

PLANNING APPLICATION REPORT

Case Officer: Jeffrey Penfold
Staverton

Parish: Staverton **Ward:** Dartington and

Application No: 3808/19/FUL

Agent/Applicant:

Mr Tom Lowry
2 Well Cottages
Caddaford Cross To Well Cottages
Buckfastleigh
TQ11 0JU

Applicant:

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Site Address: 2 Well Cottages, Buckfastleigh, TQ11 0JU

Development: Application for replacement dwelling



Reason item is being put before committee:

- a) *Further to the applicants request I have sought a meeting with yourself and the applicant to see whether a reasonable acceptable compromise can be achieved for this application and*
- b) *The PC are in favour of this application and*
- c) *There are no local objections.*

Recommendation: Refuse Planning Permission

Reasons for refusal:

- 1. The proposed development, by virtue of its proposed size, scale and increase in internal volume and Gross Internal Area (GIA) of 343% would fail to represent a policy compliant replacement dwelling which when compared to the existing, lawful fallback position of a single storey, 1-bedroomed (1B1P) dwelling with a GIA of 46sqm would constitute a significant increase in internal volume and GIA.*

In addition, the proposed justification for the resiting of the replacement dwelling is not supported given this is based on an incorrect interpretation of pre-application advice which did not confirm the council's acceptance of an initial two-storey replacement dwelling on the same footprint of the single storey fallback position.

The resultant, combined effect is an unacceptable replacement dwelling that unnecessarily consumes countryside land given a policy compliant replacement dwelling could be achieved within the same footprint of the fallback property that is responsive of the fallback position and relevant JLP Policies.

As a consequence, the proposal results in a net gain of dwellings within the site therefore failing to accord with the broad principle of replacement dwellings in the countryside which seeks to avoid unnecessary countryside development which would otherwise fall to be considered under JLP Policy TTV26. If considered under this policy the proposal would fail on grounds of unsustainable development giving rise to greater reliance upon the car. As such, the proposal fails to accord with JLP Policies TTV26, TTV29, SPT1 and SPT2.

Key issues for consideration:

Principle / Sustainable Development
Design and Visual Impacts
Neighbouring Amenity
Drainage / Flooding
Highways / Access
Ecology / Biodiversity
Waste / Recycling
Low-Carbon Development.

Site Description:

The application site comprises an existing, two-storey residential property: No. 2 Well Cottages which forms one of two semi-detached properties forming the group of

properties known as Well Cottages near Riverford. The subject property has a generous sized rear garden, within which a number of outbuildings and structures exist.

Immediately to the east of the subject property lies an existing, single storey studio and shed to its rear. This element of the subject property has recently been permitted a change of use from office (B1) to residential (C3) use. It is noted that this permission is yet to be implemented.

Further to the east of this structure lies a large, single story barn in residential use.

No. 2 Well Cottage is served with off-street car parking for two vehicles. The rear of the application site is landscaped with steps leading down to an immediate rear garden and with access to an area of extended garden / amenity space.

The site is relatively flat with little topographical change and has been landscaped.

The application is also sited within the countryside, a SSSI Impact Risk Zone and the Staverton Parish Area. The site has an AGLV of 3.

The Proposal:

The application proposes the demolition and replacement of an existing C3 dwellinghouse which is currently in the form of a detached, single storey ancillary studio which serves the host dwelling No. 2 Well Cottages. It is noted that this structure is illustrated on the plans as comprising a studio / shed. In addition, the structures to the far rear of the garden are proposed to be demolished (outbuilding, shed and summer house).

The proposed replacement dwelling would be a large, two-storey, 3-bedroomed, detached property with roof accommodation seeking to mirror the design of a typical agricultural barn / building. The replacement dwelling would include 3no. car parking spaces and also include an additional outbuilding to serve the proposed dwelling. The siting of the replacement dwelling would not be in an identical nor similar location / footprint as the existing dwelling it seeks to replace, instead, the proposed replacement would be sited to the far rear of the rear garden space.

Consultations / Representations:

Two letters of support have been received in response to the public consultation exercise.

