



Application Report

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

Application No: 77868
Application Type: Full Application
Application Expiry: 5 April 2024
Extension of Time Expiry: 5 April 2024
Publicity Expiry: 7 December 2023
Parish/Ward: BURREINGTON CHULMLEIGH/CHULMLEIGH
Location: Riverside House
Newnham Bridge
Umberleigh
Devon
EX37 9EU

Proposal: Demolition of existing workshop building (following approval for conversion ref 77597) and erection of a detached dwelling house along with new access, amenity space, car parking and landscaping (amended description).

Agent: Mr Kevin Davies
Applicant: Mrs J Glenister
Planning Case Officer: Mr D. Jeffery
Departure: Y

EIA Development:
EIA Conclusion: Development is outside the scope of the Regulations.
Decision Level/Reason for Report to Committee (If Applicable): COMMITTEE – Councillor Davies is the agent.

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 railway line runs close to the eastern edge of the site.

The application site contains an existing dwelling and small cottage along with a steel framed garage/ workshop, previously approved for conversion to residential use (Ref 77597).

The parts of the site proposed for development are not within an area at risk from flooding. However, part of the wider site closer to the river are 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
16004	PROPOSED EXTENSION TO DWELLING. at GREENVALE, SOUTH MOLTON ROAD, UMBERLEIGH, EX37 9EU	FULL PLANNING APPROVAL	22 September 1992
40952	EXTENSION TO DWELLING TOGETHER WITH CONVERSION OF GARAGE TO FORM ADDITIONAL LIVING ACCOMMODATION at RIVERSIDE HOUSE, NEWNHAM BRIDGE, UMBERLEIGH, DEVON, EX379EU	FULL PLANNING APPROVAL	23 December 2005
48447	DEMOLITION OF STEEL FRAMED BUILDING & ERECTION OF DOUBLE GARAGE WITH OFFICE & STORAGE ABOVE at RIVERSIDE HOUSE, NEWNHAM BRIDGE, UMBERLEIGH, EX379EU	FULL PLANNING APPROVAL	12 August 2009
50063	APPLICATION FOR A LAWFUL DEVELOPMENT CERTIFICATE IN RESPECT OF AN EXISTING USE OF AGRICULTURAL LAND AS DOMESTIC GARDEN at RIVERSIDE HOUSE, NEWNHAM BRIDGE, UMBERLEIGH, DEVON, EX37 9EU	CERT OF LAWFULNESS REFUSED	18 August 2010
60829	APPLICATION FOR A LAWFUL DEVELOPMENT CERTIFICATE FOR THE EXISTING USE OF LAND AS DOMESTIC GARDEN & FOR THE SITING OF THE EXISTING SHED at RIVERSIDE HOUSE, NEWNHAM BRIDGE, , UMBERLEIGH, DEVON, EX37 9EU	CERT. OF LAWFULNESS ISSUED	3 July 2016

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
75571	Application for a lawful development certificate for existing use of two storey building attached to Riverside House as an independent dwellinghouse at Annexe Riverside House Newnham Bridge Umberleigh Devon EX37 9EU	Approved	9 September 2022
77597	Conversion of garage / workshop to create a four bedroom dwelling together with new access (Amended Description). at Riverside House Newnham Bridge Umberleigh Devon EX37 9EU	Approved	11 January 2024
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	Not Determined	22 January 2024

Constraints/Planning Policy

Constraint / Local Plan Policy	Distance (Metres)
Advert Control Area Area of Special Advert Control	Within constraint
Ancient Woodland: BRIDGE WOOD Ancient & Semi-Natural Woodland	50.66
Ancient Woodland: HEAD WOOD (NORTH) Ancient & Semi-Natural Woodland	388.18
Ancient Woodland: HEAD WOOD (NORTH) Ancient Replanted Woodland	370.89
Ancient Woodland: NEWHAM WOOD Ancient & Semi-Natural Woodland	437.91

