



Application Report

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

Application No:	77597
Application Type:	Full Application
Application Expiry:	15 January 2024
Extension of Time Expiry:	15 January 2024
Publicity Expiry:	21 November 2023
Parish/Ward:	CHULMLEIGH/CHULMLEIGH
Location:	Riverside House Newnham Bridge Umberleigh Devon EX37 9EU
Proposal:	Conversion of garage / workshop to create a four bedroom dwelling together with new access (Amended Description).
Agent:	Mr Kevin Davies
Applicant:	Mrs J Glenister
Planning Case Officer:	Mr D. Jeffery
Departure:	N
EIA Development:	
EIA Conclusion:	Development is outside the scope of the Regulations.
Decision Level/Reason for Report to Committee (If Applicable):	Committee - The agent is a District Councillor

Site Description

The application site lies in the countryside, approximately 2.75 miles north-west of Chulmleigh. It forms part of a wider pocket of development at the convergence of the A377, the B3226, the Tarka Railway Line and the River Taw north of Kings Nympton Railway Station. The application relates to a steel framed garage/ workshop of industrial type that is no longer in use. An existing dwelling lies directly to the south of the barn.

The building itself is not within an area at risk from flooding. Part of the wider site closer to the river are however within Flood Zones 1 and 2.

The application site is located within the Landscape Character type 3C: Sparsely Settled Farmed Valley Floors. The site is not constrained by any statutory heritage or landscape designations.



Recommendation

Approved

Legal Agreement Required: No

Planning History

Reference Number	Proposal	Decision	Decision Date
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		
77868	Demolition of existing workshop building and erection of a detached house with amenity space, car parking, access and landscaping at Riverside House Newnham Bridge Umberleigh EX37 9EU		
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, EX37 9EU	Full Planning Approval	23 December 2005
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, EX37 9EU	Cert. Of Lawfulness Issued	3 July 2016

Reference Number	Proposal	Decision	Decision Date
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

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	95.66
Ancient Woodland: HEAD WOOD (NORTH) Ancient & Semi-Natural Woodland	486.35
Ancient Woodland: HEAD WOOD (NORTH) Ancient Replanted Woodland	477.54
Ancient Woodland: NEWHAM WOOD Ancient & Semi-Natural Woodland	472.61
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	14.05
Land is potentially contaminated, site was used for:Railways, Is ranked:MEDIUM, Year:1906	14.05
Land is potentially contaminated, site was used for:Railways, Is ranked:MEDIUM, Year:1964	14.05
Landscape Character is: 3C Sparsely Settled Farmed Valley Floors	Within constraint
USRN: 27506537 Road Class:A Ownership: Highway Authority	3.38
Within Adopted Unesco Biosphere Transition (ST14)	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
- DM27 - Re-use of Rural Buildings
- ST01 - Principles of Sustainable Development
- ST02 - Mitigating Climate Change
- ST04 - Improving the Quality of Development
- ST05 - Sustainable Construction and Buildings
- ST06 - Spatial Development Strategy for Northern Devon's Strategic and Main Centres

Consultees

Name	Comment
Building Control Manager Reply Received	No comment received.
Chulmleigh Parish Council Reply Received 6 October 2023	Chulmleigh Parish Council considered this application at its scheduled meeting on 4 October. It was resolved to recommend approval with conservation in mind that swift nest bricks are included in the building.
Councillor K Davies Reply Received	No comment received - agent for the application.
Environmental Health Manager Reply Received 3 October 2023	<p>1 Railway Noise</p> <p>The proposed dwelling would be located close to the operational railway line to the eastern boundary. The proposals include creation of windows, doors and an outdoor patio amenity space close to the railway line. Noise and/or vibration generated when trains pass by could therefore significantly impact the living conditions and amenity of residential occupiers of the dwelling.</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 uses are recognised as having high sensitivity to the presence of any land contamination affecting the site. The building's previous use as an industrial type garage / workshop may have introduced contaminants of potential concern to residential uses of the site. The site may also incorporate made ground and is located 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 on any permission:</p>