Statutory Consultees:

Staverton Parish Council: *Support.*

Natural England – *No objections.*

DCC Highways: *No highways implications.*

Internal Consultees:

Internal Drainage – *Standing advice applies.*

Trees – Appraisal

1. *The submitted information has been principally reviewed in accordance with the Plymouth & South West Devon Joint Local Plan 2014-2034, BS5837:2012 Trees in relation to Design, Demolition & Construction & further additional industry best practise guidance, policies and legislation as required.*
2. *Review of the submitted information has been undertaken and it is considered that accurate description of the site and level of constraint posed by the trees is made. The supporting tree protection methodologies have been prepared to most recent industry best practise and if undertaken in their entirety will appropriately preserve and/ or enhance the constraining arboricultural features present.*

Recommendation: *No objection on arboricultural merit subject to the noted documents being made approved plans if consent follows.*

Landscape:

The proposed development is for a new two storey dwelling house in the residential garden of 2 Well Cottages. Officers understand it is replacing a cluster of small garden buildings described as a shed, summer house and outbuilding (former office) on plan GA 006 Rev PL3. The submitted LVIA is noted and is broadly sound.

The baseline landscape character is strongly rural, with a sense of remoteness and sparsely settled. It is however actively farmed, both grazing and arable, with Riverford Organics a prominent local neighbour – this has led to impacts on its character with more traditional pasture and orchards replaced by further arable and market crops. The site sits on a narrow, rising section of the character type with the more visually distinct small rounded hills with mixed woodland and farmland extending to the north and to a smaller degree, to the south.

Here it is more akin to the Lower rolling farmland and settled valley slopes LCT. Whilst not a protected landscape (Dartmoor National Park 2km to the NW), there is a strong visual connection across hills to it. The landscape is particularly valued for its remote character, lightly settled nature, and high levels of tranquillity – but noting the local impacts of Riverford Organics.

Within this context, the proposed development would see some limited change, with the scale of the isolated nature of the current cottages increased, noting the “replacement” dwelling would be more prominent than the exiting garden buildings. However, this would be principally at close quarter from adjacent public rights of way (byway and FP12).

The renewed management of the boundary Devon hedgerows around the residence makes for a positive enhancement and will provide some mitigation; there are opportunities to enhance this further with selective planting of trees – perhaps even

orchard species within the garden. The form and scale of the dwelling is moderate, with a more modernist style which differs from the more traditional, stronger vernacular of local stone and slate. However, this is broadly acceptable given the building will adopt natural grey tones as the WRC shingles weather, and with an overall agricultural tone combined with the sheet steel finishes.

Overall the proposed development will result in slight change by increasing the presence of a residential building but close to existing ones. The landscape character will be conserved, and there are opportunities for enhancement through boundary management and new planting. The scenic and visual quality is similarly conserved given the moderate scale and more widely constrained visual envelope; with views from sensitive receptors using the public rights of way reading the new dwelling in the context of the existing cottages and residential curtilage, with thickening of the hedgerow through more traditional management, further contributing to screening. On this basis, the proposal accords with current landscape policy so is supported.

Recommendation: No objection

Suggested Conditions:

Within one month of commencement a detailed landscape hard and soft Landscape Scheme shall have been submitted to, and approved in writing by the Local Planning Authority. The Landscape Scheme shall be prepared by an appropriately qualified professional and shall include:

- details of lighting including function, location, design and intensity;*
 - materials, heights and details of hedgebanks, fencing and other boundary treatments;*
 - materials, heights, levels and extent of hard landscape treatment, including access points, tracks, roads and any hardstanding areas;*
 - the location, number, species, density, form and size of proposed tree, hedge and shrub planting;*
 - the method of planting, establishment and protection of tree, hedge and shrub planting;*
- a timetable for the implementation of all hard and soft landscape treatment*

All elements of the Landscape Scheme shall be implemented and maintained in accordance with the approved details unless otherwise agreed in writing by the local planning authority. All planting shall be implemented within the first planting season following practical completion. If within a period of five years from the date of the planting any tree/shrub/plant, or any tree/shrub/plant planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree/shrub/plant 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. All work shall be completed in accordance with the timetable agreed.