Constraint / Local Plan Policy	Distance (Metres)
Burrington Radar Safeguard Area consultation required for: All buildings, structures, erections & works exceeding 15 metres in height.	Within constraint
Burrington Radar Safeguard Area consultation required for: All buildings, structures, erections & works exceeding 45 metres in height.	Within constraint
Class I Road	
Land is potentially contaminated, site was used for:Railways, Is ranked:MEDIUM, Year:1891	12.03
Land is potentially contaminated, site was used for:Railways, Is ranked:MEDIUM, Year:1906	12.03
Land is potentially contaminated, site was used for:Railways, Is ranked:MEDIUM, Year:1964	12.03
Landscape Character is: 3C Sparsely Settled Farmed Valley Floors	Within constraint
USRN: 27506537 Road Class:A Ownership: Highway Authority	2.99
Within 10m of Network Rail Line	8.38
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint
Within Flood Zone 2	Within constraint
Within Flood Zone 3	Within constraint
Within Surface Water 1 in 1000	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 ST01 - Principles of Sustainable Development ST03 - Adapting to Climate Change and Strengthening Resilience ST04 - Improving the Quality of Development ST07 - Spatial Development Strategy for Northern Devon's Rural Area ST14 - Enhancing Environmental Assets	

Consultees

Name	Comment
Building Control Manager	No comment received.
Reply Received	
Burrington Parish Council	No comment received.
Reply Received	

Name	Comment
<p>Chulmleigh Parish Council</p> <p>Reply Received 9 December 2023</p>	<p>Chulmleigh Parish Council wishes to recommend approval of this application, with a condition that Swift nest bricks are used in the building works.</p>
<p>Councillor K Davies</p> <p>Reply Received</p>	<p>No comment received.</p>
<p>DCC - Development Management Highways</p> <p>Reply Received 18 December 2023</p>	<p>Observations: 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>Recommendation: 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> <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>
<p>Environmental Health Manager</p>	<p>I have reviewed this application in relation to Environmental Protection matters and comment as follows:</p> <p>1 Railway Noise</p>

Name	Comment
<p>Reply Received 21 November 2023</p>	<p>The proposed dwelling would be close to the operational railway line at the eastern boundary. The proposals include windows and outside amenity space in close proximity to the railway line. Noise and/or vibration generated when trains pass has the potential to adversely impact residential occupiers of the proposed dwelling. The extent to which such impacts could affect the proposals should be considered prior to approving any detailed design proposals.</p> <p>Given the above, 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 under realistic worst-case conditions during the day and at night within the proposed dwelling and at outside amenity areas. The assessment report should include recommendations relating to any site constraints or mitigation measures as appropriate.</p> <p>2 Land Contamination</p> <p>Residential developments are recognised as having high sensitivity to the presence of any land contamination affecting the site. In this case, the proposals include creation of a garden area on land currently occupied by a large workshop. The site may also incorporate made ground next to a railway line. In order to ensure that any potentially significant contamination risks are adequately considered, I recommend the following conditions be included:</p> <p>- Contaminated Land Phase 1 Condition</p> <p>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.</p> <p>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.</p> <p>Where remediation of any part of the site is found to be required, a remediation scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of any necessary quality assurance, verification and certification requirements in accordance with established best practice.</p> <p>The construction phase of the development shall be carried out in accordance with the agreed details and, where relevant, verification reports and completion certificates shall be submitted for the written approval of the local planning authority.</p>

Name	Comment
	<p>Reason: To ensure that risks from land contamination to future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems are identified and, where necessary, remediated in accordance with the National Planning Policy Framework.</p> <p>- Contaminated Land (Unexpected Contamination) Condition</p> <p>Should any contamination of ground or groundwater not previously identified be discovered during development of the site, the Local Planning Authority shall be contacted immediately. Site activities within that sub-phase or part thereof shall be temporarily suspended until such time as a procedure for addressing the contamination is agreed upon with the Local Planning Authority or other regulating bodies.</p> <p>Reason: To ensure that any contamination exposed during development is remediated in accordance with the National Planning Policy Framework</p> <p>3 Construction Phase Noise The Design and Access Statement states there are three independently occupied dwellings on site. In order to reduce the risk that residents are significantly impacted by noise during the construction phase of the development I recommend the following condition be imposed:</p> <p>- Construction Times Condition</p> <p>During the construction phase of the development no machinery shall be operated and no noisy processes undertaken outside the following times: a) Monday - Friday 08.00 - 18.00, b) Saturday 08.00 - 13.00 c) nor at any time on Sunday, Bank or Public holidays.</p> <p>Reason: To protect the amenity of local residents</p> <p>4 Advisory Note: Foul Drainage</p> <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>UPDATE 13/12/2024 The JSP Consultants Noise and Vibration Survey report dated 30 November 2023 addresses the railway noise and vibration concerns raised.</p>

