

# **Application Report**

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



<b>Application No:</b>	79478
<b>Application Type:</b>	Full Application
<b>Application Expiry:</b>	12 March 2025
<b>Extension of Time Expiry:</b>	12 March 2025
<b>Publicity Expiry:</b>	14 February 2025
<b>Parish/Ward:</b>	WESTLEIGH/INSTOW
<b>Location:</b>	Barn Owl and Tawny Owl Eastleigh Barton Eastleigh Bideford Devon EX39 4PA
<b>Proposal:</b>	Change of use from holiday let to full residential use
<b>Agent:</b>	Mr Nigel Polkinghorne
<b>Applicant:</b>	Mr May
<b>Planning Case Officer:</b>	Mr J. Jackson
<b>Departure:</b>	N
<b>EIA Development:</b>	No
<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 Coombs has called the application to Planning Committee to test / review the policy criteria in DM18 for removing holiday conditions, in light of the Council's five year housing land supply position

## **Site Description**

The application relates to two existing units of holiday accommodation located within the countryside.

The first unit, known as Barn Owl Cottage, comprises a single storey building with external walls constructed from natural stone and timber cladding and a roof covering of slate. Internally, the unit accommodates two bedrooms (one with en suite), bathroom, utility room, and open plan kitchen / dining / living area.

The second unit, known as Tawny Owl Cottage, is a two storey building with external walls constructed from natural stone and a roof covering of slate. Internally, the unit accommodates an open plan kitchen / dining / living area on the ground floor, with three bedrooms (one with en suite) and a bathroom on the first floor.

Both properties are curtilage listed in association with Eastleigh Barton.

The site is accessed via an existing vehicular access at the northern end of the site.

To the east, south and west of the site is an agricultural holding within the applicant's ownership. Eastleigh Barton is grade II\* listed.

<p>Site Location Plan</p>	<p>Barn Owl Cottage</p>
<p>Tawny Owl Cottage</p>	<p>Green space to east of Tawny Owl Cottage</p>

**Recommendation**

**Refused**

Legal Agreement Required: No

**Planning History**

Reference Number	Proposal	Decision	Decision Date
35486	ERECTION OF AGRICULTURAL GRAIN STORE at EASTLEIGH BARTON, , EASTLEIGH, BIDEFORD, DEVON, EX394PA	FULL PLANNING APPROVAL	2 October 2003
40623	LISTED BUILDING APPLICATION FOR CONVERSION OF 3 BARNs TO FORM 2 UNITS OF HOLIDAY ACCOMMODATION TOGETHER WITH 1 ANNEX OF HOLIDAY ACCOMMODATION at EASTLEIGH BARTON, , EASTLEIGH, BIDEFORD, DEVON, EX394PA	LB (EXECUTION WORKS) APPROVAL	10 January 2006
40622	CONVERSION OF 3 BARNs TO FORM 2 UNITS OF HOLIDAY ACCOMMODATION TOGETHER WITH 1 ANNEX OF HOLIDAY ACCOMMODATION at	FULL PLANNING APPROVAL	13 January 2006

Reference Number	Proposal	Decision	Decision Date
	EASTLEIGH BARTON, , EASTLEIGH, BIDEFORD, DEVON, EX394PA		
64906	CREATION OF NEW VEHICULAR ACCESS & TRACK TO FARM YARD at LAND AT EASTLEIGH BARTON, , , EASTLEIGH, BIDEFORD, DEVON, EX39 4PA	FULL PLANNING APPROVAL	29 August 2018
77083	Prior approval for conversion of agricultural building to one dwellinghouse Class Q(a)(b) at Barn at Eastleigh Barton Eastleigh Bideford Devon EX39 4PA	Withdrawn	28 June 2023
79190	Removal of condition 3 (holiday occupancy restriction) attached to planning permission 40622 (conversion of 3 Barns to form 2 units of holiday accommodation together with 1 annexe of holiday accommodation) to allow use as unrestricted residential properties for the 2 units at Barn Owl Cottage and Tawny Owl Cottage Eastleigh Barton Eastleigh Bideford Devon EX39 4PA	Withdrawn	4 November 2024
79584	Listed Building Consent for change of use from holiday let to full residential use at Barn Owl and Tawny Owl Eastleigh Barton Eastleigh Bideford Devon EX39 4PA	Withdrawn Invalid	20 December 2024