Reason: In the interest of public amenity and the conservation and enhancement of the local landscape character, taking account of the particular landscape

characteristics of the site and its setting, in accordance with Development Plan Policies.

DCC Historic Environment:

I refer to the above application. The proposed development site lies in an area of high archaeological potential. The Historic Environment Record shows the presence of four prehistoric or Romano-British ditched enclosures within 500m of the application area. The closest, what appears to be a triple ditched square or rectangular enclosure, lies less than 50m to the north west of the application area and may extend into the area of the proposed development.

However, the information submitted in support of this application does not consider the impact upon this heritage asset and, as such, is not sufficient to enable an understanding of the significance of the heritage assets within the application area or of the impact of the proposed development upon these heritage assets.

Given the high potential for survival and significance of below ground archaeological deposits associated with the known prehistoric and Romano-British activity within the application area and the absence of sufficient archaeological information, the Historic Environment Team objects to this application. If further information on the impact of the development upon the archaeological resource is not submitted in support of this application then I would recommend the refusal of the application. This would be in accordance with Policy DEV21 in the Plymouth and South West Devon Joint Local Plan 2014 - 2034 and paragraphs 189 and 190 of the National Planning Policy Framework (2019).

The additional information required to be provided by the applicant would be the results of a programme of intrusive archaeological field evaluation.

The results of this work would enable the presence and significance of any heritage assets present to be understood along with the impact upon such assets. It would also enable an informed and reasonable planning decision to be made by your Authority.

Revised position:

The Historic Environment Team have now received a copy of the report setting out the results of a programme of archaeological investigation at this site. These works have demonstrated that the prehistoric or Romano-British enclosure to the north of Well Cottages does not extend southward into the proposed development site and the development of the site will not have an impact upon any heritage assets. As such, I would like to withdraw the Historic Environment Team's previous objection and do not consider there to be any requirement for further archaeological mitigation here.

The Historic Environment Team has no further comments to make on this planning application.

Relevant Planning History:

Ref: 1587/18/POD - Notification for prior approval (Class O) for a proposed change of use of a building from Office Use (Class B1(a)) to Dwellinghouse (Class C3) – Prior Approval Given – 4 July 2018.

Ref: 0694/18/CLE - Lawful development certificate for existing building works and change of use to B1 (office) – Cert of Lawfulness (Existing) Certified. Conditional Approval - 26 February 2018.

ANALYSIS:

Principle / Sustainable Development:

The principle of a residential dwelling within the site has been established under the site's planning history Ref: 1587/18/POD - Notification for prior approval (Class O) for a proposed change of use of a building from Office Use (Class B1(a)) to Dwellinghouse (Class C3) – Prior Approval Given – 4 July 2018.

The above planning permission therefore permitted the erection and use of a single storey, detached C3 dwellinghouse with a GIA of 46sqm. As such, at best, the approved dwelling could provide accommodation (compliant with both national and local planning policies for space standards) for a 1 bedroomed 1 bedspace dwelling over a single floor. The approved plans of Ref: 1587/18/POD are reflective of this level of accommodation (1B1P).

Following the officer's site visit it was confirmed that the approved dwellinghouse is not currently in operation as per the approved plans. The applicant is of the view that the fact the approved C3 dwellinghouse proposed to be replaced is not in operation can still be treated as an existing dwelling and therefore a material consideration in planning. This, the applicant states has been established under case law reference: *Mansell v Tonbridge and Malling Borough Council* [2017] EWCA Civ 1314. The court found that where development under the General Permitted Development Order was a 'realistic prospect' it was a material consideration in planning. As such, the development of a dwelling (Class C3) on this site is a legitimate 'fall back' position and a material consideration for this application.

The council agrees that the approved development under Ref: 1587/18/POD constitutes a fallback position and that fallback position is considered to be a single storey, one bedroomed (1B1P) dwelling which is used as the baseline / dwelling to be replaced when applying JLP Policy TTV29.