Name	Comment
Planning Policy Unit	No comment received.
Reply Received	
Sustainability Officer	Should you be minded to support the current application I would request that an appropriately detailed Landscape Plan with planting specifications is submitted to substantiate the submitted Site Plan.
Reply Received 7 November 2023	
The Forestry Commission	No comment received.
Reply Received	

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

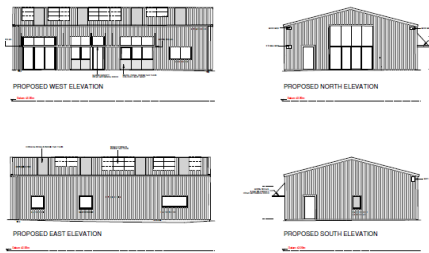
This application seeks detailed planning permission for the demolition of existing workshop building and erection of a detached dwelling house (under fall back position 77597) along with new access, amenity space, car parking and landscaping.



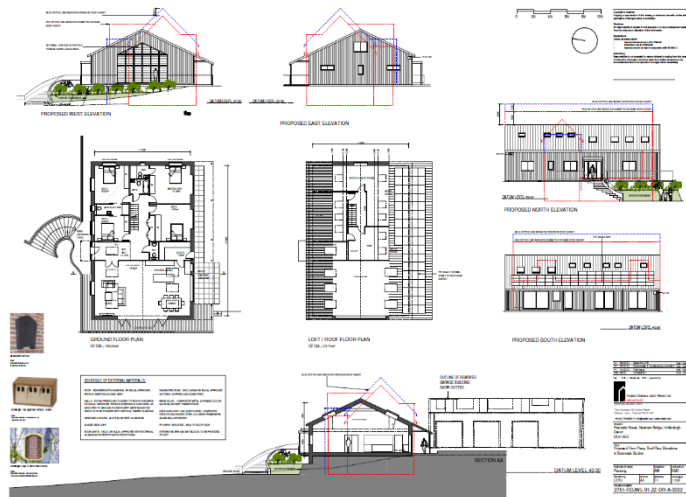
Site location Plan



Proposed site plan



Extant fallback plan 77597



Proposed Plan

Planning history

As well as the extant fallback, it is noted that a further application was submitted Ref 76435 for the provision of a new 2-3 storey detached dwelling, before the fallback had been established. The appeal was dismissed in December 2023 with the Inspector noting that the harm weighs substantially against the proposal due to its inappropriate scale of development. The associated application for costs against the Council was also dismissed.

Planning Considerations Summary

- Principle / Sustainable Development
- Design / Visual Impacts
- Neighbouring Amenity
- Drainage / Flood Risk
- Highways Safety / Access
- Ecology / Biodiversity

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 lies outside of any identified, sustainable settlement and given its open and rural nature, is deemed to fall within the open countryside. Under Policy ST07 (4) development in such locations is constrained: *'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'*.

The site's planning history is a material consideration when assessing applications for planning permission, and in this instance, it is noted that a recent Class Q Prior Approval

was granted under Ref: 77597 – Conversion of garage / workshop to create a four bedroom dwelling together with access, amenity, parking and landscaping. The current application is submitted on the basis that the extant approval for conversion of the barn to a dwelling be used as a fallback to justify the erection of a new dwelling.

The fallback position relies on the fact that an application should bring benefits to a full planning application which a Class Q approval would not bring, such as improved design, biodiversity net gains, a more environmentally sensitive build, etc. This was established in case law; *Mansell v Tonbridge and Malling Borough Council* [2017] EWCA Civ 1314. In this case, the recent Class Q permission, demonstrates that there is a realistic prospect that a residential use could be established in this rural location. The principle of constructing replacement dwelling to replace this fallback is therefore accepted. The acceptability of the proposals is however reliant on further consideration of design, amenity and other technical considerations as detailed below.

