

Application Report

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



Application No: 78849
Application Type: Full Application
Application Expiry: 31 July 2024
Extension of Time Expiry:
Publicity Expiry: 25 July 2024
Parish/Ward: CHULMLEIGH/CHULMLEIGH
Location: Higher Leyton
Elstone
Chulmleigh
Devon
EX18 7AF

Proposal: Demolition of existing barn & erection of a bungalow with amenity space, landscaping, refuse and recycling storage and car parking (following approval for the conversion under application ref 77837).

Agent: Mr Kevin Davies

Applicant: Mr D Smith

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 – Agent is a District Councillor.

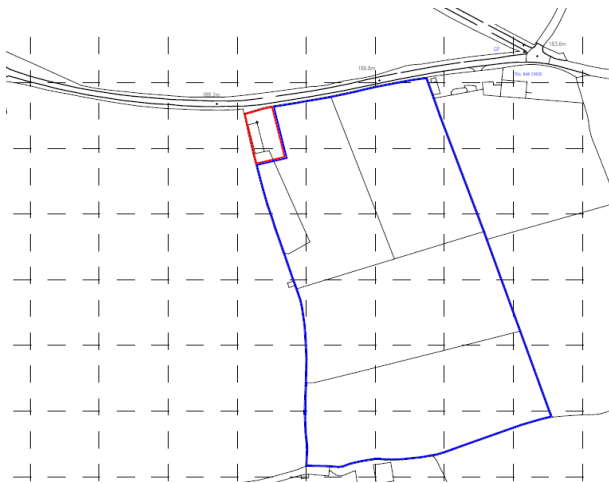
Site Description

The application site is located around 1.5 miles north of Chulmleigh, to the east of Elstone. The area is highly rural in character with little development in the vicinity of the site other than scattered farmsteads, agricultural land and occasional dwellings. The nearest dwelling to the site is Leytown Farmhouse, which is located around 240m to the south of the application site. The site gently slope down towards the south

There is an existing agricultural building located just inside the access of the application site, which measures around 22.75m in length and 6.5 m is width. This existing building is of a timber framed construction clad in corrugated sheets. It received permission for conversion into a dwelling in January 2024 (reference 77837).

The site is not located near to any listed buildings / heritage assets. The site is not located within a conservation area or designate landscape. Landscape Character is: 1F Farmed Lowland Moorland and Culm Grassland

The site is not located within a Flood Risk Zone as identified by the Environment Agency nor a Critical Drainage Area.



Site location



Existing site photo



Existing site photo



Existing site photo

Recommendation

Approved

Legal Agreement Required: No

Planning History

Reference Number	Proposal	Decision	Decision Date
77837	Conversion of sheep barn to dwelling with associated works at Higher Leyton Nr Elstone Chulmleigh Devon EX18 7AF	Approved	10 January 2024

Constraints/Planning Policy

Constraint / Local Plan Policy	Distance (Metres)
Advert Control Area Area of Special Advert Control	Within constraint

Constraint / Local Plan Policy	Distance (Metres)
Burrington Radar Safeguard Area consultation required for: All buildings, structures, erections & works exceeding 45 metres in height.	Within constraint
Landscape Character is: 1F Farmed lowland moorland and Culm grassland	Within constraint
USRN: 27506612 Road Class:C Ownership: Highway Authority	4.97
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 ST01 - Principles of Sustainable Development ST02 - Mitigating Climate Change ST04 - Improving the Quality of Development ST05 - Sustainable Construction and Buildings ST07 - Spatial Development Strategy for Northern Devon's Rural Area ST14 - Enhancing Environmental Assets ST15 - Conserving Heritage Assets	

Consultees

Name	Comment
Chulmleigh Parish Council Reply Received 5 July 2024	Chulmleigh Parish Council wishes to recommend approval of this Application with the comment that it would like to see a condition that Swift nesting boxes are used in the building.
Councillor K Davies Reply Received	No comment received.
Environmental Health Manager Reply Received 5 July 2024	I have reviewed this application in relation to Environmental Protection matters and comment as follows: 1 Land Contamination 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: - Contaminated Land (Unexpected Contamination) Condition Should any suspected contamination of ground or groundwater be encountered during development of the site, the Local Planning