### **Constraints/Planning Policy**

Constraint / Local Plan Policy	Distance (Metres)
Advert Control Area Area of Special Advert Control	Within constraint
Burrington Radar Safeguard Area consultation required for: All buildings, structures, erections & works exceeding 15 metres in height.	Within constraint
Chivenor Safeguard Zone Consultation Structure or works exceeding 45.7m	Within constraint

<b>Constraint / Local Plan Policy</b>	<b>Distance (Metres)</b>
Class III Road	
Landscape Character is: 3A Upper farmed and wooded valley slopes	Within constraint
Listed Building Adjacent: 3204.0 EH Ref 1318076 Eastleigh Barton, including rear garden wall containing two bee-boles, Eastleigh	Within constraint
Listed Building Curtilage (Adjacent to)	6.96
Listed Building Curtilage (within)	Within constraint
Listed Building: 3204.0 EH Ref 1318076 Eastleigh Barton, including rear garden wall containing two bee-boles, Eastleigh	Within constraint
USRN: 27503738 Road Class:Q Ownership: Private	2.6
USRN: 27506783 Road Class:C Ownership: Highway Authority	3.18
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 100	Within constraint
Within Surface Water 1 in 30	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
Listed Building Grade: 2*	
DM01 - Amenity Considerations DM02 - Environmental Protection DM04 - Design Principles DM05 - Highways DM06 - Parking Provision DM07 - Historic Environment DM08 - Biodiversity and Geodiversity DM08A - Landscape and Seascape Character DM18 - Tourism Accommodation ST01 - Principles of Sustainable Development	

<p>ST03 - Adapting to Climate Change and Strengthening Resilience</p> <p>ST04 - Improving the Quality of Development</p> <p>ST07 - Spatial Development Strategy for Northern Devon's Rural Area</p> <p>ST10 - Transport Strategy</p> <p>ST14 - Enhancing Environmental Assets</p> <p>ST15 - Conserving Heritage Assets</p>	
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### **Consultees**

<b>Name</b>	<b>Comment</b>
<p>Councillor B Coombs</p> <p>Reply Received</p>	<p>Please could I call in the above planning application on the following grounds:</p> <p>To Test/ Review the policy criteria in DM18 for removing holiday conditions, in light of the Councils five year housing land supply position</p>
<p>Environmental Health Manager</p> <p>Reply Received 20 January 2025</p>	<p>I have reviewed this application in relation to Environmental Protection matters and comment as follows:</p> <p>1 Residential Amenity There is a large agricultural building around 25 metres to the south of 'Tawny Owl Cottage' that is shown as being in the Applicant's ownership on the Location Plan. Certain uses of this nearby building (such as for housing livestock) could significantly impact the amenity of future residential occupiers of the dwelling (e.g. due to noise, odour or flies). The proposed unrestricted residential use represents a more sensitive use in terms of amenity and nuisance impacts than short term holiday let use. If the current application had been for permission to convert the Tawny Owl building to a dwelling rather than a removal of condition application, I would likely have recommended that future use of the building to the south be restricted to storage and similar only and recommended a condition along the following lines to this end: - Example Storage Building Condition</p> <p>Following first occupation of the approved dwelling and thereafter, the existing building to the south marked "XXXXX" on the approved Site Plan shall be used for the storage of inert equipment, machinery and materials only (no livestock or animals) and not for any uses that are likely to adversely impact residential amenity at the approved dwellings. Reason: To protect the amenity of residential occupiers of the approved dwelling. I recommend consideration be given to options for controlling future uses of the building to the south under this application with a view to safeguarding amenity at the proposed dwelling.</p> <p>2 Advisory Note: Foul Drainage</p>

