

Application Report

Strategic Development & Planning

Place Services

North Devon Council

Lynton House, Commercial Road,

Barnstaple, EX31 1DG



Application No:	70265	Application Expiry:	4 October 2019
Application Type:	Full application	Ext Of Time Expiry:	
		Publicity Expiry:	11 September 2019
Parish/Ward:	COMBE MARTIN/COMBE MARTIN		
Location:	Lion House Victoria Street Combe Martin Ilfracombe Devon EX34 0LZ		
Proposal:	Retrospective Application for Change of Use from Dwelling (Use Class C3) to Bed & Breakfast (Use Class C1)		
Agent:	Mr Andrew Bates		
Applicant:	Mr Andrew Bates		
Planning Case Officer:	Mrs J Meakins		
Departure:	N		
EIA Development:	N	EIA Conclusion:	NO EIA REQUIRED. Please issue relevant letter to applicant / agent.
Decision Level/Reason for Report to Committee (If Applicable): The application has been called in by Ward Member Councillor Gubb for Members to consider the highway impacts of the development.		Committee	

Reason for Call in and Committee Site Inspection

The application has been called in by Ward Member Councillor Gubb for Members to consider the highway impacts of the development.

At the discretion of the Head of Place, a site visit took place on 4th October 2019 to allow Councillors to observe the context of the development in relation to the road network in order to be able to assess the suitability of the highway access onto Kiln Lane and the A399.

Site Description

The site is located in the village of Combe Martin and consists of an existing terrace property which was in residential use (C3 use) prior to the current use as a Guest House (C1 Use) being introduced (which is currently unauthorised). The property fronts Victoria Street to the north, with parking and access to the west of the site accessed via Kiln Lane. The property is stone faced, with render quoins with canted bay window at first floor level. The building is flanked to the east and west by existing residential properties.

Recommendation:

Refused

Legal Agreement Required:- No

Planning History

Planning	Decision	Decision Date
31771	FULL PLANNING APPROVAL	19 October 2001
Proposal:CHANGE OF USE FROM PUBLIC HOUSE TO RESIDENTIAL TO FORM 2 NO. DWELLINGS		
53133	CERT. OF LAWFULNESS ISSUED	15 May 2012
Proposal:APPLICATION FOR A LAWFUL DEVELOPMENT CERTIFICATE FOR EXISTING USE AS RESIDENTIAL DWELLING IN BREACH OF PLANNING CONDITION		
54557	FULL PLANNING APPROVAL	10 October 2012
Proposal:ERECTION OF DOUBLE GARAGE WITH WORKSHOP		
66183	Withdrawn	19 July 2019
Proposal:RETROSPECTIVE APPLICATION FOR CHANGE OF USE FROM DWELLING (USE CLASS C3) TO BED & BREAKFAST (USE CLASS C1)		

Constraints/Planning Policy

Constraint / Local Plan Policy

Advert Control Area Combe Martin
Within Flood Zone 2
Within Flood Zone 3

Distance (Metres)

Within constraint
Within constraint
Within constraint

Advert Control Area Area of Special Advert Control	Within constraint
Planning Officer Area: North Team	Within constraint
Chivenor Safeguard Zone Consultation Structure or works exceeding 91.4m	Within constraint
SSSI Impact Risk Consultation	Within constraint
Within Adopted AONB (ST09 & ST14)	Within constraint
Within Adopted Coast and Estuary Zone	Within constraint
Landscape Character is: 4C Coastal Slopes and Combes with Settlement	Within constraint
Within 100m of Adopted Heritage Coast	Within constraint
Within Adopted Unesco Biosphere Transition (ST14)	Within constraint

ST07 Spatial Development Strategy for Northern Devon's Rural Area
 ST10 Transport Strategy
 ST14 Enhancing Environmental Assets
 DM01 Amenity Considerations
 DM02 Environmental Protection
 DM04 Design Principles
 DM05 Highways
 DM06 Parking Provision
 DM08 Biodiversity and Geodiversity
 DM08A Landscape and Seascape Character
 DM18 Tourism Accommodation
 CMA Combe Martin Spatial Strategy