Name	Comment
	<p>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 works is assessed and remediated in accordance with National Planning Policy Framework guidance.</p> <p>2 Advisory Note: Foul Drainage 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>3 Advisory Note: Private Water Supplies If the dwelling is to be served by a private potable water supply, the supply will need to comply with the Private Water Supplies Regulations. The applicant should contact North Devon Council's Environmental Protection team if they are in any doubt as to ensuring a safe drinking water supply or compliance with regulatory requirements.</p>
<p>Housing Enabling Officer</p> <p>Reply Received 1 July 2024</p>	<p>Housing Enabling have no comments regarding this application.</p>
<p>Planning Policy Unit</p> <p>Reply Received</p>	<p>No comment received.</p>
<p>Sustainability Officer</p> <p>Reply Received 27 June 2024</p>	<p>The submitted Ecology Report concludes that the existing structure is of negligible value for protected species and no further survey effort is considered necessary. The recommended building integrated bat/bird/bee boxes are appropriately illustrated on submitted Elevations.</p> <p>The Proposed Site Plan is appropriately detailed and clearly demonstrates an appropriate delivery of boundary treatments to the east and south boundaries.</p> <p>The application is exempt from mandatory BNG under as the proposed dwelling is self-build.</p>

Neighbours / Interested Parties

Comments	No Objection	Object	Petition	No. Signatures
0.00	0.00	1	0.00	0.00

One letter of objection has been received from a property adjacent to the land holding to the south. This raises that they were not directly notified about the application and also that the site notice would have been more visible if not placed directly on the building. The primary focus of the objection relates to the potential for any private borehole to diminish their own private potable water supplies. The objections also raises the location of the building on a skyline, which in their view, would have an unacceptable visual impact.

Considerations

Proposal Description

The application seeks detailed planning permission for demolition of the existing barn and the erection of a bungalow with amenity space, landscaping, refuse and recycling storage and car parking (following approval for conversion of the barn under application ref 77837). The proposals are summarised below:



Proposed elevations and floor plan

Proposed block plan

Planning Considerations Summary

- Principle of the development
- Design, landscape and visual impacts
- 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

Although Policy ST07 would not usually support new dwellings in such a Countryside location, the planning history is a material consideration. As outlined above, there is a recent permission (ref 77837) for conversion of the existing barn to a single dwelling house. It is proposed to use this extant permission as a fallback for a new dwelling.

The fallback position relies on the fact that an application should bring benefits to a full planning application which an approval for conversion 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.

Subject to betterment being clearly demonstrated, as required by the above case law and with reference to the relevant policy considerations, there are no in principle objections to the provision of a new dwelling in place of the extant fallback. Further assessment of the proposal follows below against the relevant planning considerations, as summarised above.

Design, Landscape and Visual Impacts

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.

Although not strictly applicable, the wording of Policy DM26 provides a useful yardstick in illustrating the principle of needing to demonstrate betterment, as required by the *Mansell* case. This states that: *'proposals for the replacement of an existing dwelling in the Countryside will be supported, subject to: The replacement dwelling respecting the character of the surroundings and is no more visually intrusive than that of the existing dwelling; and that the new dwelling offers a positive enhancement to the quality of design and /or level of sustainability when compared to that being replaced'*.

To aid comparison between the extant permission for conversion and the current replacement, details of the previous permission are outlined below:



Proposed site plan (extant permission 77837)



Proposed (extant permission 77837)



Currently proposed site plan



Currently proposed plans/elevations

The proposal involves a reorientation of the dwelling relative to the fallback so that it is located parallel to the road, rather than lengthways along the hedge. Although this has the potential to increase its visual presence when viewed from the highway, it is acknowledged that the dwelling will be located beyond a well-established hedgebank and given its single storey design will continue to have a limited visual impact. The benefits of the revised orientation (along an east-west axis) are also acknowledged in terms of benefiting from increased solar gain.

The site is exposed to views from the south from the wider landscape. Any visual impacts of views from this direction will be mitigated through the establishment of a Devon hedgebank to delineate the site. The provision of this hedgebank would be secured via an appropriate planning condition.

The design now adopts a dual pitch roof and more traditional bungalow form compared to the existing mono pitch roof structure. Although this will result in a dilution of the existing agricultural aesthetic, the dwelling will still adopt a simple form that will not be out of keeping with its rural context. The lower eaves height of the revised dual pitch roof relative to the existing mono pitch roof will also help to reduce the scale and massing of the resultant dwelling. The footprint of the proposed dwelling is very much in line with that of the existing structure.

The conversion would result in a dwelling of a utilitarian rural character and will not increase built form on the site. With the introduction of Devon hedge banks, which will help to screen the site to the south and east and existing mature boundaries to the west and

north, visual impacts associated with the new dwelling are likely to be minimal and will respect landscape character. Proposed materials include vertical natural timber cladding, painted render and a natural slate roof, which are considered appropriate in this location.

