This is therefore considered in the final calculation for the creation of habitable space.

Condition 8 of outline approval 53238 removed Permitted Development Rights for new ancillary development incidental to the main dwelling:

(8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order), express planning permission shall be obtained for any development within class(es) A, B, C, and E of Part 1 and class B of Part II of Schedule Two of the Order.

Reason: To protect the appearance and character of the development in the area and to ensure the dwelling remains of a size and specification appropriate for an agricultural worker.

Condition 8 removed Permitted Development Rights for new ancillary development incidental to the main dwelling. Class E of the GPDO restricts Permitted Development Rights on any building or enclosure required for a purpose incidental to the enjoyment of the dwelling house. Consequently, the landing, lobby and utility within the garage are considered as additional areas of residential habitable space and do not form works which may be exercised under PD rights, as such rights have been removed. The extensions provide areas of habitable space, in excess of the approved scheme, and contrary to conditions 8 and 9 of approval 53258 that are not supported through policy DM28 or the supporting SPD.

Design

Policy DM04 (Design Principles) of the NDTLP requires development to be appropriate and sympathetic to setting in terms of scale, density, massing, height, layout appearance, fenestration, materials and relationship to buildings and landscape features in the local neighbourhood. The height of the proposed extension follows the existing roof line. Materials and fenestration match the existing building. The proposed extension would follow the existing dwelling and would be visible from the local street scene.

Paragraph 3.29 of the SPD is clear that the dwelling should be of a size commensurate with the functional need of the enterprise, and at 3.33 that the design of a building will need to be appropriate to its location, and should integrate well with its landscape taking account of all characteristics and buildings in the area.

Site as approved and as constructed



As approved, the break in the built form as approved reduced the overall scale and mass of the dwelling, and limited its size commensurate with the size and functions carried out on the agricultural holding.

The link enlarges the scale and massing of the existing dwellinghouse. The extension is not demonstrated to have an overriding necessity to assist the purposes of the continued function of the holding.

The continuous mass of building appears excessive and incongruous in scale, and does not appear subservient within the rural setting against the ethos of the SPD, and is not an

enhancement of the site., This unauthorised increase in size is consequently not appropriate, sympathetic or an enhancement to the building or the rural setting, or to the agricultural workers dwelling and is not accordant with the ethos of design policies DM04 or DM25 or the SPD.

Amenity

Policy DM01 (Amenity Considerations) of the NDTLP states development will be supported where it would not significantly harm the amenities of any neighbouring occupiers or uses; and the intended occupants of the proposed development would not be harmed as a result of existing or allocated uses.

Dwelling under construction to the south



The nearest neighbour is the dwelling under construction to the south. This is of sufficient distance from the site that views from the new roof lights on the front south east elevation would not result in significant or severe loss of amenity. It is considered the proposed development would not result in any overlooking or overbearing implications on neighbouring properties, and as such is not considered to impact on the amenity of the intended users or neighbours, in compliance with DM01.

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).

Given the information received, the proposed development would not impact on any protected species or their habitats. Given the scale of the proposed development a biodiversity net-gain for the site is not considered necessary on this occasion. As such, the proposal is considered to comply with DM08.

Flood Risk and Drainage

The site is located within a Flood Zone 1 Therefore, flooding is not considered as a constraint but surface water drainage is a constraint.

Highways

Policy DM05 (Highways) of the NDTLP states all development must ensure safe and well-designed vehicular access and egress, adequate parking and layouts which consider the needs and accessibility of all highway users. Policy DM06 (Parking Provision) of the NDTLP requires development proposals to provide an appropriate scale and range of parking provision to meet anticipated needs.

The proposed development would not result in any impact on the safety or function of the local road network and would not impact on the parking provisions for the site. Therefore, the proposed development is considered to comply with DM05 and DM06.

Other Matters

The Swimbridge Parish Council has objected to the proposal on the following grounds;

The Parish Council objects to the resubmission of the retrospective application on the grounds that the house as built flouted the conditions placed on it by NDC: a labourer's dwelling plus a separate garage were approved by NDC to lessen the impact on the landscape. What has been built is one large unit which is unacceptable.

Conclusion

The proposal does not accord with conditions of the original permission, and the agricultural operation of the site has changed significantly since the time of the original approval, which casts significant doubt over the functional need for the extension to the agricultural workers dwelling. The unauthorised extension has unduly increased the size of the agricultural workers dwelling in excess of what would be required through the agricultural workers SPD and is considered not to accord with the North Devon and Torridge Local Plan policy DM28 – Rural Workers Accommodation or the Adopted 2020 Rural Workers' Dwelling Supplementary Planning Document, or with conditions 8 or 9 of the outline permissions 53258 and reserved matters application 57279. The application is considered not to accord with the adopted development plan or SPD.

The extension is not considered to be an enhancement of the dwellinghouse in this rural setting and adds unnecessary bulk and mass to the design and scale of the existing dwelling.

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. This proposal involves a significant extension increasing the size of this agriculturally tied property to over 180 square metres. This extension, and, without the demonstration of an identified functional need for farm purposes for the entire extension is contrary to the Authority's Supplementary Planning Document on Agricultural, Forestry & Other Essential Occupational Dwellings Guidance (adopted 2020) for a 3-bedroomed dwelling, and results in additional habitable space well in excess of the parameters set for a suitable habitable agricultural workers dwelling of 140m² set by condition 9 of approval 53258.
2. This significant extension to this agriculturally tied property would result in a dwelling house unusually large in relation to the agricultural needs of the farm holding. A dwelling house of this size would significantly reduce the prospect of the dwelling remaining affordable to someone permanently employed in agriculture. This would affect the continued viability of maintaining the property for its intended use and is therefore contrary to Planning Policy DM28 of the North Devon 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
DM02 - Environmental Protection
DM04 - Design Principles
DM05 - Highways
DM06 - Parking Provision
DM08 - Biodiversity and Geodiversity
DM08A - Landscape and Seascape Character
DM28 - Rural Worker Accommodation
ST01 - Principles of Sustainable Development
ST03 - Adapting to Climate Change and Strengthening Resilience
ST04 - Improving the Quality of Development
ST07 - Spatial Development Strategy for Northern Devon's Rural Area
ST14 - Enhancing Environmental Assets
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 negotiations with the applicants agent. 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.

END OF REPORT