

## **Application Report**

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

<b>Application No:</b>	77772
<b>Application Type:</b>	Full Application
<b>Application Expiry:</b>	16 January 2024
<b>Extension of Time Expiry:</b>	16 January 2024
<b>Publicity Expiry:</b>	1 December 2023
<b>Parish/Ward:</b>	WEST DOWN/MORTEHOE
<b>Location:</b>	Teasel Cottage West Down Ilfracombe Devon EX34 8NT
<b>Proposal:</b>	Erection of a dwelling
<b>Agent:</b>	Mr Rob Mead
<b>Applicant:</b>	Mr Rob Mead
<b>Planning Case Officer:</b>	Mr S. Emery
<b>Departure:</b>	N
<b>EIA Development:</b>	
<b>EIA Conclusion:</b>	Development is outside the scope of the Regulations.
<b>Decision Level/Reason for Report to Committee (If Applicable):</b>	Committee Cllr Wilkinson – To discuss proximity to local amenities as well as proximity to other dwellings, and lack of visual impact. To discuss local need.

### **Site Description**

The application site is formed of an open piece of agricultural land to the west of the dwelling known as Teasel Cottage. The land slopes down to the south and bounds the highway to the north. An access has been formed to the highway to the west of the existing junction leading to Teasel Cottage and the farm. The highway has a rural appearance, narrow and lined with Devonbank hedgerows. The built form is sporadic in form, which seems to focus around farmsteads.

The site includes a static caravan, which is located to the north of Teasel Cottage.

The site is located approximately 1.4km to the northwest of the centre of West Down. Access to West Down by foot, cycle or car is made by crossing the A361 and via Dean Lane.



Application Site



Site from Access



From Site looking South



Access

### **Recommendation**

#### **Refused**

Legal Agreement Required: No

### **Planning History**

<b>Reference Number</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
<b>74695</b>	Erection of a dwelling and detached garage, together with associated works including the retrospective creation of a vehicular access (amended description). at Teasel Cottage, West Down, Ilfracombe, Devon, EX34 8NT	Refused	26 April 2022
<b>75756</b>	Erection of a dwelling at Teasel Cottage, West Down, Ilfracombe, Devon, EX34 8NT	Withdrawn	5 October 2022
<b>77834</b>	Application for a Lawful Development Certificate for the proposed siting of a mobile home caravan within the garden for the purposes of providing ancillary accommodation at: Teasel Cottage, West Down, Ilfracombe, Devon, EX34 8NT	Approved	12 December 2023

## Constraints/Planning Policy

<b>Constraint / Local Plan Policy</b>	<b>Distance (Metres)</b>
Advert Control Area Area of Special Advert Control	Within constraint
Chivenor Safeguard Zone Consultation Structure or works exceeding 15.2m	Within constraint
Class III Road	
Landscape Character is: 5C Downland	Within constraint
Unclassified Road	
USRN: 27500014 Road Class:C Ownership: Highway Authority	3.95
USRN: 27504834 Road Class:Q Ownership: Private	10.37
Within Adopted Coast and Estuary Zone	Within constraint
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint
Within Braunton Burrows Zone of Influence	Within constraint
Within:, SSSI 5KM Buffer in North Devon,consider need for AQIA if proposal is for anaerobic digester without combustion plant	Within constraint
Within: Braunton Burrows, SAC 10KM Buffer if agricultural development consider need for AQIA	Within constraint
SSSI Impact Risk Consultation Area	Within constraint
DM01 - Amenity Considerations DM02 - Environmental Protection DM03 - Construction and Environmental Management DM04 - Design Principles DM05 - Highways DM06 - Parking Provision DM08 - Biodiversity and Geodiversity DM08A - Landscape and Seascape Character ST01 - Principles of Sustainable Development ST02 - Mitigating Climate Change ST04 - Improving the Quality of Development ST07 - Spatial Development Strategy for Northern Devon's Rural Area ST17 - A Balanced Local Housing Market	

## Consultees

<b>Name</b>	<b>Comment</b>
Building Control Manager  Reply Received 23 November 2023	No comments received.
Councillor M Wilkinson  Reply Received	Councillor Wilkinson has called-in the application to be discussed at Planning Committee.