The proposal is for a replacement dwelling in the countryside and therefore JLP Policy TTV29 is considered relevant, which states:

Policy TTV29:

Residential extensions and replacement dwellings in the countryside
Proposals to extend or replace existing dwellings in the countryside will be permitted provided:

- 1. The existing dwelling has a lawful use for permanent residential use and*

has not been abandoned.

2. The size of the new replacement dwelling will not be significantly larger than the original house volume.

3. The number of new dwellings is no more than the number of dwellings to be demolished and replaced.

4. Any new replacement dwelling should be positioned on the footprint of the existing dwelling, unless on design, landscape, highway safety, residential amenity, or other environmental grounds a more appropriate location can be agreed.

5. The extension is appropriate in scale and design in the context of the setting of the host dwelling.

In response to JLP Policy TTV29 (1), the fallback property has a lawful use and this confirmed via the planning history as discussed above.

In response to sub-paragraph (2) of TTV29, as a general rule of thumb, it is recommended that in the interests of maintaining a supply of homes that meet the needs of households living within the TTV Policy Area and in keeping with the aims of DEV8, replacement dwellings should not increase the gross internal floorspace (GIA) of the previous dwelling by more than 20%. It is noted that this figure is referred to in the council's SPD which is not yet formally adopted, yet weight is attached to this document given its existence.

The existing GIA equates to approximately 46sqm when taken from approved plan Ref: WC_L_11 at Scale: 1:50 @ A3, dated: April 2018.

The proposed GIA equates to approximately 83sqm (ground floor) + 75sqm (first floor) = 158sqm (total proposed GIA).

A 20% increase upon the existing GIA would therefore equate to (20% of 46sqm = 9.2sqm). The recommended GIA in this instance would be approximately (46 + 9.2) 55.2sqm.

As such, the proposed GIA of 158sqm would equate to a **343%** increase upon the existing 46sqm GIA - this is not considered acceptable.

It is considered that in this instance the proposal would represent a significant increase upon the existing floorspace and would in essence, likely fail to be considered as a replacement dwelling. However, although this is the case, a balanced approach is undertaken to appreciate whether the proposal is broadly acceptable.

In addition, when considering the overall scale, massing and internal arrangements of the replacement property compared to the existing dwellinghouse (a single storey, one-bedroomed property with limited living accommodation (a relatively small kitchen area, living room and small en-suite) the replacement dwelling will feature:

- a large, two-storey, 3-bedroomed property
- Large open-plan kitchen / dining / living room
- Utility room
- Plant / Boot room
- Study.

The proposal fails to resemble the existing dwelling and is not considered to constitute a replacement of a similar property in terms of size, scale, massing and internal features.

The rationale for the resiting of the dwellinghouse is that of amenity grounds whereby if a two-storey dwellinghouse was to be erected upon a similar footprint to that of the fallback property, the proposal would likely harm the amenity of the neighbouring property No. 2 Well Cottages in erecting a flank wall in too close a proximity to habitable windows.

However, in reviewing pre-application advice and following discussions with its author, it is the officer's view that the pre-application advice did not clearly confirm that a two-storey dwelling in the location of the existing fallback dwelling would be permitted and this relates to the increase upon the fallback position. The author of the pre-application advice has agreed with the above statement (Clare Stewart 14 February 2020).

It appears that an initial assumption has been made by the applicant that a two-storey dwelling would be approved (notwithstanding amenity impacts) and that following the advice, the applicant had progressed the design / proposals of a dwelling (as proposed) to the far rear of the garden area.

However, in light of said discussions and analysis of the fallback position, it is not considered that this two-storey dwelling which has acted a gateway *per se* to propose a much larger dwelling to the rear of the property and in countryside land, would be permissible development.

The pre-application advice issued to the applicant is provided for below:

*"I can only apologise the lack of responses to your emails on the above. I can confirm receipt and that your comments **broadly reflect** the matters we discussed when we met on site. I'm not clear from your sketches whether you are **proposing a single or two storey dwelling – in terms of the floor space of the new dwelling I would be concerned if this were to [be] significantly greater than the existing. Some increase in size as part of a well-designed dwelling that does not result in adverse landscape impact would be acceptable.***

I would want to consult Katherine Jones on any formal application submission. Also the existing dwelling to be demolished needs to be within the red line site area (it appears to be on the access options drawing). I recall we also discussed the need for a condition to secure the demolition works prior to occupation of the new dwelling".