Name	Comment
	<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 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. 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. 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. 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>3 Advisory Note: Foul Drainage</p> <p>The proposed connection of foul drainage to an existing private treatment system will need to comply with building regulations and the Environment Agency's General Binding Rules for small sewage disposal systems or Environmental Permitting requirements (including in relation to system design capacity).</p> <p>Railway Noise</p> <p>The points raised by the Agent about train frequency and noise screening effects of the railway cutting are relevant to any consideration of noise impacts. However, the assessment of noise and possible vibration impacts is a specialist task requiring expert knowledge and reference to recognised standards and guidance. The very close proximity of the proposed dwelling to the railway line raises the possibility that train related noise and vibration is of legitimate concern. Any problems that did subsequently arise may be difficult to address given that the train line forms an important part of public transport infrastructure.</p> <p>I am mindful of a proposed housing development at Bishops Tawton (Application 72772) with dwellings in close proximity to this railway line. A noise assessment was undertaken for the development, which concluded that the site was in the low to</p>

Name	Comment
	<p data-bbox="443 197 1390 412">negligible risk category for both road and rail noise. However, the report recommended that the facades of the dwellings closest to and facing the railway would need to be designed carefully to ensure sufficient noise protection from trains passing in the evening and at night. The closest dwellings under that application were approximately 20m away from the line.</p> <p data-bbox="443 454 1358 557">In this case, the dwelling would be around 11m from the railway line, significantly closer than the closest dwellings considered at Bishops Tawton.</p> <p data-bbox="443 600 1406 887">I believe it is reasonable and appropriate to assess the potential for train related noise and vibration to impact the proposals, having regard to relevant standards and guidance. Such an assessment, and any mitigation proposals, need to be prepared by a suitably qualified and experienced person. In the absence of such an assessment, I am unable to support the proposals as I believe there is a significant risk that they will give rise to noise problems and that risk should be properly considered.</p> <p data-bbox="443 929 1233 965">Given the above, my previous recommendations stand.</p> <p data-bbox="443 1005 1321 1108">If you have not already done so, you may wish to consider consulting the train operating company in case they have any comments on the proposals in relation to noise.</p> <p data-bbox="443 1149 708 1184"><u>Update 7/12/2023</u></p> <p data-bbox="443 1187 847 1223">Railway Noise and Vibration</p> <p data-bbox="443 1225 1374 1404">I have reviewed the JSP Consultants Noise and Vibration Survey report dated 30 November 2023. The report describes the results of a noise and vibration survey undertaken at the application site with the aim of establishing whether railway noise or vibration might adversely impact residential development of the site.</p> <p data-bbox="443 1444 549 1476">- Noise</p> <p data-bbox="443 1478 1406 1657">The results presented in the report confirm that the site is affected by train noise. However, when taking account of anticipated numbers and frequencies of train passes, the report concludes that the levels of noise recorded are unlikely to give rise to any unacceptable adverse noise impacts.</p> <p data-bbox="443 1697 592 1729">- Vibration</p> <p data-bbox="443 1731 1406 1951">The results presented in the report confirm that train related ground vibration was detectable at the site using specialist instruments but that this vibration was not detectable subjectively. The report assesses the vibration survey results against disturbance based guidelines and concludes that the levels of vibration are not of concern in relation to residential development of the site.</p> <p data-bbox="443 1953 1374 2094">I accept the findings of the report and consider that unreasonable noise and vibration impacts are unlikely to occur if the proposed residential development goes ahead. The report therefore addresses the concerns I raised on this matter.</p>

Name	Comment
<p data-bbox="178 230 408 409">Network Rail Reply Received 3 November 2023</p>	<p data-bbox="443 230 1385 302">Thank you for your email dated 31 October 2023 together with the opportunity to comment on this proposal.</p> <p data-bbox="443 338 1374 595">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.</p> <p data-bbox="443 631 571 667">SAFETY</p> <p data-bbox="443 669 1398 887">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 Basic 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 data-bbox="443 922 592 958">FENCING</p> <p data-bbox="443 960 1262 996">The fence in the submitted drawings is a height of 1.30m.</p> <p data-bbox="443 1032 1390 1290">Because of the nature of the proposed development we consider that there will be an increased risk of trespass onto the railway. The Developer must provide a suitable trespass proof fence adjacent to Network Rail's boundary (minimum approx. 1.8m high) and make provision for its future maintenance and renewal. Network Rail's existing fencing / wall must not be removed or damaged.</p> <p data-bbox="443 1326 616 1361">DRAINAGE</p> <p data-bbox="443 1364 1398 1839">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 data-bbox="443 1874 547 1910">NOISE</p> <p data-bbox="443 1912 1402 2058">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</p>