Name	Comment
<p data-bbox="180 197 421 264">Environmental Health Manager</p> <p data-bbox="180 304 408 409">Reply Received 31 October 2023</p>	<p data-bbox="443 197 770 226">1 Land Contamination</p> <p data-bbox="443 271 1398 450">I do not expect land contamination issues to arise in relation to the proposals. However, given the sensitivity of residential developments, I recommend the following condition be included on any permission to cover the possibility that unexpected contamination is discovered during development work:</p> <ul data-bbox="443 490 1390 775" style="list-style-type: none"> <li>- Contaminated Land (Unexpected Contamination) Condition Should any suspected contamination of ground or groundwater 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.</li> </ul> <p data-bbox="443 819 1398 887">Reason: To ensure that any contamination existing and exposed during the development is assessed and remediated as necessary.</p> <p data-bbox="443 931 855 960">2 Construction Phase Noise</p> <p data-bbox="443 965 1361 1070">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 included:</p> <ul data-bbox="443 1115 890 1144" style="list-style-type: none"> <li>- Construction Times Condition</li> </ul> <p data-bbox="443 1189 1377 1294">During the construction phase of the development no machinery shall be operated and no noisy processes undertaken outside the following times:</p> <ul data-bbox="443 1299 1217 1404" style="list-style-type: none"> <li>a) Monday - Friday 08.00 - 18.00,</li> <li>b) Saturday 08.00 - 13.00</li> <li>c) nor at any time on Sunday, Bank or Public holidays.</li> </ul> <p data-bbox="443 1449 1145 1478">Reason: To protect the amenity of local residents</p> <p data-bbox="443 1482 903 1512">3 Advisory Note: Foul Drainage</p> <p data-bbox="443 1516 1393 1695">The proposed installation of a private system for treatment and disposal of foul drainage 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 data-bbox="180 1736 373 1803">Sustainability Officer</p> <p data-bbox="180 1843 416 1948">Reply Received: 23 November 2023</p>	<p data-bbox="443 1736 1398 2087">The previously submitted Ecological Impact Assessment (EA) should still be considered broadly acceptable if resubmitted in support of the current application. The EA concludes that the site within the red line boundary is of negligible ecological value due to current use for horse grazing. No specific impacts on protected species are predicted and no further survey effort is considered necessary. The wider site consists of scrub which has, in part been regularly mowed to prevent encroachment into the grazing area. The proposed landscaping is not contained within the red line boundary and management will lead to additional erosion of the</p>

Name	Comment
	<p>boundary scrub in the western and northern portion of the field. Further impacts are predicted during construction which would damage off-Site habitats in the absence of mitigation.</p> <p>The EA contains a series of recommended enhancements which would potentially deliver a net gain in biodiversity and protected species habitats. However, the submitted Site Plans are insufficiently detailed to secure the EA recommendations and Elevations do not currently illustrate the building integrated bat/bird boxes. Detailed planting specifications and revised Elevations could potentially be secured by appropriately worded conditions.</p> <p>The Site Plan does not contain any specific proposals for boundary treatments which would assimilate the proposal into the surrounding countryside, improve habitat connectivity or minimise the influence of residential activity. The visual impact and illumination from the extensive glazing on the southern elevation would therefore be unmitigated and would appear incongruous set against the largely agricultural surroundings. The lack of substantive boundary treatments would likely result in the habitats outside of the developable area being overly managed for residential purposes. The proposed flowering lawn and species rich meadow would also likely be subjected to intensive management and constrained from delivering any significant habitat value.</p>
<p>West Down Parish Council</p> <p>Reply Received 2 November 2023</p>	<p>West Down Parish Council recommend approval of this application.</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**

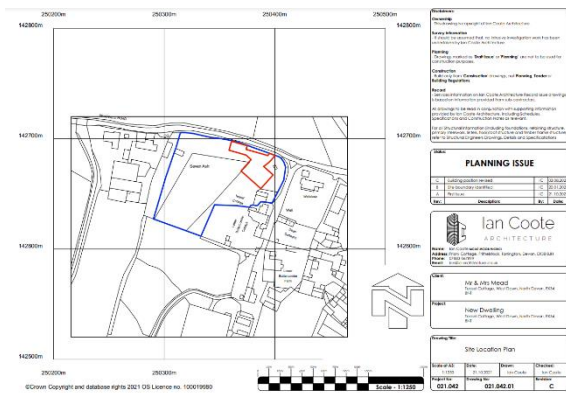
**Proposal Description**

This application seeks detailed planning permission for the erection of a dwelling.