It is clear from the advice which was emailed to the applicant that a two-storey dwelling would not be permitted as a replacement of the fallback property.

It is also clear that the officer voiced concerns if the proposed increase in floorspace were to be significantly greater than the existing. The proposed 300% increase in GIA is considered a significant increase and as such, the applicant appears to have gone against the pre-application advice in more than one area.

As such, it is not felt that the officer's advice specifically confirmed that the proposed increase in size, scale and GIA is acceptable nor that a two-storey dwelling is an acceptable replacement of the fallback property.

It is felt that the pre-application advice has been misconstrued and the existing fallback position ignored as the fundamental basis in which the replacement dwelling should be based upon for a proposed replacement dwelling. It is the officer's interpretation that TTV29 should be used for proposals that seek to replace dwellings and that the fallback position should be fully explored before consideration can be given to other viable sites / positions.

Had a proposal come forward that responded to TTV29 correctly, then this would comprise of either a single or 1.5 storey property with up to a 20% (or thereabouts) GIA increase in floorspace which could be accommodated within the existing footprint with little amenity impacts and acceptable parking and garden space for a proposal that responds to the existing 1B1P property's tenure. There is a distinct difference from such a property to that being proposed.

It is therefore felt that the replacement dwelling on the site / positioning of the fallback property could be achieved and the proposed dwelling to the rear of the property is not policy compliant.

In light of the above, it is considered that the pre-application advice was informal and in-light of a recent appeal decision dated 7 January 2020 Ref: APP/Q1153/W/19/3238088 – paragraph 19, informal pre-application advice is offered limited weight:

"I have also noted the details of the pre-application advice that was generally supportive of a dwelling on the site. However, this was based on the adopted and emerging planning policy situation at that time and the advice refers to a possible local need requirement for the dwelling. As it was informal officer advice, I attach the information limited weight".

Further Increases upon the Fallback Property under PD / Prior Approval:

The applicant has confirmed that there is the potential for the fallback property's GIA and size to be increased under PD / Prior Approval. As such, it is clear that the existing fallback position and the existing footprint can accommodate for an increase in GIA that would meet or slightly exceed the 20% GIA allowance under TTV29 (2) which to an extent undermines the applicant's initial argument that a replacement dwelling within the fallback property's footprint is not possible and therefore removes the need to provide for a replacement dwelling to the rear of the site.

As such, it is felt that the proposed two-storey dwelling, which the applicant deems to give rise to significant detrimental amenity impacts, could be lessened in scale, size and therefore GIA so as to deliver an acceptable development within the existing fallback site that is in accordance with TTV29 and therefore policy compliant.

The result of which then avoids a significantly larger property being proposed to the far rear of the garden area, away from existing built form and which would result in an unnecessary loss of countryside land and a net gain in properties; going against the principle of a 'replacement' policy such as TTV29.

It is the officer's view that the applicant's justification for providing a larger dwelling to the rear of the property on design / amenity grounds is not justified given an acceptable and policy compliant dwelling can be achieved on site that acknowledges the fallback position / allowance.

The applicant does not wish to propose such a replacement dwelling, however, in resisting this offer, this would not permit a proposal located far away from the fallback footprint at a significantly greater size, scale and GIA simply because the proposal introduces betterment / improvements / improved design on the basis of the grounds mentioned in TTV29 (4). To be specific on this matter, the proposed dwelling has been based on replacing a dwelling that would not be deemed permissible by the council. As such, it is the officer's view that the proposal should fall to be considered as development in the countryside TTV26.

Further, had the proposal been hypothetically permitted then this would leave the fallback property still in operation or at least, the potential for a new application to come forward for a new development within the footprint of the fallback property. The point being is that a replacement dwelling is exactly that: the proposal must seek to use the original footprint first to avoid a net gain which is felt is not the case in this instance and the application can be deemed as circumventing JLP Policies concerning development in the countryside.