Consultees

Name	Comment
Combe Martin Parish Council Reply Received 12 September 2019	CMPC supports this application.
DCC - Development Management Highways	No reply received to current application. Comments from identical withdrawn application 66183 copied below. 1) The proposed development is likely to result in an increase in the volume of traffic entering and leaving the Class I County Road, the A399, through junctions that do not provide adequate visibility from and of emerging vehicles, with consequent risk of additional danger to all users of that road and interference with the free flow of traffic. 2) The horizontal alignment, and gradient, of the junctions onto the A399, are likely to result in excessive manoeuvring on the highway, with consequent risk of additional danger to all users of the road. 3) The road providing access to the car park is, by reason of its inadequate width, horizontal alignment, gradient, junctions and lack of footway provision, unsuitable to

	accommodate the increase in traffic likely to be generated.
Environment Agency	No flood risk impacts
Environmental Health Manager Reply Received 23 September 2019	I have reviewed this retrospective application in relation to Environmental Protection matters and comment as follows: 1 External Plant The proposals and plans submitted do not currently include proposals for the installation of external plant, for example relating to heating, ventilation and air conditioning equipment or to a commercial kitchen ventilation system. I recommend that any proposed installation of external plant or equipment require the prior approval of the Local Planning Authority in order to provide an opportunity for potential noise or other impacts to be considered. I recommend a condition to this effect be imposed on any permission.
South West Water	No impacts to SWW infrastructure.
Wildlife Trigger List	See planning considerations.

Neighbours

Comments	No Objection	Object	Petition	No. Signatures
<u>0.00</u>	<u>1</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>

One letter of support had been received at the time of preparing the report. The representation advised no disturbance has been experienced from the use and supports the use of the car park given the historic public house use.

Considerations

Proposal Description

This application seeks retrospective planning permission for the change of use from a dwelling (falling within a C3 use) to a Bed and Breakfast Guest House (falling within a C1 use).

The use utilises 4 of the 5 bedrooms as guest rooms, with one remaining for the owner accommodation. The change of use does not require any operational development. A car park serving the site is located off of Kiln Lane to the west of the site.

Planning Considerations Summary

The main considerations in the determination of the application are:

- Principle of development
- Design
- Highway considerations
- Amenity
- Ecology

Planning Considerations

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. The relevant Policies are detailed above.

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

The site is located within the development boundary for Combe Martin which is identified as a Local Centre by Policy ST07 of the North Devon and Torridge Local Plan (NDTLP). Development in Local Centres *'will be supported in accordance with the Local Spatial Strategy, to enhance the sustainability of the locally important service centres and to enable wider than local needs to be met.'*

Combe Martin's Spatial Strategy (Policy CMA) at (d) seeks to protect and increase local employment opportunities by encouraging small businesses and protecting tourism facilities. The introduction of a small scale quest house would be consistent with the above.

Policy DM18 further expands upon the requirements for new tourism development in the area stating:

'(1) Development of new, and expansion or rationalisation of existing tourism accommodation will be supported within the Sub-regional, Strategic, Main and Local Centres where it:

(a) improves the quality or increases the diversity of northern Devon's tourism offer;

(b) is located and designed to protect and enhance the character and setting of the settlement; and

(c) any rationalisation would facilitate the retention or improvement of the tourism accommodation.'

Again, the provision of a small scale guest house within the Local Centre is considered to improve the quality and diversity of the tourism offer and its location, within the existing centre not requiring any operational development clearly protects the local character of the area.

As such, the development meets the above principle of development in terms of Policies ST07, CMA and DM18, however falls to be assessed against the other development management criteria of the development plan.

Design

In terms of design, the change of use has required no physical changes to the exterior of the building, which has a well maintained façade which makes a positive contribution to this part of the settlement. Given there are no exterior changes, the development maintains the character and appearance of the area, including that of the Area of Outstanding Natural Beauty in which it is located. As such it would comply with Policies DM04, DM08A and DM18 of the NDTLP and design and landscape objectives of the NPPF.

Highway Considerations

The vehicle access to the site is from Kiln Lane then accessing Victoria Street which is the A399 which runs through from Combe Martin to Blackmoor Gate. There are two accesses from Kiln Lane onto the A399, with a central island and stone wall running parallel to the A399 and each access providing entry or exit in both directions with no restrictions imposed. This is also at an acute angle with challenging gradient. The accesses from Kiln Lane to the A399 provide for a single car width only and are of a steep gradient. The position of the wall adjacent the A399 also prevents visibility in either direction requiring road users to use side mirrors and encroachment onto the highway to seek visibility on the carriageway of an A class road.