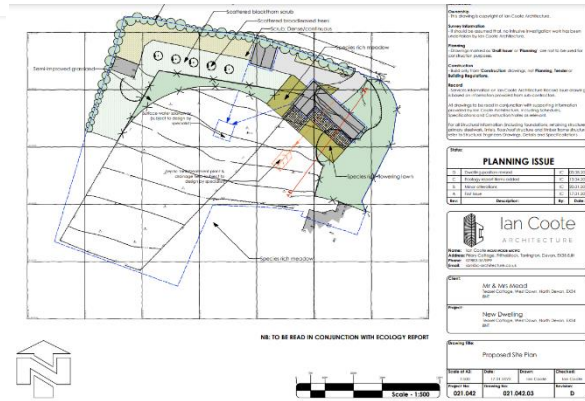
The dwelling is proposed to measure 23m in length and 10.1m in depth. It is going to be split level due to the partially excavated site, with the higher level eaves height measuring 2.6m and the ridge height measuring 4.3m. At the excavated level, the eaves height is to measure 5.3m and the ridge height is to measure 7m. The building is to have a gabled form and the south elevation being heavily glazed.

The detached garage is to have a simple gabled form. It is to measure 6.935m in depth, 8.045m in length, 2.55m in height to the eaves and 4.7m in height to the ridge.

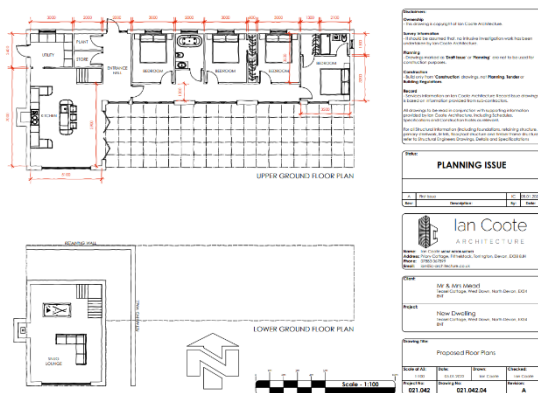
The lower level is to accommodate a snug lounge; the upper floor is to accommodate 4 bedrooms (one en-suite), a bathroom, an entrance hall, a kitchen dining area, a utility room and storage.



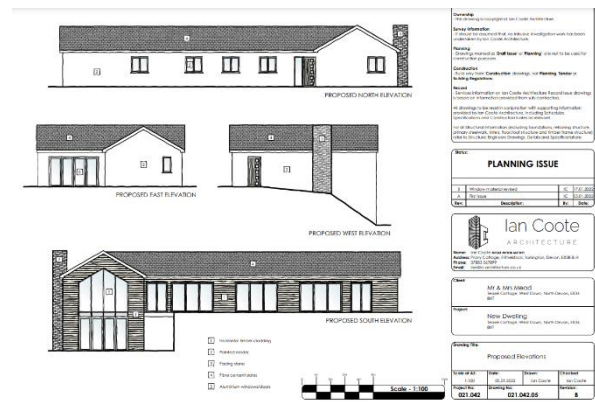
Site Location Plan



Site Plan



Floor Plan



Elevations Plan

The current application follows LPA ref: 75756, which was withdrawn by the Applicant following communications from Officers that the submission had not overcome the reasons of the previously refused application 74895. This current application replicates that withdrawn.

LPA ref: 74895 (Erection of a dwelling and detached garage, together with associated works including the retrospective creation of a vehicular access (amended description); which was refused on 26th April 2022 for the following reasons:

*'1. The development site is located within the Countryside, beyond an identified Local Centre, Village, Rural Settlement. The development of a dwellinghouse in this location does not meet a local economic and social needs, does not constitute rural building re-use or development which is necessary restricted to a Countryside location. The principle of development therefore does not accord with policy ST07 of the North Devon and Torrington Local Plan.*

*2. The proposed development of a dwelling in this location will result in harm to the dispersed character of the locality, impede into the rural appearance of its setting, and will not contribute to the setting of the Coast and Estuary Zone. No benefits of the development of this dwelling, together with the creation of the vehicular access, have been identified that would significantly and demonstrably outweigh the harm. The development proposal does not therefore result in sustainable development, contrary to policies ST01, ST04, ST09, DM4 of the North Devon and Torridge Local Plan'.*

The current scheme offers a dwelling of the same dimensions and design to that previously refused (74895), but in a changed location (as with 75756). In comparison, the dwelling has been moved from a central location on the site to a position in the north-eastern corner.

The site is located within the Coast and Estuary Zone.