It is stressed that permitting this application would set a very damaging precedent whereby landowners would have material considerations in potential applications to build small single storey garage structures, convert these to office B1 use and then achieve prior approval for residential use to then be used as springboard to develop significantly larger dwellings on countryside land resulting in unsustainable development and amongst other things, increase greater reliance on the car which is against the broad aims of JLP Policies SPT1 and SPT2.

It has been clearly discussed above that the proposal has significant detrimental aspects when considered in the context of TTV29, SPT1 and SPT2 and proposing a replacement dwelling that would exceed the fallback position 'allowance' as a single-storey, one-bedroomed property.

The applicant states that the proposal would have some benefits in the form of:

- An improved proximity between the two buildings

- no overlooking or direct relationship between habitable room windows in the proposed location
- Improved design / amenity
- new driveway, additional parking; and
- improved outdoor amenity space.

However, when considering the matters discussed above, the proposed benefits would be outweighed by:

- Its excessive increase GIA floor space by approximately 300%;
- Its excessive size and scale going from a single storey, one-bedroomed property to a large two-storey, 3-bedroomed property;
- Broad non-compliance with TTV29, SPT1 and SPT2 and the use of fallback position;
- The proposed net gain;
- The unnecessary loss of countryside land.

The resultant effects would be an unacceptable development in the countryside, contrary to JLP Policy TTV29, SPT1 and SPT2. As detailed above, the likely harm the proposal could give rise to could also be mitigated by the fact that a proposal within the original footprint of the fallback property could be achieved that is in accordance with JLP Policy TTV29.

The applicant has also made reference to other planning decisions made as replacement dwellings. It is noted that in the instance of Ref: 3281/19/FUL this application is considered the most relevant given the Joint Local Plan is adopted and the council has a 5 Year Housing Land Supply. This means that the tilted balance no applies for planning applications and the JLP Policies are afforded full weight. This is not the case in references to application Refs: 2846/15/FUL and 31/0306/15/F permitted in 2016 and 2015 respectively.

With regard to Ref: 3281/19/FUL it is noted that the proposal would seek to replace an existing dwelling and utilise the existing footprint. The dwelling the proposal seeks to replace is of a similar size and scale being broadly two-storey. It is noted that this proposal seeks to increase the GIA by a significant amount, yet each case is based on its own merits.

There are little comparisons to be made between the two applications. The proposed development would not be sited on the existing footprint and would see a much greater increase in terms of increase in size / scale of the buildings bulk / massing when considered against the fallback position.

Ref: 3281/19/FUL could be deemed to be, **on-balance**, a more policy compliant proposal given the clear efforts to respond positively to TTV29. The applicant in the instance of this application being considered has failed to consider the importance of the requirements of TTV29 which has led to an unacceptable development being proposed. It must also be remembered that other examples may have a more suitable fallback position in terms of size and scale that would, on balance, allow for significant increases in GIA etc which is not the case in this instance.

A similar situation occurs with regard to Ref: 0601/19/FUL.

DEV8:

As the proposal seeks to replace an existing dwelling and increase upon its size, footprint, number of bedrooms and GIA, it is considered that JLP Policy DEV8 is relevant in this instance, which states:

Policy DEV8:

Meeting local housing need in the Thriving Towns and Villages Policy Area

The LPAs will seek to deliver a wide choice of high quality homes which widen opportunities for home ownership, meet needs for social and rented housing, and create sustainable, inclusive and mixed communities. The following provisions will apply:

1. A mix of housing sizes, types and tenure appropriate to the area and as supported by local housing evidence should be provided, to ensure that there is a range of housing, broadening choice and meeting specialist needs for existing and future residents. The most particular needs in the policy area are:

i. Homes that redress an imbalance within the existing housing stock.

ii. Housing suitable for households with specific need.

iii. Dwellings most suited to younger people, working families and older people who wish to retain a sense of self-sufficiency.

2. Within rural areas with special designations, as defined in section 157 of the Housing Act 1985, all residential developments of 6 to 10 dwellings will provide an off-site commuted sum to deliver affordable housing to the equivalent of at least 30 per cent of the total number of dwellings in the scheme.