A condition is proposed to remove permitted development rights to ensure that betterment is secured longer term, to avoid the spread of uncontrolled development in this countryside location.

On balance, the works are considered likely to give rise to a betterment relative to permission Ref: 77837 as required by the Mansell v Tonbridge case as covered above. As such, subject to conditions, the proposal accords with Policies ST04 and DM04 and DM08A 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.

The site has no immediate neighbours and as such, gives rise to no significant concerns regarding impacts on neighbour amenity.

The proposals will provide an adequate standard of amenity for the intended occupiers of the dwelling. The proposals exceed requirements of the Nationally Described Space Standards.

The Council's environmental health officer has recommended the inclusion of a condition to cover the possibility that unexpected contamination is discovered during development work. Further informatives, are included advising the applicant of their responsibility regarding foul drainage and the use of private water supplies.

The proposals comply with Policy DM01 of the NDTLP.

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

“The submitted Ecology Report concludes that the existing structure is of negligible value for protected species and no further survey effort is considered necessary. The recommended building integrated bat/bird/bee boxes are appropriately illustrated on submitted Elevations. The Proposed Site Plan is appropriately detailed and clearly demonstrates an appropriate delivery of boundary treatments to the east and south boundaries. The application is exempt from mandatory BNG under as the proposed dwelling is self-build.”

Subject to conditions requiring the delivery of the above mitigation, the proposals are considered to be in accordance with NDTLP Policies ST14 and DM08.

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 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 considered to represent a suitable means of managing drainage on a site in this rural location.

The proposal complies with NDTLP Policy DM02.

Highways and Parking

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 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. The works will not likely generate a significant increase in the amount of vehicular trips to and from the site. 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

Chulmleigh Parish Council have indicated that they wish to recommend approval of this application with the comment that it would like to see a condition that Swift nesting boxes are used in the building. As noted above, appropriate ecological mitigation is proposed as part of the application including bat and bird boxes, which would be secured via a planning condition.

Compliance with relevant regulatory requirements regarding the use of private water supplies is considered adequate to address concerns of a neighbour regarding the use of boreholes to access potable water, for planning purposes. An informative is proposed to remind the applicant of their obligations in this respect.

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:

2829-RDJWL-XX-XX-DR-A-0015C1 Location Plan received on the 05/06/24

2829-RDJWL-ZZ-ZZ-DR-A-0021C01 Proposed Site Plan received on the 05/06/24

2829-RDJWL-ZZ-ZZ-DR-A-0026C01 Proposed Floor & Elevations received on the 05/06/24

('the approved plans').

Reason:

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

3. 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.

4. Prior to the building hereby approved being brought into first use, bat and bird boxes shall be installed as detailed on the approved plan ref: 2829-RDJWL 01-ZZ-DR-A-0026 C01 received 5/6/2024 and shall be maintained and retained thereafter

Reason:

To achieve net gains in biodiversity in compliance with Policies DM08 and ST14 of the North Devon and Torridge Local Plan and paragraph 180 of the National Planning Policy Framework.

5. The development shall be carried out in accordance with the recommendations as detailed in the submitted Bat and Bird Assessment (ref ORB_3233_BG) prepared by Orbis Ecology dated 24 April 2024.

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).

6. All planting, seeding or turfing comprised in the approved details of landscaping (drawing ref 2829-RDJWL-ZZ-ZZ-DR-A-002 C01 received 5 June 2024) shall be carried out in the first planting and seeding seasons following the occupation or the substantial completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 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 variations.

Reason:

To assimilate the development into the landscape and to safeguard the appearance and character of the area in accordance with Policies ST04, ST14, DM04 and DM08A of the North Devon and Torridge Local Plan.

7. Prior to first occupation of the dwelling, the parking spaces as detailed on approved drawings (ref 2829-RDJWL-ZZ-ZZ-DR-A-0021 C01 received 5 June 2024) 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.

8. 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(a) 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 of the North Devon and Torridge Local Plan.

Informatives

1. 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 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

Further detailed information can be obtained from the Local Planning Authority, including a guide to householder development, and the Planning Portal at www.planningportal.gov.uk

2. If the intention is to provide a private potable water supply to the dwelling it will need to comply with the Private Water Supplies Regulations. The applicant should contact North Devon Council's Environmental Protection team if they are in any doubt as to ensuring a safe drinking water supply or compliance with regulatory requirements.
3. 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.
4. 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 and has imposed planning conditions to enable the grant of planning permission. This has included the use of planning conditions to secure landscape planting and ecological mitigation.

Recommendation Date	Case Officer	Lead Officer	Admin	Check
30 July 2024		TB		