### **Planning Considerations Summary**

- Principle of development
- Design
- Amenity
- Ecology
- Flood risk and drainage
- Highways/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 located outside of the development boundary of West Down and therefore located within the Countryside wherein policy ST07 of the North Devon and Torridge Local Plan (the Local Plan) states that 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. The previously refused scheme was for an open-market dwelling, and it was not demonstrated that would meet a local economic and social need, the principle of development did not accord with the principle of development as defined in the Local Plan.

Within the Planning Statement supporting the current application, the Applicant agreed that the hamlet of Dean, in which the site is located, is not a Rural Settlement as defined in the Local Plan. Although not in an isolated location due to the siting of agricultural and residential buildings close by, the site is outside of the settlement and therefore within the Countryside. The site is also not considered to be well-related to the village of West Down. The Planning statement considers that: 'Although the hamlet of Dean does not include a recognised community facility, the hamlet is well related to and functionally linked with the Village of West Down with its wide range of community facilities and services'. However, as determined in the previously refused application, the site is located approximately 1.2km to the centre of the village with no direct footpath, needing to cross the primary A361. The locality, whilst part of the parish, is somewhat separated from the built form of the village and appears to have historically evolved around the agricultural operations of the surrounding farms. Officers therefore do not concur that the site is well related to a functionally linked with West Down.

With regard to policy ST07, there is no evidence that the proposal would meet local or economic and social needs, such as the provision of affordable housing in perpetuity. The proposal does not involve the re-use of the existing buildings on the site, and no exceptional circumstances have been advanced to demonstrate that the development necessarily requires a countryside location. Consequently, the development would conflict with the spatial development strategy set out in Policy ST07 of the North Devon & Torridge Local Plan.

The application is for a local needs dwelling. The Planning Statement highlights that the owner of the site and the proposed occupants of the dwelling are related and have lived locally for many years. The proposed occupant of the dwelling is also a NHS midwife working in the Ilfracombe Area. Whilst this is understood, it has not been demonstrated that there is no alternative accommodation within the towns and villages within the locality that could reasonably accommodate the applicants.

With regard to the policy context for the allowance of local needs dwelling, Policy ST07(2) defines West Down as a schedule B village, which has a defined development boundary where development will be enabled in accordance with the local spatial strategy to meet local needs and growth aspirations.. In addition, Policy ST17(2) of the Local Plan (A Balanced Local Housing Market) states that development to meet a local need will only be permitted within the development boundary. However, as previously stated, the application site is located outside of the development boundary by approximately 1.2km and therefore cannot be considered to comply with the requirement of these policies.

It is reasonable to consider that the Applicants meet a "locally identified need" for housing as defined in with Policy DM24 of the Local Plan. However, contrary to the supporting text in the Planning Statement, the proposal would not comply with the terms of this policy because it would not be within a Rural Settlement.



In considering the requirement for a sustainable form of development, the National Planning Policy Framework (paragraph 104), amongst other things, seeks to ensure that opportunities to promote walking, cycling and public transport are identified and pursued. It requires that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport nodes (paragraph 105). Although the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.

Due to the relationship of the site with other neighbouring buildings, the proposal would not result in an 'isolated' dwelling under the terms of paragraph 80 of the Framework.

The National Planning Policy Framework (NPPF), (Paragraph 80) is clear in that it states that proposals for isolated dwellings in the countryside should be avoided, unless the proposal falls within one of the following categories;

- There is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
- The development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- The development would re-use redundant or disused buildings and enhance its immediate setting;
- The development would involve the sub-division of an existing residential dwelling; or
- The design is of exceptional quality, in that it is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area.

None of the above special circumstances would apply to this development.

However, future occupants of the development would need to travel to West Down as the nearest settlement which has a limited range of shops and facilities. While it may be technically possible to access these facilities by foot or bicycle, the roads beyond the settlement are generally unlit with no pedestrian footway. Although these routes may be lightly trafficked (apart from crossing the busy A361) these circumstances do not lend themselves to safe use by pedestrians and would be unlikely to encourage cycling, in particular at times of darkness or adverse weather conditions.

Whilst it is noted that there is a bus stop within close proximity offering links to Ilfracombe and Braunton and Barnstaple, it is highly likely that future occupiers of the development would be dependent on the use of a private car rather than the use of sustainable modes of travel for most day-to-day needs. Combined with the limited day-to-day access to West Down, which in itself separates the functional connection with the village, the proposal would not present a sustainable form of development as required by both local and national planning policies.