Name	Comment
	<p>Framework (NPPF) and the local planning authority should use conditions as necessary.</p> <p>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>
<p>Planning Policy Unit</p> <p>Reply Received</p>	<p>No comment received.</p>
<p>Sustainability Officer</p> <p>Reply Received 8 September 2023</p>	<p>Should you be minded to support the current application I would suggest that an appropriately detailed Landscape Plan with planting specifications is secured prior to determination.</p>
<p>The Forestry Commission</p> <p>Reply Received</p>	<p>No comment received.</p>
<p>Highways Authority</p>	<p>The proposed access arrangement would see the closure of two existing accesses and the formation of one new access. The proposed new access will have improved visibility splays compared to those at the existing accesses as outlined in the transport report.</p> <p>The site frontage with the highway is in the control of the applicant and visibility could be further improved by removal of trees/hedge. The adjacent Newnham Bridge over the River Taw has parapets below 600mm and therefore splays available are greater than those offered if the trees/hedge is removed. I also note removal of the existing stone wall at the existing entrance would be required to ensure the visibility splays as set out on the plan.</p> <p>THE DIRECTOR OF CLIMATE CHANGE, ENVIRONMENT AND TRANSPORT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT THE FOLLOWING CONDITIONS SHALL BE INCORPORATED IN ANY GRANT OF PERMISSION</p> <p>1. Visibility splays shall be provided, laid out and maintained for that purpose at the site access in accordance with the approved drawings. REASON: To provide adequate visibility from and of emerging vehicles.</p>

Name	Comment
	<p>2. The site access road shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than ten metres back from its junction with the public highway REASON: To prevent mud and other debris being carried onto the public highway</p> <p>3. Provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway REASON: In the interest of public safety and to prevent damage to the highway</p>

Neighbours / Interested Parties

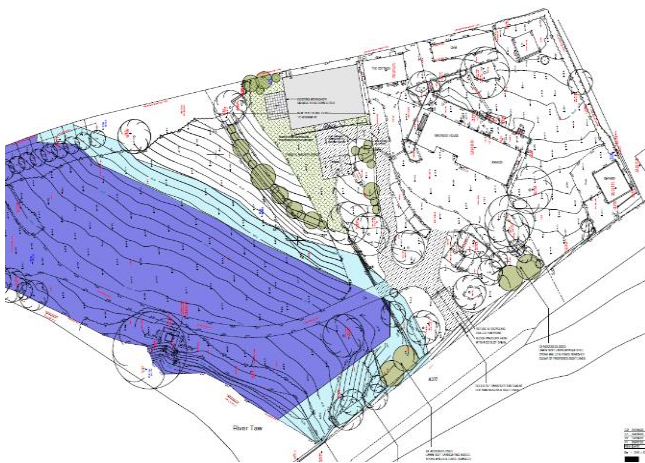
Comments	No Objection	Object	Petition	No. Signatures
0.00	0.00	0.00	0.00	0.00

No representations received.

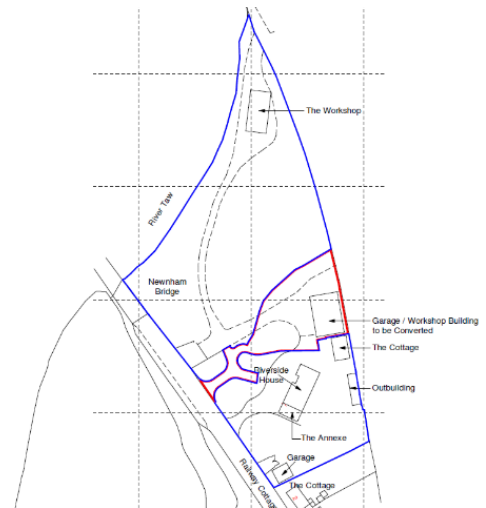
Considerations

Proposal Description

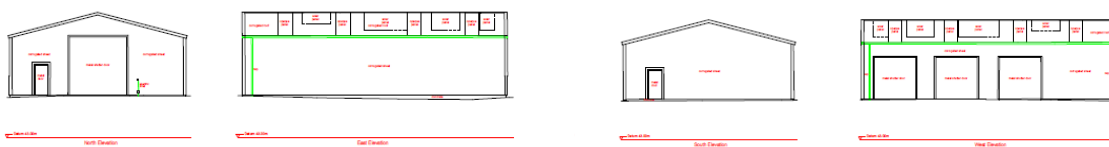
This application seeks detailed planning permission for conversion of garage / workshop to create a four bedroom dwelling together with the creation of a new access.