Design / Visual Impacts

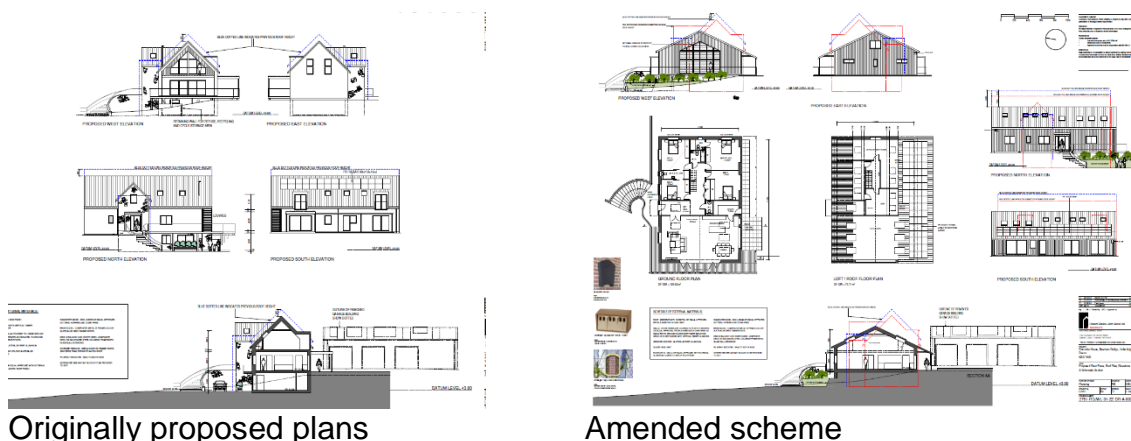
The principle established above in determining whether proposals provide betterment relative to their extant fallback is broadly in line with that of LP Policy DM26, which states: *‘Proposals for the replacement of an existing dwelling in the Countryside will be supported, subject to:*

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

Policy DM04 ‘Design Principles’ requires that development proposals (a) are 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; (b) reinforce the key characteristics and special qualities of the area in which the development is proposed; and (d) contribute positively to local distinctiveness, historic environment and sense of place.

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 proposals have evolved since submission to reduce the overall scale and bulk of the design. The design as originally submitted and amended is shown below:



Originally proposed plans

Amended scheme

The amended scheme is now much more in keeping with the extant fallback, with a near identical footprint and height. It is acknowledged that due to the topography of the site the west corner of the dwelling will have a greater mass. However, further amended plans have since been provided to detail a Devon hedgebank and remodelled site to encompass this corner of the building into the surrounding land form. This avoids the appearance of an increased scale and will allow the building to sit more comfortably within the site. The footprint of the proposed replacement dwelling is near identical to the extant fallback. The lower proposed eaves height also contributes towards a more sensitive scheme.

A landscaping plan has been submitted, which will allow betterment to be secured in respect of various planting and help the proposals more successfully assimilate into its surroundings.

The works would seek to provide for a degree of betterment than that previously consented, via the following:

- Improved relationship to adjacent buildings.
- Significant extent of new Devon hedgebank planting, which will help screen the site and benefit wildlife.
- Improved natural materials, more closely this rural location.
- Improved residential curtilage / garden space;
- Improved materials
- Overall improved sustainable construction methods and environmental performance.

The structure and will be constructed of the following schedule of materials:

- Roof – Profile sheeting dark grey
- Walls – Vertical natural timber cladding and stone
- Doors / Windows – slate blue/grey aluminium

No concerns are raised in respect of the above, which will maintain a simple rural aesthetic and better reflect existing buildings than the extant fallback.

On balance, the works are considered likely to give rise to a betterment relative to permission Ref: 77597 as required by the Mansell v Tonbridge case as covered above. As such, subject to conditions, the proposal accords with LP Policies ST04 and DM04 and DM08A.

Neighbouring 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, the conversion of this building is not considered to result in any unreasonable impacts upon the adjacent cottage or main dwelling. Furthermore, the revised location of the building further to the south, moves it away from existing dwelling, which will help protect the amenities of existing and future occupiers.

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 works will provide for an acceptable amount of external amenity space and a good standard of accommodation for future occupants.

During consideration of the original application to convert the barn to residential use a noise report was commissioned to assess potential noise from the adjaen railway line. The report concluded that *'unreasonable noise and vibration impacts are unlikely to occur if the proposed residential development goes ahead'*. These findings were reviewed and accepted by the Council's Environmental Health Officer. The revised siting of the proposed dwelling compared to the fall back (further away from the railway line) is likely to result in a more favourable outcome in this respect.