Officers therefore recommend that the development site is located within the Countryside, beyond an identified Local Centres, Villages, or Rural Settlements. The development of a dwellinghouse in this location does not meet a local economic and social need, does not constitute rural building re-use or development which is necessary restricted to a Countryside location. In addition, the siting of the dwelling outside of the development boundary of the village of West Down would likely result in the reliance of the private vehicle for every day needs such as services and shops and as such will not result in a sustainable form of development. The principle of development therefore does not accord with policy ST07 of the North Devon and Torridge Local Plan. The Local Planning Authority currently have a five-year supply of deliverable housing sites (5YHLS), so there is no need to apply the presumption in favour of sustainable development (the 'Presumption') (paragraph 11(d), NPPF).

As above, the principle of the development as proposal is not supported by the policies of the Local Plan. It is noted that, in the determination of a planning application Section 38 of the Planning & Compulsory Purchase Act 2004 is relevant where 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 following therefore considers whether there are any other material considerations that outweigh the in principle policy objection

### **Design**

Policy ST04 of the Local Plan states that development will achieve high quality inclusive and sustainable design to support the creation of successful, vibrant places. Design will be based on a clear process that analyses and responds to the characteristics of the site, its wider context and the surrounding area taking full account of the principles of design found in policy DM04.

Policy DM04 of the Local Plan encourages good design and ensures that development proposals should 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; reinforce the key characteristics and special qualities of the area in which the development is proposed; and contributes positively to local distinctiveness, historic environment and sense of place.

Although located adjacent to a dwellinghouse, it is reasonable to consider that the site is located within the undeveloped Coast and Estuary Zone where policy ST09 of the Local Plan states that 'development will be supported where it does not detract from the unspoilt character, appearance and tranquillity of the area, nor the undeveloped character of the Heritage Coasts, and it is required because it cannot reasonably be located outside the Undeveloped Coast and estuary'.

Together with the in principle policy objection, the previous application, reference 74895, was refused for the following reason:

'The proposed development of a dwelling in this location will result in harm to the dispersed character of the locality, impede into the rural appearance of its setting, and will not contribute to the setting of the Coast and Estuary Zone. No benefits of the development of this dwelling, together with the creation of the vehicular access, have been identified that would significantly and demonstrably outweigh the harm. The development proposal does not therefore result in sustainable development, contrary to policies ST01, ST04, ST09, DM4 of the North Devon and Torridge Local Plan'.

The application site is currently an open piece of grassland, which whilst well maintained, offers openness in its setting. It is considered that this openness, void of development, contributes to the overall rural appearance of this setting.

Unlike the previously refused scheme, this proposal would site the dwelling to the northeast of the site, adjacent to the junction in the highway. The red outline in the location plan seems to identify that the extent of the site encompasses the dwelling, the driveway and the garage, and with very little garden land surrounding. However, the proposed site plan seems to indicate a much wider area of land that is likely to be used as garden space.

Whilst it is noted that the proposed built form has been re-sited away from the centre of the larger plot, it will still result in the introduction of built form with residential curtilage and use that will depart from this setting. Officers continue to consider that the development of a dwelling in this location would not result in a betterment to this rural landscape. Dean seems to have developed surrounding farmsteads and the slightly dispersed nature of the development to the west along Bradwell Lane is part of this character. The development of this open section will introduce a built form that will not respect the current rural appearance and would be harmful. The recent loss of part of the Devonbank hedgerow has already resulted in a degree of harm, which would only be increased by the development of the dwelling.

The Planning Statement justifies the siting and design as follows:

'The application site is adjacent to a number of other residential properties which together make up a defined residential group as part of a coherent and recognisable hamlet. The revised application site is well related to the built form of Dean and its revised siting has been purposefully chosen to be unobtrusively located on land well related to the existing development pattern. The site is modest in size and, as shown on the accompanying application drawings, is capable of accommodating a single dwelling with safe and convenient access, adequate parking and private garden.

Given the site's visually unobtrusive position as now proposed which is well related to other development, the present proposal would not result in harm to the hamlet's rural character and setting'.

Whilst Officers acknowledge the moving of the building is an improvement to that previously refused, it still does not acknowledge the open character of the site and how it fits within the surrounding landscape. The Sustainability Officer also raises concerns with the regard to the proposed development from a landscape perspective in stating that: 'the Site Plan does not contain any specific proposals for boundary treatments which would assimilate the proposal into the surrounding countryside, improve habitat connectivity or minimise the influence of residential activity. The visual impact and illumination from the extensive glazing on the southern elevation would therefore be unmitigated and would appear incongruous set against the largely agricultural surroundings'.