<b>Name</b>	<b>Comment</b>
	The proposed use of 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 Permitting requirements where applicable) including in relation to system design capacity.
Georgian Group Reply Received	No comments received
Heritage & Conservation Officer Reply Received 7 January 2025	These barns are curtilage listed in association with Eastleigh Barton. There are no changes proposed to the fabric of the buildings, as far as I can see, so no LBC is required. I do not consider that the change of use from tourism to full term residential will have an impact on the significance of the heritage assets.
Historic England Reply Received 18 December 2024	<p>Thank you for your letter of 17 December 2024 regarding the above application for planning permission.</p> <p>Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.</p> <p>We suggest that you seek the views of your specialist conservation and archaeological advisers. You may also find it helpful to refer to our published advice at <a href="https://historicengland.org.uk/advice/find/">https://historicengland.org.uk/advice/find/</a></p> <p>It is not necessary to consult us on this application again, unless there are material changes to the proposals. However, if you would like advice from us, please contact us to explain your request.</p>
SPAB Reply Received	No comments received
The Twentieth Century Society Reply Received	No comments received
Westleigh Parish Council Reply Received	No comments received

### **Neighbours / Interested Parties**

<b>Comments</b>	<b>No Objection</b>	<b>Object</b>	<b>Petition</b>	<b>No. Signatures</b>
0.0	0.0	0.0	0.0	0.0

### **Considerations**

#### **Proposal Description**

The application seeks full planning permission for the change of use from holiday let to full residential use.

The two units are currently restricted to holiday occupation only, by condition 3 of planning permission 40622 which is worded as follows:

*The units hereby approved shall not be occupied other than for the provision of short-let holiday accommodation ancillary to Eastleigh Barton. The properties shall not be occupied by any one person or group of people for a period exceeding 28 days in any calendar year. The owner or operator shall maintain a register of occupants for each calendar year. This shall be made available on request for inspection by any duly authorised officer of the Local Planning Authority.*