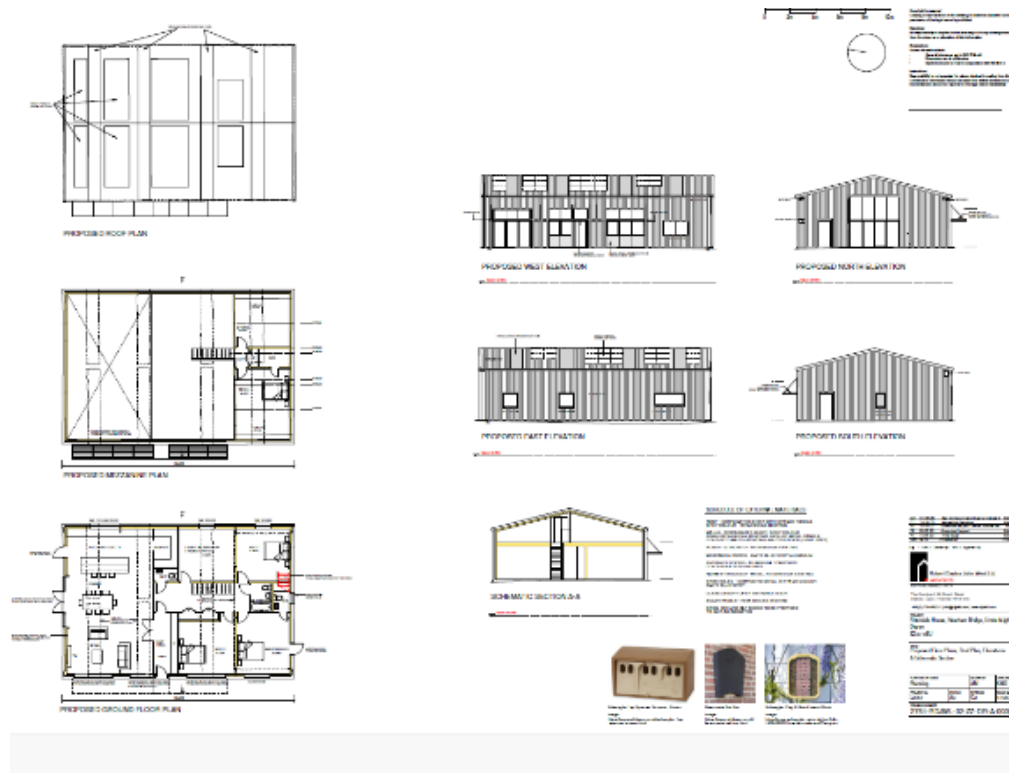
Site location



Proposed block plan



Existing Plans



Proposed Plans

Planning Considerations Summary

- Principle of the development and 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 development

The site is within the countryside outside of any development boundary 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.

However, as the application relates to the conversion of an existing building, the starting point for this application is that of LP Policy DM27, which states:

“Policy DM27: Re-use of Disused and Redundant Rural Buildings:

The conversion of redundant and disused rural buildings will be supported where:

- a) such conversion would not harm any intrinsic qualities and historic interest of the building;*
- b) the proposal will have a positive impact on the immediate setting of the building and the wider rural character is protected;*
- c) development can be achieved without significant external alteration, extension or substantive rebuilding;*
- d) suitable highway access can be provided and the surrounding highway network can support the proposed use(s); and*
- e) any nature conservation interest within the building or wider site is retained”.*

In response to DM27:

- a) The existing structure is not considered to be of any historical merit.
- b) The proposed conversion is considered to be sympathetic to the rural character of the building with minimal domestic features such as porches and chimneys. No excessive new openings are proposed and glazing is generally proposed to be located in place of existing openings.
- c) A structural note by Barry Honeysett dated April 2023 has been submitted to accompany the application. This along with observations on site conclude that the building is of solid construction and suitable for conversion.