Officers therefore continue to recommend that the proposed development of a dwelling in this location will result in harm to the dispersed character of the locality, impede into the rural appearance of its setting, and will not contribute to the setting of the Coast and Estuary Zone. No benefits of the development of this dwelling, together with the creation of the vehicular access, have been identified that would significantly and demonstrably outweigh the harm. The development proposal does not therefore result in sustainable development, contrary to policies ST01, ST04, ST09, DM04 of the North Devon and Torrridge Local Plan.

### **Amenity**

Policy DM01 of the Local Plan (Amenity Considerations) states that development will be supported where:

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

The proposed dwelling accords with National Space Standards, and proposes sufficient amenity space for the enjoyment of the future occupants.

Given the siting and orientation of the proposed dwelling, it is unlikely that it will result in harm to the amenities to neighbouring dwellings, including the donor dwelling known as Teasel Cottage.

With regard to the impacts of the development of the site Policy DM02 of the Local Plan seeks to ensure that development will not result in harm through control of hazards and pollution and air quality management. The Environmental Health Officer has not raised any objections to this proposal subject to a condition controlling the hours of construction, which Officers recommend is reasonable and necessary in the interest of protecting the amenity of local residents.

In having regard to the above, the proposal accords with the amenity considerations of the Local Plan.

## 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).

Policy DM08 of the Local Plan states that Adverse impacts on European and UK protected species and Biodiversity Action Plan habitats and species must be avoided wherever possible, subject to: (i) the legal tests afforded to them where applicable; or otherwise unless (ii) the need for and benefits clearly outweigh the loss. Also, where adverse impacts are unavoidable they must be adequately and proportionately mitigated, if full mitigation cannot be provided, compensation will be required as a last resort.

As with the previously withdrawn application (75756), the current application has not been supported by an Ecological Appraisal. The initial refused application (74695) was supported by an Ecological Impact Assessment by Lakeway Ecological Consultancy reference 22-143-EcIA-CT dated 24 March 2022, to which the Sustainability Officer raised no objections subject to the methods of mitigation being complied with as controlled by a condition of approval.

As with above, in assessment of the current application, the Sustainability Officer has offered the following comments:

‘The previously submitted Ecological Impact Assessment (EA) should still be considered broadly acceptable if resubmitted in support of the current application. The EA concludes that the site within the red line boundary is of negligible ecological value due to current use for horse grazing. No specific impacts on protected species are predicted and no further survey effort is considered necessary. The wider site consists of scrub which has, in part been regularly mowed to prevent encroachment into the grazing area. The proposed landscaping is not contained within the red line boundary and management will lead to additional erosion of the boundary scrub in the western and northern portion of the field. Further impacts are predicted during construction which would damage off-Site habitats in the absence of mitigation.

The EA contains a series of recommended enhancements which would potentially deliver a net gain in biodiversity and protected species habitats. However, the submitted Site Plans are insufficiently detailed to secure the EA recommendations and Elevations do not currently illustrate the building integrated bat/bird boxes. Detailed planting specifications and revised Elevations could potentially be secured by appropriately worded conditions.

The Site Plan does not contain any specific proposals for boundary treatments which would assimilate the proposal into the surrounding countryside, improve habitat connectivity or minimise the influence of residential activity. The visual

impact and illumination from the extensive glazing on the southern elevation would therefore be unmitigated and would appear incongruous set against the largely agricultural surroundings. The lack of substantive boundary treatments would likely result in the habitats outside of the developable area being overly managed for residential purposes. The proposed flowering lawn and species rich meadow would also likely be subjected to intensive management and constrained from delivering any significant habitat value'.

As with the previously refused application, it is reasonable that, if minded to grant planning permission, a condition of approval could be imposed requiring such information to be agreed prior to the commencement of development through the submission of a Landscape Ecological Management Plan (LEMP). Such a LEMP should be advised by the findings and recommendations of the Ecological Appraisal. Such a condition would be necessary and reasonable to protect and enhance biodiversity on the site in accordance with the aims of Policies ST14 and DM08 of the North Devon and Torridge Local Plan and paragraph 174 of the National Planning Policy Framework.