The change of use would increase car movements from the site from a single dwelling with 6-8 movements a days to a worst case scenario of 32 movements per days (based on a lower maximum of 4-6 movements for a tourist visitor). It is acknowledged that visitors to the site may arrive by public transport with a regular bus service through Combe Martin but given the dispersed nature of visitor attractions in the North Devon area, it is likely that the majority of visitors would arrive by car. There are considered to be sufficient numbers of parking spaces in accordance with Policy DM06 of the NDTLP.

It is acknowledged that Lion House, used to be a public house and the car park serving the guest house is the former pub car park. This is however a historic use, with consent having been granted for a change of use to a dwelling in 2001 and therefore whilst this could be treated as a material consideration, in this instance given the passage of 18 years it is given very limited weight in the determination of this application.

In consultation with the Highway Authority on the earlier withdrawn application the following strong objection was maintained, albeit no response has been received to the current scheme at the time of preparing the report:

'1) The proposed development is likely to result in an increase in the volume of traffic entering and leaving the Class I County Road, the A399, through junctions that do not provide adequate visibility from and of emerging vehicles, with consequent risk of additional danger to all users of that road and interference with the free flow of traffic.'

2) The horizontal alignment, and gradient, of the junctions onto the A399, are likely to result in excessive manoeuvring on the highway, with consequent risk of additional danger to all users of the road.

3) The road providing access to the car park is, by reason of its inadequate width, horizontal alignment, gradient, junctions and lack of footway provision, unsuitable to accommodate the increase in traffic likely to be generated.'

This view is further reinforced by a dismissed appeal for a new dwelling with access off of Kiln Lane (NDC Ref: 58748, appeal ref: APP/X1118/W/15/3024157).

The relevant paragraphs of the appeal are copied below:

'13. This junction is unusual and, contrary to the appellant's view, is atypical of many other junctions within the area or within wider rural locations more generally. Firstly, Kiln Lane joins the A399 at a very steep, rising gradient. Secondly, the road at this point splits, with two limbs freely available to traffic moving in both directions but in each case with carriageways of single-width proportions and the potential for vehicle conflict in each. Each limb joins the main road at a severely acute angle. Finally, the south side of the A399 is bound by a retaining wall. Due to the topography of the land this rises to well over 3m in height when seen from Kiln Lane on the approach to the main road. The combined result of all these factors is that either exit from Kiln Lane onto the A339 involves a manoeuvre in either direction that is difficult because of the gradient, but also made considerably more so by the severe lack of visibility in one direction in each case due to the angle of the roads' intersections and the physical presence of the retaining wall. This was a manoeuvre I did for myself along both limbs of Kiln Lane. I found that when leaving the lane to travel west, using the left hand fork, visibility east, towards approaching traffic on the nearside carriageway was severely hampered and achieved mostly through the use of the car's wing mirror. In the opposite direction there was similarly restricted visibility towards approaching traffic in the furthest carriageway. In each case the visibility was well short of the 43m normally recommended by Manual for Streets for vehicles travelling along the primary route at 30mph. By the same score I saw that, when travelling in either direction along the A399, there was little opportunity to gain any advanced sight of a vehicle emerging into the flow of traffic from Kiln Lane.

14. Kiln Lane is obviously already used by an array of traffic that serves existing dwellings and other uses along its length. The appellant puts existing traffic movements through the junction as between 12 to 30 movements per day. This figure has not been disputed by the Council and I have no reason to disagree with it. The number of traffic movements likely to be associated with a new dwelling is agreed by both parties at between 6-8 movements per day. At best these figures demonstrate around a 20% increase in traffic flow at this junction. At worst the increase would be around 66%. The likelihood is that the true figure would be somewhere in-between but in any case I find the additional daily movement of traffic at the junctions of Kiln Lane with the A399 has the potential to be significant in relation to existing traffic numbers. Whilst I appreciate that

there is no evidence of any recorded accidents or personal injuries associated with these junctions over the past 10 years, my own observations give me serious concern over their abilities to always function safely.