3. Within the whole policy area a minimum of at least 30 per cent on-site affordable housing will be sought for all schemes of 11 or more dwellings. Off-site provision or commuted payments in lieu of on-site provision will only be allowed where robustly justified.

In response to JLP Policy DEV8, the proposal seeks to provide for a two-storey, 3-bedroomed property.

The proposal would meet local housing needs in providing for a 3-bedroomed, detached property and would therefore accord with JLP Policy DEV8.

No concerns are raised in respect of the proposal meeting national space standards and a suitable amount of rear amenity space is provided for. As such, the proposal accords with JLP Policy DEV10.

Design and Visual Impacts:

No concerns are raised in respect of the proposed design and / or visual impacts the proposal would likely give rise to and this is supported by the council's landscape officer.

Suitable conditions will be attached to any planning permission granted for the submission of further details / samples of the proposed materials given the site's prominent, countryside location.

As such, the proposal accords with JLP Policies DEV20 and DEV23.

Neighbouring Amenity:

It is always necessary for developments to take into account the residential amenity of neighbours and impact on the environment. In this case, the proposal complies with the principles of good neighbourliness and the protection of existing residential amenities.

As such, the proposal would not lead to any materially harmful impact on residential amenity by way of loss of light, loss of outlook, loss of privacy or overbearing impact. It would therefore accord with JLP Policies DEV1 and DEV2 and the requirements of the NPPF 2018.

Drainage / Flooding:

No concerns are raised in respect of surface water drainage. The proposed drainage plan shows the siting of a suitable surface water soakaway at a suitable distance away from the proposed dwelling. No other site specific circumstances exist that raise concerns in respect of flooding / drainage. A suitable condition shall be attached to any planning permission granted to ensure the implementation of the drainage plan.

The applicant proposes to use an existing non-mains foul drainage system in the form of an existing package treatment plant and this will be maintained accordingly with neighbouring parties via an existing agreement. The applicant has provided an FDA1 form and officers are satisfied with its content.

As such, the proposal accords with JLP Policy DEV35.

Highways / Access:

No concerns are raised in respect of highways / access to and from the local highway. The proposal provides for sufficient car parking provision to serve the dwelling and the proposals are supported by DCC Highways team.

Ecology / Biodiversity:

The accompanying ecology report confirms the following:

Bats:

A bat licence is not required and the impacts on bats as a result of the proposal will be negligible and there will be no interruption to or impact on suitable greater horseshoe habitat. There will be no interruption to or impact on suitable greater horseshoe habitat. Further survey work is not required. Further recommendations are provided which concern: Hedgerow management, external lighting, enhancement: bat boxes.

Nesting Birds:

Some potential nesting birds habitats and nest locations were identified. The report recommends that potentially disturbing works must not be carried out during the bird season unless a bird survey has confirmed that no nesting birds are present. If nesting activity is observed then the nest site(s) must be left undisturbed until all fledglings have left the nest(s).

Barn Owls:

There were no suitable sites for roosting or nesting barn owls on site. No recommendations.

Badgers:

No evidence of badger activity in the proposed development site. No recommendations.

Dormice:

The boundary hedge (mainly hazel) on the east side of the site has recently been laid, but there were no signs of dormice in the hedge. Although the presence of dormice is highly unlikely, a precautionary approach should be adopted when clearing vegetation as dormice have occasionally been recorded nesting in very unusual places.

Reptiles and amphibians:

No reptiles or amphibians were found on site during the survey, but the plot was noted to include typical habitat for reptiles such as **slow worms**.

Recommendations: No further surveys to establish presence / absence are necessary. Given the presence of favourable habitat, an assumption has been made slow worms are present.