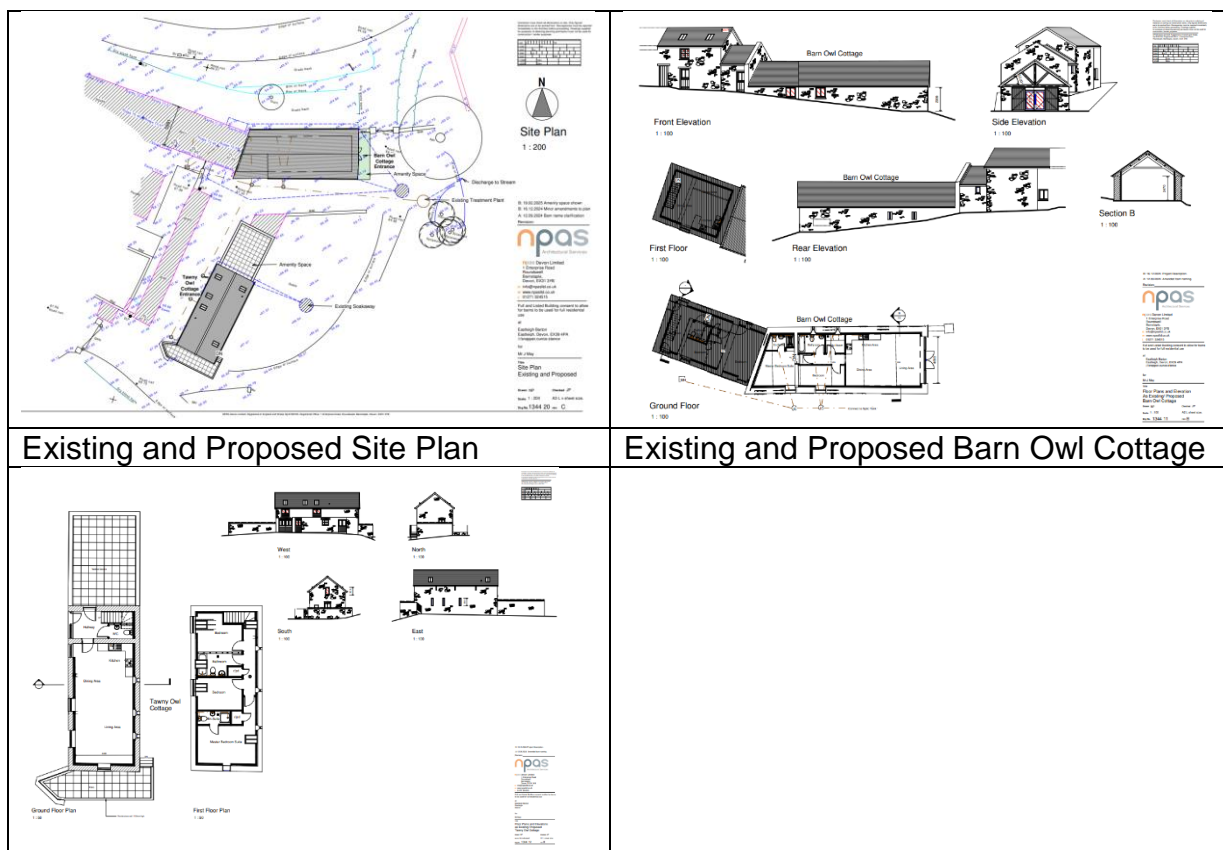
**Reason:**

*The site is in a location within which new permanent residential use would not be acceptable in policy terms. However, use for holiday purposes only is considered acceptable.*

Planning permission 40622 was granted on 13 January 2006. The permission related to a larger site compared to the location plan now submitted, and included a third unit of holiday accommodation, which is attached to the western end of Barn Owl Cottage. The third unit of holiday accommodation does not form part of the current application.

Listed building consent was also granted in respect of the tourism accommodation, under reference 40623 on 10 January 2006.

No external alterations are proposed by the application.



## Planning Considerations Summary

The material considerations pursuant to this application are:

- Principle of Development
- Heritage, Character and Appearance
- Residential Amenity
- Ecology
- Highways
- Foul and Surface Water Drainage

## Planning Considerations

### 1. Principle of Development

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 (NDTLP). The relevant Policies are detailed above.

The National Planning Policy Framework (NPPF) is a material consideration.

In considering whether to grant planning permission which affects a listed building or its setting the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses in accordance with Section 66 of the Listed Building Act.

The site is located within the countryside. Policy ST07 of NDTLP sets out the spatial development strategy for northern Devon's rural area and clarifies at part (4) that in the Countryside, beyond Local Centres, Villages and Rural Settlements, development will be limited to that which is enabled to meet local economic and social needs, rural building reuse and development which is necessarily restricted to a Countryside location.

As noted above, the occupancy of the two properties is currently restricted to holiday occupation only, by condition 3 of planning permission reference 40622. The application seeks permission to use the properties as unrestricted residential dwellings, effectively removing the occupancy condition. Part (3) of Policy DM18 of the NDTLP is therefore relevant in the consideration of the application.

Part (3) of Policy DM18 of the NDTLP sets out the policy requirements relating to the removal of holiday occupancy restrictions and states:

*Applications for the removal of occupancy conditions will only be permitted where:*

*(a) it is capable of being occupied permanently without need for major extension or alteration; and*



*(b) there is compelling evidence to demonstrate that such a restriction is no longer justified.*

Paragraph 13.109 of the supporting text to Policy DM18 states:

*Proposals for the removal of holiday occupancy restrictions will be supported when it can be demonstrated to the satisfaction of the Local Planning Authority that the accommodation is no longer required to meet the tourism needs of the locality. The Local Planning Authority will require applications for the removal of occupancy conditions to demonstrate there is no demand for the property in the locality. Marketing will be considered to be appropriate when the property has been presented to the market at a reasonable price, with appropriate conditions identified and for a period of at least 12 months prior to the application's submission.*

In respect of part (3)(a) of the policy, the approved floor plans demonstrate that the properties are capable of being occupied permanently without need for major extension or alteration.

Turning to part (3)(b) of the policy, it is noted that the properties have not been marketed, to determine whether there is any demand for the properties as tourism accommodation.

The submitted Planning and Heritage Statement states that each property was only let out on 10 occasions throughout the entire year, and that this demonstrates that their use as holiday accommodation is not viable. However, the submitted booking records demonstrate that this is not the case. The booking records show the following bookings across 2024:

*Tawny Owl Cottage:*

<b>ARRIVAL</b>	<b>DEPARTURE</b>	<b>NUMBER OF NIGHTS</b>
05/01/24	08/01/24	3
12/02/24	16/02/24	4
26/02/24	29/02/24	3
08/03/24	15/03/24	7
18/03/24	22/03/24	4
22/03/24	29/03/24	7
07/06/24	14/06/24	7
21/06/24	28/06/24	7
26/07/24	02/08/24	7
02/08/24	09/08/24	7
09/08/24	16/08/24	7
16/08/24	23/08/24	7
23/08/24	30/08/24	7
28/10/24	01/11/24	4
15/11/24	22/11/24	7
06/12/24	13/12/24	7