The conversion can be achieved without extension and will provide accommodation of an adequate size and standard for future occupants, which exceeds the relevant space standards.

d) The site is served by an existing access taken off of the adjacent highway. The access is of a suitable standard to allow for the dwelling and adequate space is proposed within the site to allow for parking and turning. This access is located outside of the nearby Flood Zones.

e) Any issues relating to ecology are covered in more detail below. However, the Council’s ecologist has been consulted and has confirmed that there are no objections to the proposals on ecological grounds. Comments do however include the *‘suggestion that an appropriately detailed Landscape Plan with planting specifications is secured prior to determination’*.

The proposed conversion of the building is therefore considered to be in compliance with NDTLP Policy DM27 and is therefore acceptable in principle subject to more detailed consideration against other relevant provisions of the Development Plan.

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.

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 proposed footprint and volume of the existing garage/ workshop building is to remain unchanged. The conversion will however result in a significant change in character through the introduction of large areas of glazing within the existing openings and the domestication of the site.

Proposed materials are as follows:

Walls: Grey corrugated sheet as existing
Windows and doors – Slate blue/grey aluminium
Roof – Corrugated grey sheet with opaque panels

Officers have no concerns with the proposed material palette, which is defined by the existing building.

New landscape planting is proposed to delineate the site. Further details of this will be required, via use of a pre -commencement condition as agreed with the applicant.

A condition is proposed to remove permitted development rights to ensure longer term compliance with the criteria set out in Policy DM27, avoid the spread of uncontrolled development in this countryside location and also to limit any likely impacts on protected species through additional light spill and activity.

The proposal is considered to comply with policies ST04, DM04, DM08A and DM27 of the NDTLP.

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; and
- b) The intended occupants of the proposed development would not be harmed as a result of existing or allocated uses.

As glazed areas of the proposed conversion are focused towards the south and west elevations, within existing openings the conversion of this building is not considered to result in any unreasonable impacts upon the adjacent cottage or main dwelling. Additional soft landscaping is proposed to be added to increase the level of privacy and delineate the new curtilage. The relationship with the existing dwellings on site is considered to be acceptable and will not give rise to any unreasonable impacts in terms of privacy, outlook or daylight.

The proposed conversion will allow for generous accommodation with a four bedroom and a GIA of around 260m², which exceeds national space standards. Ample room is allowed for private amenity space and all habitable rooms will benefit from natural light.

The Council's Environmental health Officer has drawn attention to the site's location adjacent to an operational railway line. In order to ensure that noise from the railway does not give rise to any unreasonable impacts upon the amenities of future occupiers, a noise report has been provided. The report concludes that *'unreasonable noise and vibration impacts are unlikely to occur if the proposed residential development goes ahead'*. These findings have been reviewed and accepted by the Council's Environmental Health Officer.

The proposals are in compliance with NDTLP Policy 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 (Amendment) (EU Exit) Regulations 2019 (Habitat Regulations 2019).

Policy ST14 (Enhancing Environmental Assets) of the NDTLP aims to protect and enhance northern Devon's natural environment by ensuring that development contributes to providing a net gain in biodiversity where possible.

Policy DM08 (Biodiversity and Geodiversity) of the NDTLP requires development should conserve, protect and, where possible, enhance biodiversity and geodiversity interests and soils commensurate with their status and giving appropriate weight to their importance.

The submitted ecology report by South west Ecology dated 22nd August 2023 concludes that The garage/workshop contained no evidence of roosting bats or other protected species. The proposals allow for bat and bird boxes to benefit ecology on the site.

The Council's ecologist has been consulted and has commented as follows:

'Should you be minded to support the current application I would suggest that an appropriately detailed Landscape Plan with planting specifications is secured prior to determination'.

Although the above requested landscape details have not been provided prior to determination, Officers acknowledge that the current application for conversion is intended to be used as a fall back for a replacement dwelling (currently under consideration Ref: 77868). The Agent has therefore been advised that these landscape details are to be required via a pre-commencement condition for this conversion application but would be required prior to determination in the case of application 77868.

The proposals comply with policies DM08 and ST14 and as such have no objections to the proposals on ecological grounds. A pre-commencement landscaping condition has been added to this recommendation.

Flood Risk and Drainage

The site is located within a Flood Zone 1 and is not located within a Critical Drainage Area. Therefore, flooding and surface water drainage are not considered to be constraints.