In terms of the location of the site, it is within the Zone of Influence identified through the Local Authority's Appropriate Assessment in relation to the Braunton Burrows Special Area Conservation (SAC) under the Habitat Regulations 2017. As such, any new residential development in the Zol is considered to have recreational impacts on the SAC and is therefore required to pay a contribution in order to mitigate the impacts of development. At present developers can either enter into a S106 agreement or make a direct payment to the LPA under Section 111 of the Local Government Act 1972. The applicant has not submitted a payment via Section 111 or agreed to enter in to a Section 106 agreement which include the payment of the relevant sum in relation to the development proposed. No secure mechanism has been entered in to, such as a Section 111 agreement under the local government act or Section 106 legal agreement, to address impacts on the SAC contrary to policies DM08 and ST14 of the North Devon and Torridge Local Plan. It is therefore recommended that the application be refused for the following reason:

'The site is within the Zone of Influence identified through the Local Authority's Appropriate Assessment in relation to the Braunton Burrows Special Area Conservation (SAC) under the Habitat Regulations 2017. As such, any new residential development in the Zol is considered to have recreational impacts on the SAC and is therefore required to pay a contribution in order to mitigate the impacts of development. At present developers can either enter into a S106 agreement or make a direct payment to the LPA under Section 111 of the Local Government Act 1972 to address the impacts. No secure mechanism has been entered in to, such as a Section 111 agreement under the local government act or Section 106 legal agreement, to address impacts on the SAC contrary to policies DM08 and ST14 of the North Devon and Torridge Local Plan. The applicant has not submitted a payment via Section 111 or agreed to enter in to a Section 106 agreement which include the payment of the relevant sum in relation to the development proposed. No secure mechanism has been entered in to, such as a Section 111 agreement under the local government act or Section 106 legal agreement, to address impacts on the SAC contrary to policies DM08 and ST14 of the North Devon and Torridge Local Plan'.

## **Flood Risk and Drainage**

The site is located within Flood Zone 1 and not within a Critical Drainage Area. Flood risk is therefore not a constraint.

With regard to foul drainage, the Environmental Health Officer has recommended that any grant of planning permission include an informative that advises the applicant that the installation of a private drainage system will need to comply with Building Regulations.

## **Highways**

Policy DM05 of the Local Plan (Highways) states that: (1) 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 including cyclists and pedestrians, and (2) All development shall protect and enhance existing public rights of way, footways, cycleways and bridleways and facilitate improvements to existing or provide new connections to these routes where practical to do so.

Policy DM06 of the Local Plan (Parking Provision) states that development proposals will be expected to provide an appropriate scale and range of parking provision to meet anticipated needs, having regard to the:(a) accessibility and sustainability of the site; (b) availability of public transport; (c) provision of safe walking and cycling routes; and (d) specific scale, type and mix of development. Proposals must also encourage the use of sustainable modes of transport through careful design, layout and integration to the existing built form.

Although the access has been created retrospectively, there appears to be little harm to highway safety. The adjoining highway has little traffic and there appears to be sufficient visibility both ways. County Highways have not objected to the proposal.

Sufficient off-road parking and turning provision is included in the design.

In having regard to the above, this proposal will not result in harm to highway capacity and safety.

## **Planning Balance**

The application proposes the development of a detached dwelling and garage, together with associated works including a new access. The development site is located within the Countryside, beyond an identified Local Centres, Villages, or Rural Settlements. The development of a dwellinghouse in this location does not meet a local economic and social need, does not constitute rural building re-use or development which is necessary restricted to a Countryside location. In addition, the siting of the dwelling outside of the development boundary of the village of West Down would likely result in the reliance of the private vehicle for every day needs such as services and shops and as such will not result in a sustainable form of development. The Local Planning Authority currently have a five-year supply of deliverable housing sites (5YHLS), so there is no need to apply the presumption in favour of sustainable development (the 'Presumption') (paragraph 11(d), NPPF). The principle of

development therefore does not accord with policy ST07 of the North Devon and Torridge Local Plan.

In addition, the proposed development of a dwelling in this location will result in harm to the dispersed character of the locality, impede into the rural appearance of its setting, and will not contribute to the setting of the Coast and Estuary Zone. No benefits of the development of this dwelling, together with the creation of the vehicular access, have been identified that would significantly and demonstrably outweigh the harm. The development proposal does not therefore result in sustainable development, contrary to policies ST01, ST04, ST09, DM04 of the North Devon and Torridge Local Plan.

Finally, the site is within the Zone of Influence identified through the Local Authority's Appropriate Assessment in relation to the Braunton Burrows Special Area Conservation (SAC) under the Habitat Regulations 2017. As such, any new residential development in the Zol is considered to have recreational impacts on the SAC and is therefore required to pay a contribution in order to mitigate the impacts of development. At present developers can either enter into a S106 agreement or make a direct payment to the LPA under Section 111 of the Local Government Act 1972 to address the impacts. No secure mechanism has been entered in to, such as a Section 111 agreement under the local government act or Section 106 legal agreement, to address impacts on the SAC contrary to policies DM08 and ST14 of the North Devon and Torridge Local Plan. The applicant has not submitted a payment via Section 111 or agreed to enter in to a Section 106 agreement which include the payment of the relevant sum in relation to the development proposed. No secure mechanism has been entered in to, such as a Section 111 agreement under the local government act or Section 106 legal agreement, to address impacts on the SAC contrary to policies DM08 and ST14 of the North Devon and Torridge Local Plan.