15. Due to local knowledge and the no-thought nature of Kiln Lane, I find it unlikely that vehicles wishing to leave the lane to travel west would use the east limb of the junction, and vice versa. There would therefore be little chance of multiple manoeuvres for drivers entering onto the A399. Despite this, I am not satisfied that the additional traffic flowing through these junctions would not harm the functioning of the road network or the safety of highway users. The proposal would therefore conflict with part B) of LP Policy TRA6 (General Highway Considerations) in this regard.'

In addition to this, the Council has recently served an Enforcement Notice reference 10878 in relation to the formation of 4 no. unauthorised dwellings at the property known as Manleighs which is located further south along Kiln Lane. An enforcement appeal has been lodged by the land owner. Part of the grounds for serving the notice was the severe impacts on highway safety from the additional 24-32 movements which arises from these unauthorised dwellings; a view which was again supported by an objection from the Highway Authority.

Policy ST10 of the NDTLP requires development to protect and enhance the function and safety of the road network for its local communities and visitors. Policy DM05 carries the following requirement:

'All development must ensure safe and well designed vehicular access and egress, adequate parking and layouts which consider the needs and accessibility of all highway users including cyclists and pedestrians.'

In terms of the NPPF, at paragraph 108 when considering development proposals, it should be ensured that:

'a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;

b) safe and suitable access to the site can be achieved for all users; and

c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.'

Paragraph 109 goes on to state:

'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'

On the basis of the above assessment, and the material considerations of the previous use, dismissed appeal and enforcement notice; the increase in movements from the site

coupled with the inadequate design and layout of Kiln Lane and the junction onto the A399, is such that the development cannot provide safe and suitable access for all road users, and it does not enhance the function and safety of the road network for its community and visitors to the area.

As such the residual cumulative impacts of the development are likely to be severe and as such the development would not comply with Policies ST10 and DM05 of the NDTLP or the requirements of Paragraph 108 and 109 of the NPPF.

Amenity

The property is flanked to the east and west by existing residential properties and mews style cottages to the south-west. In consultation with the Council's Environmental Health department, no objections have been raised to the use as a Guest House, subject to a condition on any approval seeking approval of detail for any external plant which has been installed.

Given the scale of the enterprise, it is not considered that it is likely to result in any adverse impacts to neighbouring amenity and no objections have been received from neighbouring residents. In light of the above, the proposals are considered to comply with Policies DM01 and DM02 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).

The development proposed is a pure change of use and does not result in any disturbance of habitat which would have suitability for protected species. As such the above statutory duty is considered to be met along with requirements of Policies ST14 and DM08 of the NDTLP and paragraph 170 of the NPPF.

Conclusion

Whilst acknowledging there are social and economic benefits arising from the small business and resulting employment and visitor spend in the area, the access arrangements would result in an increase in vehicle movements from a substandard highway junction resulting in severe impacts to the safety of all road users contrary to Policies ST10 and DM05 of the North Devon and Torridge Local Plan and paragraphs 109. As such refusal is recommended.

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

Recommendation

Refused

Legal Agreement Required:- No

Reason(s) For Refusal

1. 1) The proposed development is likely to result in an increase in the volume of traffic entering and leaving the Class I County Road, the A399, through junctions that do not provide adequate visibility from and of emerging vehicles, with consequent risk of additional danger to all users of that road and interference with the free flow of traffic. This would be contrary to Policies ST10 and DM05 of the North Devon and Torridge Local Plan and paragraphs 108 and 109 of the National Planning Policy Framework.
2. The horizontal alignment, and gradient of the junctions onto the A399 are likely to result in excessive manoeuvring on the highway, with consequent risk of additional danger to all users of the road. This would be contrary to Policies ST10 and DM05 of the North Devon and Torridge Local Plan and paragraphs 108 and 109 of the National Planning Policy Framework.
3. The road providing access to the car park is, by reason of its inadequate width, horizontal alignment, gradient, junctions and lack of footway provision, unsuitable to accommodate the increase in traffic likely to be generated. This would be contrary to Policies ST10 and DM05 of the North Devon and Torridge Local Plan and paragraphs 108 and 109 of the National Planning Policy Framework.

Informatives

1. 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 looked for solutions to enable the grant of planning permission. This has included highlighting objections at an early stage and advising that these were unlikely to be able to overcome due to the physical constraints of the highway. However the proposal remains contrary to the planning policies set out in the reasons for refusal and was not therefore considered to be sustainable development.

Inserts

O.S. Location Plan

List of representations names and addresses