The proposed siting of the dwelling as well as its access is outside of the flood zone in the north of the site and as such would not be at any flood risk.

The application proposes that a Package Treatment Plant and soak away will be provided within the site to manage surface and foul water drainage. This is suitably sited away from the proposed dwelling and provides for adequate means of servicing / access.

The proposal complies with NDTLP Policy DM02 and ST03.

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 whole site currently has three vehicular access points directly from the A377. It is proposed to close the existing access to Riverside House and to the existing Garage/Workshop and provide a new centralised access with improved sight lines.



Existing two accesses to be blocked up



Proposed new access to be located more centrally within the site

The application is supported by a Transport statement by Bellamy Roberts dated October 2023. This explains proposals to close up two existing access, which are constrained in terms of their visibility and to provide a safer alternative more centrally within the site. This is illustrated above. The achievable visibility splays for the new access would be:

- 2.4m x 43m to the north; and
- 2.4m x 53m to the south.

The proposed access represents a significant an improvement over the two existing accesses in terms of highway safety and therefore represents a betterment compared to the existing situation.

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.

The Highway Authority has confirmed agreement that *'The proposed new access will have improved visibility splays compared to those at the existing accesses as outlined in the transport report'*. A condition is proposed to be attached to any permission securing that the two existing accesses are blocked up. Conditions are attached as recommended by the highways authority relating to surfacing, drainage and visibility splays.

Suitable off-street car parking provision is indicated within the site. The proposal is considered to comply with NDTLP Policies DM05 and DM06.

Other Matters

Network Rail has no objection in principle to the above proposal but due to the proposal being next to Network Rail land and to ensure that no part of the development adversely impacts the safety operation and integrity of the operational railway asset protection comments have been included via suitable informatives.

Conclusion

The application is considered to accord with the adopted development plan. Approval of the application is therefore recommended subject to the imposition of planning conditions.

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

Approved

Legal Agreement Required: No

Conditions

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

Reason :

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans/details:

2751-RDJWL-XX-XX-DR-A-0035C1 Location Plan received on the 25/08/23

2751-RDJWL-ZZ-ZZ-DR-A-0037C2 Proposed Site Plan received on the 04/09/23

2751-RDJWL-02-ZZ-DR-A-0038C2 Proposed Floor Plans, Elevations & Schematic Section received on the 04/09/23

('the approved plans').

Reason:

To ensure the development is carried out in accordance with the approved plans in the interests of proper planning.

3. Prior to the dwelling hereby approved being brought into first use, bat and bird boxes shall be installed as detailed on the approved plans (Ref: 2751-RDJWL-02-ZZ-DR-A-0038) and shall be maintained and retained thereafter.

Reason:

To mitigate impacts on protected species and achieve net gains in biodiversity in compliance with Policies DM08 and ST14 of the North Devon and Torridge Local Plan and paragraph 174 of the National Planning Policy Framework.

4. The development shall be carried out in accordance with the recommendations as detailed in the ecology report prepared by South West Ecology 22nd August 2023.

Reason:

To safeguard protected species and their habitats and to achieve biodiversity net gains in accordance with Policies ST14 and DM08 of the North Devon and Torridge Local Plan, natural environment objectives of the National Planning Policy Framework at Chapter 15, and to meet the statutory duties of 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).

5. The development hereby approved shall be constructed in accordance with the following schedule of external finishing materials:

Walls: Grey corrugated sheet as existing

Windows and doors – Slate blue/grey aluminium

Roof – Corrugated grey sheet with opaque panels

Reason:

In the interests of the appearance of the development and locality in accordance with Policy DM04 of the North Devon and Torridge Local Plan.

6. Prior to first occupation of the dwelling, the parking spaces as detailed on approved drawings (ref 2751-RDJWL-ZZ-ZZ-DR-A-0037 C2) shall be constructed in full and be available for their intended use and retained in perpetuity thereafter.

Reason:

To ensure that the site is provided with facilities to accommodate traffic attracted to the site in the interest of highway safety in accordance with Policies DM05 and DM06 of the North Devon and Torridge Local Plan.