The proposals, accord with Policy DM01 of the North Devon & Torridge Local Plan.

Drainage / Flood Risk

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 Policies DM02 and ST03 of the North Devon & Torridge Local Plan.

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Highways Safety / Access

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 acceptability of the new access was accepted as part of the assessment of the original application for conversion of the existing barn. For convenience the justification and rationale behind this is included below:

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 access 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 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 Policies DM05 and DM06 of the North Devon & Torridge Local Plan

Ecology / Biodiversity

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 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 was consulted on the previous application for conversion and 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'.

A landscape plan has been submitted providing details of planting and of the proposed Devon hedgebanks. These details are considered acceptable and a condition will be attached to any permission to ensure that this betterment is secured.

The proposals comply with policies DM08 and ST14 of the North Devon & Torridge Local Plan and as such have no objections to the proposals on ecological grounds.

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.

It is considered necessary to remove certain Permitted Development Rights to make sure that the betterment used as justification for the proposals is secured in the long term.

A condition is added requiring demolition of the existing barn

Conclusion

Subject to conditions, the proposed works are considered acceptable in their ability to provide for betterment in design and environmental terms relative to the fallback position. Approval of the application is therefore recommended subject to the imposition of planning conditions, as covered above.

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-0015C4 Location Plan received on the 27/10/23

2751-RDJWL-ZZ-ZZ-DR-A-0020C5 Proposed Site Plan received on the 26/02/24

2751-RDJWL-01-ZZ-DR-A-0032C1 proposed Floor - Roof - Elevations Plans received on the 26/02/24

2751-RDJWL-ZZ-ZZ-DR-A-0050-S3P1 Landscape Plan received on the 01/03/24 ('the approved plans').

Reason:

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

3. The existing 'garage/workshop' outlined in red as shown on the approved site plan ref 2751-RDJWL-ZZ-ZZ-DR-A-0020 C5 shall be removed in full and the land restored in line with the approved landscape plan ref: 2751-RDJWL-ZZ-ZZ-DR-A-0050 P1 prior to occupation of the dwelling hereby approved.

Reason:

To avoid the establishment of an additional open market dwelling in this unsustainable Countryside location, which would be contrary to the Local Development Plan's spatial strategy.

4. Prior to the commencement of any site clearance, groundworks or construction, the Local Planning Authority shall be provided with the results of a phase one (desktop) survey for potential ground contamination. The report shall be prepared by a suitably qualified person and sufficient to identify any and all potential sources of ground contamination on any part of the development site. Thereafter, depending on the outcome of phase one, a proposal for any phase two (intrusive) survey that may be required along with any remediation strategy shall be presented to and agreed with the planning authority.

Reason:

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

5. 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.

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

Walls: stone plinth, corrugated sheeting and vertical timber cladding

Windows and doors – Slate blue/grey aluminium

Roof – profile sheeting in dark grey

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.

7. 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-01-ZZ-DR-A-0032 C1) 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.

8. Prior to first occupation of the dwelling, the parking spaces as detailed on approved drawing (ref 2751-RDJWL-ZZ-ZZ-DR-A-0020 C5) 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.

9. 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 ref 2751-RDJWL-ZZ-ZZ-DR-A-0020 C5. 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.

10. 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 in accordance with Policy DM05.

11. 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 in accordance with Policy DM05.

12. 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

13. The landscaping hereby approved shall be implemented in accordance with the approved plans (Ref: 2751-RDJWL-ZZ-ZZ-DR-A-0050) in full no later than the end of the first planning season following the substantial completion of the development. If within a period of five years from the date of the planting of any tree, that tree, or any tree planted in replacement for it, is removed, uprooted, destroyed, dies or becomes seriously damaged or defective another tree of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

Reason:

In the interests of the character and appearance of the development and the surrounding area, and to deliver biodiversity enhancement, in accordance with Policies ST04, DM04, DM08A and ST14 of the adopted North Devon and Torridge Local Plan 2011- 2031.

14. 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).

Informatives

1. For the purpose of interpreting the restrictions expressed in condition 11 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

2. 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.

3. 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.

5. **Statement of Engagement**
In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission. This has included a revised scheme with a reduced scale and massing and the submission of landscaping details.