Before the commencement of development, the site should be carefully cleared by hand, removing all features / habitat where **slow worms** might be found – e.g. vegetable beds, Terram / ground cover membrane, sheet materials, rockeries / stone walls, shrubs and rough grass. Clearance of the long grass should take place in two stages; first preliminary strimming of vegetation to 10-15cm height, then following a further inspection to ensure no reptiles present, a low-cut close to the ground immediately afterwards. If there is a delay between clearing the site of 'cover

objects', vegetation cutting and the commencement of building works, vegetation and grass areas should be kept mown short, to discourage any re-colonisation by reptiles in the meantime. If this is done in the winter months (i.e. while slow worms are still in hibernation), then the ground can be kept 'clean' until development starts, discouraging slow worms from being present.

The pond should be carefully emptied, and the contents transferred to the large pond on the west side of the garden, below the orchard.

A suitable condition shall be attached to any planning permission granted to ensure the proposal is constructed in accordance with the ecology report. As such, subject to conditions, the proposal accords with JLP Policy DEV26.

Waste / Recycling:

The proposed outbuilding would likely provide for suitable provision to store waste bins and recycling for collection from the local highway which is in close proximity.

As such, the proposal accords with JLP Policy DEV31.

Low-Carbon Development:

A suitable condition shall be attached to any planning permission granted requiring the submission of a low-carbon management plan. As such, the proposal accords with JLP Policy DEV32.

Planning Balance:

The proposal would provide for some social benefits in the form of providing for a 3-bedroomed property that meets local housing needs with some economic benefits in the form of providing construction work to local trade businesses, yet this is somewhat limited.

The proposal would also protect the local landscape and provide a degree of betterment through the landscaping plan.

However, the proposal is considered unacceptable development as a replacement dwelling given its failure to wholly accord with JLP Policies. The resultant effect is a proposal that unnecessarily consumes countryside land that would otherwise fail to be supported under the relevant countryside policies for new dwellings.

In addition, the proposal would result in a net gain of dwellings effectively circumventing important countryside considerations. As such, it is considered that the proposed environmental impacts by virtue of the unnecessary loss of countryside land outweighs any positive landscape enhancement delivered by a proposal that is not wholly policy compliant and the impacts of introducing unsustainable development would outweigh any other social and economic benefits the proposal may deliver, mainly due to a greater reliance upon the car.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004.

Planning Policy

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making, as of March 26th 2019, the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts South Hams and West Devon within Dartmoor National Park) comprises the Plymouth & South West Devon Joint Local Plan 2014 - 2034.

Following adoption of the Plymouth & South West Devon Joint Local Plan by all three of the component authorities, monitoring will be undertaken at a whole plan level. At the whole plan level, the combined authorities have a Housing Delivery Test percentage of 166%. This requires a 5% buffer to be applied for the purposes of calculating a 5 year land supply at a whole plan level. When applying the 5% buffer, the combined authorities can demonstrate a 5-year land supply of 6.5 years at the point of adoption.

Adopted policy names and numbers may have changed since the publication of the Main Modifications version of the JLP.

The relevant development plan policies are set out below:

The Plymouth & South West Devon Joint Local Plan was adopted by South Hams District Council on March 21st 2019 and West Devon Borough Council on March 26th 2019.

SPT1 Delivering sustainable development
SPT2 Sustainable linked neighbourhoods and sustainable rural communities
TTV1 Prioritising growth through a hierarchy of sustainable settlements
TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area
TTV26 Development in the Countryside
TTV29 Residential extensions and replacement dwellings in the countryside
DEV1 Protecting health and amenity
DEV2 Air, water, soil, noise, land and light
DEV8 Meeting local housing need in the Thriving Towns and Villages Policy Area
DEV10 Delivering high quality housing
DEV20 Place shaping and the quality of the built environment
DEV23 Landscape character
DEV26 Protecting and enhancing biodiversity and geological conservation
DEV28 Trees, woodlands and hedgerows
DEV31 Waste management
DEV32 Delivering low carbon development

DEV35 Managing flood risk and Water Quality Impacts.

Neighbourhood Plan: Staverton Parish Council: All that is indicated at this stage is that it is the intention of a community to prepare a plan – there is unlikely to be any content to take into consideration and detailed proposals have not been widely consulted on or endorsed by the community. No weight can be given to the NP at this stage.

Considerations under Human Rights Act 1998 and Equalities Act 2010

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.