7. Before first occupation of the approved dwelling, the existing site accesses as indicated on drawing 5836 / 003 A in the submitted Transport Statement MT/5836/TS.4 dated October 2023 shall be blocked up permanently so that they cannot be used by any vehicles accessing or egressing the site. For the avoidance of doubt, any vehicles accessing the site shall only use the access as indicated on the proposed site plan 2751-RDJWL-ZZ-ZZ-DR-A-0037. This new site access and visibility splays shall be constructed, laid out and maintained for that purpose in accordance with drawing 5836 / 004 A included in the submitted Transport statement.

Reason :

To provide a safe and suitable access to the site and to provide adequate visibility from and of emerging vehicles in accordance with Policies DM05 and DM06 of the North Devon and Torridge Local Plan.

8. 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 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.

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.

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.

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.

9. Should any unexpected contamination of soil or groundwater be discovered during development of the site, the Local Planning Authority should be contacted immediately. Site activities within that sub-phase or part thereof, should be temporarily suspended until such time as a procedure for addressing any such

unexpected contamination, within that sub-phase or part thereof, is agreed upon with the Local Planning Authority or other regulating bodies.

Reason:

In the interest of human health in accordance with Policy DM02 of the North Devon and Torridge Local Plan.

10. No development shall commence until a detailed scheme of soft landscaping and planting, demonstrating a genuine net-gain in biodiversity is to be submitted to and approved by the Local Planning Authority. All planting, seeding or turfing comprised in the approved landscaping scheme shall be carried out by the end of the first planting and seeding seasons following the occupation of the buildings. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation. The landscaping scheme shall be strictly adhered to during the course of the development and thereafter.

Reason: To ensure the provision of an appropriate landscaping scheme in the interests of the visual amenities of the locality, to assimilate the development into its countryside surroundings and in the interests of biodiversity.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order revoking and re-enacting that Order) express planning permission shall be obtained for any development within class(es) A, AA, B, C, D and E of Part 1 of Schedule Two of the Order.

Reason:

To allow the Local Planning Authority to consider the impact of future development on ecology, landscape character, the appearance and character of the development in the area / highway safety in accordance with the requirements of Policies DM08/DM04/DM05/DM27 of the North Devon and Torridge Local Plan

12. The site access road shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than ten metres back from its junction with the public highway

Reason:

To prevent mud and other debris being carried onto the public highway.

13. Provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway.

Reason:

In the interest of public safety and to prevent damage to the highway

Informatives

1. The applicant is advised that the foul drainage system installed may also be required to comply with Environment Agency requirements and Building Regulation requirements therefore they are advised to contact the relevant organisations to ensure compliance.

2. For the purpose of interpreting the restrictions expressed in condition 8 of this consent, permitted development rights have been removed in respect of the following classes:

Part 1:

Class A The enlargement, improvement or other alteration of a dwelling-house

Class AA Enlargement of a dwellinghouse by construction of additional storeys

Class B The enlargement of a dwelling-house consisting of an addition or alteration to its roof

Class C Any other alteration to the roof of a dwelling-house

Class D The erection or construction of a porch outside any external door of a dwelling-house

Class E E The provision within the curtilage of a dwelling-house of -

a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwelling house as such, or the maintenance, improvement or other alteration of such a building or enclosure; or

b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas

3. NETWORK RAIL

SAFETY

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 Basic Asset Protection Agreement, if required, with a minimum of 3months notice before works start. Initially the outside party should contact assetprotectionwestern@networkrail.co.uk.

FENCING

The fence in the submitted drawings is a height of 1.30m. Because of the nature of the proposed development we consider that there will be an increased risk of trespass onto the railway. The Developer must provide a suitable trespass proof fence adjacent to Network Rail's boundary (minimum approx. 1.8m high) and make provision for its future maintenance and renewal. Network Rail's existing fencing / wall must not be removed or damaged.

DRAINAGE

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.

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.

4. The above consent requires the submission of further details to be approved either before works commence or at identified phases of construction.

To discharge these requirements will mean further formal submissions to the Authority on the appropriate forms, which can be completed online via the planning Portal www.planningportal.gov.uk or downloaded from the Planning section of the North Devon Council website, www.northdevon.gov.uk.

A fee may be required [dependent on the type of application] for each separate submission [if several or all the details are submitted together only one fee will be payable].

Further details on this process are available on the Planning section of the Council's website or by contacting the Planning Unit at Lynton House, Commercial Road, Barnstaple.

END OF REPORT