*Barn Owl Cottage:*

<b>ARRIVAL</b>	<b>DEPARTURE</b>	<b>NUMBER OF NIGHTS</b>
14/06/24	21/06/24	7
09/08/24	16/08/24	7

30/08/24	06/09/24	7
06/09/24	13/09/24	7
13/09/24	20/09/24	7

The submitted Planning and Heritage Statement suggests that the location of the properties is an issue, however it is clear that the site is located just a short drive to various tourist destinations and settlements. The following table sets out driving times from the site:

<b>DESTINATION</b>	<b>DRIVING TIME</b>
Appledore	14 minutes
Instow	8 minutes
Westward Ho!	14 minutes
Bideford	9 minutes
Barnstaple	15 minutes

Given the above driving times, it is considered that the location of the site does not indicate that the use of the properties as holiday accommodation is not viable.

As noted by the submitted Planning and Heritage Statement, the properties are finished to a high standard, and this is reflected in the high ratings that are achieved on the various holiday accommodation websites that are used to advertise the properties.

The submitted Planning and Heritage Statement states that the properties would be used to provide housing for farm workers and / or as residential options for the local community. The Planning Committee is advised that there is no policy basis to enable the properties to be secured for this specific purpose, and accordingly officers afford this limited weight. If the application is approved, the properties could be occupied by any occupiers on an unrestricted residential basis. In addition, the Planning and Heritage Statement states that the properties would not be sold on the open market, however this cannot be secured by the planning system.

The purpose of marketing the properties as holiday accommodation for a minimum of 12 months is to ascertain whether there is demand from the market for them as holiday accommodation. Another owner may consider that they could successfully operate the properties as tourism accommodation. A lack of interest in the properties across the 12-month marketing period would indicate that there is no demand for the properties as holiday accommodation and that they are no longer required to meet the tourism needs of the locality. Without the marketing exercise being undertaken, it is not possible to determine that the properties are no longer required as tourism accommodation, and the booking records indicate that Tawny Owl Cottage is making a positive contribution to the rural economy, with a significant level of occupancy throughout 2024. It is accepted that the occupancy rate for Barn Owl Cottage is relatively low, however the reasons for this are not clear.

What constitutes 'compelling evidence' is not set out within the wording of the policy. The supporting text does refer to the need to demonstrate there is no demand for the property in the locality. Separately, it stipulates that marketing will be considered to be appropriate when the property has been presented to the market at a reasonable price, with appropriate conditions identified and for at least 12 months before the application's submission. This point is reiterated in the North Devon and Torridge Local Plan: Frequently Asked Questions (FAQ's).

The NPPF seeks to support a prosperous rural economy with paragraph 88(c) stipulating that decisions should enable sustainable rural tourism and leisure development which respect the character of the countryside. This general tenet is supported by DM18, which stipulates that tourism and leisure attractions form an important part of northern Devon's economy and tourism offer. Where concerning tourism accommodation, paragraph 13.107 of the Local Plan highlights that *'although there has been a decline in bed space capacity in some resort areas, a continuing long-term trend for growth in short breaks and special interest activity holidays has helped to stabilise the sector, and place a strong emphasis on improving the overall quality of accommodation, including barn conversions.'*

Critically, as noted earlier, paragraph 13.109 of the Local Plan states that proposals for the removal of holiday occupancy restrictions will only be supported when it can be demonstrated that the accommodation is no longer required to meet the tourism needs of the locality.

At this time the Council is not able to demonstrate a five-year housing land supply. Notwithstanding this, Part 3(b) of Policy DM18 requires that compelling evidence is brought forward by the applicant to demonstrate that such a restriction is no longer justified. In weighing up the application considerable weight needs to be given to the fact that the submitted booking records demonstrate that Tawny Owl Cottage achieved significant occupancy levels in 2024 and, combined with the suitable location of the site and excellent ratings by guests on various holiday accommodation websites, the Council concludes that the policy requirements have not been met at this time. It is considered that Policy DM18 should be given full weight for decision making purposes, and that the removal of the occupancy restriction is not justified by the absence of a five-year housing land supply at the present time.