The need of the applicant has been identified in the Planning Statement. It is understood that the applicant's parents live in Teasel Cottage and the applicants propose to reside in the new dwelling to care for their parents in the later years. Whilst Officers note the applicant's personal need, no benefits of the development of this dwelling, together with the creation of the vehicular access, have been identified that would significantly and demonstrably outweigh the harm caused by inappropriateness. The development proposal does not therefore result in sustainable development, contrary to policies ST01, ST04, ST07, ST09, DM04 of the North Devon and Torridge Local Plan.

For the above reasons it is recommended that this application is refused.

### **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 site is located within the Countryside, beyond an identified Local Centres, Villages, or Rural Settlements. The development of a dwellinghouse in this location does not meet a local economic and social need, does not constitute rural building re-use or development which is necessary restricted to a Countryside location. In addition, the siting of the dwelling outside of the development boundary of the village of West Down would likely result in the reliance of the private vehicle for every day needs such as services and shops and as such will not result in a sustainable form of development. The principle of development therefore does not accord with policy ST07 of the North Devon and Torridge Local Plan.
2. The proposed development of a dwelling in this location will result in harm to the dispersed character of the locality, impede into the rural appearance of its setting, and will not contribute to the setting of the Coast and Estuary Zone. No benefits of the development of this dwelling, together with the creation of the vehicular access, have been identified that would significantly and demonstrably outweigh the harm. The development proposal does not therefore result in sustainable development, contrary to policies ST01, ST04, ST09, DM04 of the North Devon and Torridge Local Plan.
3. The site is within the Zone of Influence identified through the Local Authority's Appropriate Assessment in relation to the Braunton Burrows Special Area Conservation (SAC) under the Habitat Regulations 2017. As such, any new residential development in the Zol is considered to have recreational impacts on the SAC and is therefore required to pay a contribution in order to mitigate the impacts of development. At present developers can either enter into a S106 agreement or make a direct payment to the LPA under Section 111 of the Local Government Act 1972 to address the impacts. No secure mechanism has been entered in to, such as a Section 111 agreement under the local government act or Section 106 legal agreement, to address impacts on the SAC contrary to policies DM08 and ST14 of the North Devon and Torridge Local Plan. the applicant has not submitted a payment via Section 111 or agreed to enter in to a Section 106 agreement which include the payment of the relevant sum in relation to the development proposed. No secure mechanism has been entered in to, such as a Section 111 agreement under the local government act or Section 106 legal agreement, to address impacts on the SAC contrary to policies DM08 and ST14 of the North Devon and Torridge Local Plan'

## **Informatives**

1. The following plans were considered during the determination of this application:-  
021.042.01C Site Location Plan and received on the 04/10/23,  
021.042.03D Proposed Site Plan and received on the 04/10/23,  
021.042-04A Proposed Floor Plans and received on the 04/10/23,  
021.042.05B Proposed Elevations and received on the 04/10/23,  
021.042.07A Proposed Garage and received on the 04/10/23,

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

### Development Plan

North Devon and Torridge Local Plan 2018: -

DM01 - Amenity Considerations

DM02 - Environmental Protection

DM03 - Construction and Environmental Management

DM04 - Design Principles

DM05 - Highways

DM06 - Parking Provision

DM08 - Biodiversity and Geodiversity

DM08A - Landscape and Seascape Character

ST01 - Principles of Sustainable Development

ST02 - Mitigating Climate Change

ST04 - Improving the Quality of Development

ST07 - Spatial Development Strategy for Northern Devon's Rural Area

ST09 – Coast and Estuary Strategy

ST14 – Enhancing Environmental Assets

ST17 - A Balanced Local Housing Market

3. Statement of Engagement

In accordance with paragraph 38 of the National Planning Policy Framework the Council works in a positive and pro-active way with Applicants and looks for solutions to enable the grant of planning permission. However in this case the proposal is not sustainable development for the reasons set out and the Council was unable to identify a way of securing a development that improves the economic, social and environmental conditions of the area.

**END OF REPORT**