The condition is therefore reasonable and necessary, and its removal would be contrary to policies ST07 and DM18 of the NDTLP which require development to meet the needs of the local area. The proposed development would also conflict with paragraph 88 of the NPPF concerning the vitality and prosperity of rural communities.

It is therefore considered that the principle of the use of the properties as unrestricted residential properties is unacceptable.

## 2. Heritage, Character and Appearance

Policies ST15 and DM07 of the NDTLP seek to protect and enhance northern Devon's historic environment.

Policies ST04 and DM04 of the NDTLP both have a strong design focus and establish the need for development to be appropriate in, and have respect for, its context and setting. In addition, Policy DM08A requires development to respect landscape character of both designated and undesignated landscapes.

The Heritage and Conservation Officer has been consulted and has provided the following comments:

*These barns are curtilage listed in association with Eastleigh Barton. There are no changes proposed to the fabric of the buildings, as far as I can see, so no LBC is required. I do not consider that the change of use from tourism to full term residential will have an impact on the significance of the heritage assets.*

For the same reasons, the proposal would not result in an adverse impact on the character or appearance of the locality.

Taking account of the above comments, it is considered that the proposal accords with Policies ST15, DM07, ST04, DM04 and DM08A of the NDTLP.

### 3. Residential Amenity

Policy DM01 of the NDTLP confirms that development will be supported where it would not significantly harm the amenities of neighbouring occupiers or uses or result in harm to the future occupiers of the development from existing or allocated uses. Policy DM04(1)(i) follows a similar policy direction.

The Environmental Health Officer has been consulted and notes the proximity of a large agricultural building approximately 25m to the south of the site. The future occupiers of the property could be adversely affected by certain uses of this building, for example the accommodation of livestock which could cause issues relating to noise, odour or flies. The Environmental Health Officer advises that a suitably worded condition could mitigate this issue, as follows:

*Following first occupation of the approved dwelling and thereafter, the existing building to the south marked "XXXXX" on the approved Site Plan shall be used for the storage of inert equipment, machinery and materials only (no livestock or animals) and not for any uses that are likely to adversely impact residential amenity at the approved dwellings.*

*Reason: To protect the amenity of residential occupiers of the approved dwelling.*

The submitted Planning and Heritage Statement states that each property would benefit from its own private amenity area. The applicant's agent has submitted a revised Site Plan that shows that the existing walled garden would be used in conjunction with Tawny Owl Cottage. This is acceptable. The plan shows that a 1.5m wide tiled area adjacent to the eastern elevation of Barn Owl Cottage would be utilised for this purpose. The proposed amenity space is located adjacent to the access to the site, would not offer an acceptable degree of privacy for the future occupiers, and is not of sufficient scale to accommodate the various residential activities that would ordinarily be expected within a private amenity space. Accordingly, it would not offer the future occupiers of Barn Owl Cottage an acceptable standard of amenity.

For the above reasons, the proposal is considered to conflict with Policies DM01 and DM04(1)(i) of the NDTLP.

### 4. Ecology

Local Planning Authorities have a statutory duty to ensure that the impact of development on wildlife is fully considered during the determination of a planning application under the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (Habitat Regulations 2019). Policies ST14 and DM08 of the NDTLP require that development ensures the protection and enhancement of biodiversity.

No alterations are proposed to the property or its curtilage. As such, the proposal is exempt from delivering statutory biodiversity net gain under the 'de minimis' exemption. A wildlife trigger list has been provided and the need for an ecological survey is not triggered.

Taking account of the above, the proposals are considered to accord with Policies DM08 and ST14 of the Local Plan.

## 5. Highways

Policies ST10 and DM05 of the NDTLP seek, inter alia, to ensure that development does not adversely affect the local or strategic highway network and that vehicular accesses are safe and well designed. Policies ST10 and DM06 seek to reduce the need to travel by car and enable sustainable travel options. Policy DM06 also requires that an appropriate level of parking is provided on site.

The two properties are served by their own access onto the public highway and there is sufficient on-site parking provision to meet the needs of future occupiers.

The submitted Planning and Heritage Statement states that the site is well connected to local services and facilities through sustainable modes of transport. However, it would appear that no bus route passes through the hamlet, and it is unclear how future occupiers would utilise sustainable transport modes. The supporting text to Policy DM18 of the NDTLP states, at paragraph 13.108, that *'Restricting occupancy to tourist accommodation will limit permanent residential occupation in the Countryside, which would conflict with the principles of sustainable development and ensure that the accommodation contributes to the local economy.'* Given the absence of sustainable transport options, future occupiers of the properties would be reliant on private vehicles to access the services and facilities needed to support an unrestricted residential use, such as schools, employment options, health facilities, etc. This would conflict with the sustainability aims of the planning system and there are concerns that the site is located in an unsustainable location.

Taking account of the above, it is considered that the proposal conflicts with Policies ST10 and DM06 of the NDTLP.

## 6. Flood Risk and Drainage

Policy ST03 of the NDTLP seeks to mitigate the impacts of climate change and reduce flood risk. Policy DM02 aims to protect the receiving environment from unacceptable pollution in relation to pollution.

The proposal would utilise existing drainage connections and would not be expected to increase surface water or foul water volumes.

The proposal is considered to meet the provisions of policies ST03 and DM02 of the NDTLP.

## 7. Conclusion

For the reasons set out above, your officers consider that the proposal conflicts with the development plan.

The application fails to provide compelling evidence to demonstrate that the holiday occupancy restriction is no longer justified, as required by part (3)(b) of Policy DM18 of the NDTLP.

In addition, the site is in a location remote from the services and facilities that are needed to support a residential use, and is not well served by sustainable travel options, contrary to Policies ST10 and DM06 of the NDTLP.

Lastly, there is no private amenity space to serve the property known as 'Barn Owl Cottage', contrary to Policy DM01 and DM04(1)(i) of the NDTLP.

It is considered that there are no material considerations that indicate that a departure from the development plan is justified. It is noted that the Local Planning Authority cannot demonstrate a five year housing land supply at this time, however the site is located within the countryside and is not considered to be an appropriate location for unrestricted residential uses. The proposal is not considered to represent sustainable development.

It is therefore recommended that the application should be 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 application fails to provide compelling evidence to demonstrate that the occupancy condition restricting the existing properties to use as holiday accommodation only is no longer justified and that the accommodation is no longer required to meet the tourism needs of the locality. The proposal is therefore contrary to Policy DM18(3)(b) of the North Devon and Torridge Local Plan 2011-2031.
2. The site is within a location remote from the essential services and facilities that are needed to support a residential use and is not well served by sustainable travel options. Accordingly, the future occupiers of the site would be reliant on private motor vehicles to access key services and facilities such as schools, employment options and healthcare facilities, which conflicts with the sustainability aims of the planning system.

The proposal is therefore contrary to Policies ST10 and DM06 of the North Devon and Torridge Local Plan 2011-2031.

3. The property known as 'Barn Owl Cottage' is not served by an area of private outdoor amenity space, with the result that the property would not offer an acceptable standard of amenity for its future occupiers. The proposal is therefore contrary to Policies DM01 and DM04(1)(i) of the North Devon and Torridge Local Plan 2011-2031.

### **Informatives**

1. Statement of Engagement  
In accordance with paragraph 39 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.
2. The following plans were considered during the determination of this application:-  
1344 01C Location Plan and received on the 19/2/25,  
1344 20C Site Plan Existing & Proposed and received on the 19/2/25,  
1344 11B Existing Elevations & Floors (Barn 1 &2) and received on the 17/12/24,  
1344 12B Existing Elevations & Floors (Barn 3) and received on the 17/12/24,
3. INFORMATIVE NOTE: -  
POLICIES AND PROPOSALS RELEVANT TO THE DECISION

#### Development Plan

North Devon and Torridge Local Plan 2018: -

DM01 - Amenity Considerations

DM02 - Environmental Protection

DM04 - Design Principles

DM05 - Highways

DM06 - Parking Provision

DM07 - Historic Environment

DM08 - Biodiversity and Geodiversity

DM08A - Landscape and Seascape Character

DM18 - Tourism Accommodation

ST01 - Principles of Sustainable Development

ST03 - Adapting to Climate Change and Strengthening Resilience

ST04 - Improving the Quality of Development

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

ST10 - Transport Strategy

ST14 - Enhancing Environmental Assets

ST15 - Conserving Heritage Assets