

PLANNING APPLICATION REPORT

Case Officer: Charlie Bladon

Parish: Chivelstone

Ward: Stokenham

Application No: 3445/21/FUL

Agent/Applicant:

Ms Amanda Sutherland - Sutherland PLS
Ltd
1St Floor Offices
11e Radford Park Road
Plymstock
Plymouth
PL9 9DG

Applicant:

Mrs Williams-Geldard
C/O Agent
C/O Agent

Site Address: Sunnyside, The Haybarn, South Allington



Development: Replacement dwelling and associated works

Recommendation: Conditional Approval

Reason item is brought before Committee: Councillor has requested the application be determined by the committee for the following reason : *This will have to come to committee to explain how the applicant ever got a certificate of lawfulness in the first place. On top of this there is an enforcement case running. The relevant planning history is not complete, there was also an appeal that the applicant lost.*

Conditions: (list not in full)

1. Time for commencement
2. Approved plans
3. Materials details (notwithstanding submitted information)
4. Drainage details foul and surface water.
5. Landscaping details
6. No PD
7. No Ext. Lights

Site Description: The application site is located in the open countryside within the designated Area of Outstanding Natural Beauty (AONB), around 800m north of South Allington and around 8km south east of Kingsbridge. The host dwelling lies to the south, with a paddock within applicant's ownership to the north. Beyond the wider site there are mature field boundary hedgerows and beyond that the site is generally surrounded by open agricultural fields.

The Proposal: Permission is sought for the construction of a dwelling on the site, to replace an existing outbuilding which has a Certificate of Lawfulness for use as a dwelling. In addition, permission is sought for associated change of use of land to garden for the new dwelling and construction of associated drainage and vehicle access/parking facilities.

Consultations:

- County Highways Authority - please refer to standing advice
- Town/Parish Council – object: site is within AONB, queries regarding proposed waste treatment solution, local residents object due to planning history of site.

Representations:

Representations from Residents

Comments have been received and cover the following points: objection

Increased traffic from site will increase danger to local road users

Drainage details on application are insufficient

Concern regarding planning history of site, many applications over the years working towards getting a dwelling on the site.

Relevant Planning History

0702/20/CLE - Certificate of lawfulness for existing use of building as a residential dwelling, use of land as residential garden land and use of buildings ancillary to The Haybarn. – Certificate issued

0083/19/CLE - CLE – Certificate of lawfulness for existing use of buildings as residential dwelling – refused

10/1793/12/F: FUL Continued residential occupation of an existing lawfully sited mobile home for the essential need of a rural worker to live at or near their place of work in the countryside Refusal: 01 Oct 12 HEA: Dismissed (Refusal): 03 Sep 13

10/1114/09/F: FUL Siting of temporary dwelling (log cabin) in relation to agricultural business carried out on site Refusal: 24 Aug 09 HEA: Dismissed (Refusal): 23 Jun 10

10/1107/05/F: FUL Erection of general purpose agricultural building and access road Conditional approval: 20 Sep 05

ANALYSIS

Principle of Development/Sustainability: The application site is located in the countryside and within the AONB landscape. Policy TTV1 of the JLP sets out the Council's development strategy across the Thriving Towns and Villages Policy Area. The policy describes how the settlement hierarchy of (1) Main Towns, (2) Smaller Towns and Key Villages, (3) Sustainable Villages and (4) Smaller Villages, Hamlets and the Countryside will be used to inform whether a development proposal can be considered sustainable or not. The application site in this case is clearly not within the built area of a settlement and is therefore considered to be located within the Countryside. The sub-text to TTV1 explains that development in the countryside will be guided by Policy TTV26.

Policy TTV26 of the JLP relates to development in the countryside. The aim of the policy, as articulated in the first line, is to protect the role and character of the countryside. The policy is divided into two different sets of policy requirement, where part 1 applies to development proposals considered to be in isolated locations and the second part of the policy is applied to all development proposals that are considered to be in countryside location. Part 1 states "Isolated development in the countryside will be avoided and only permitted in exceptional circumstances". In this case there is an existing lawful dwelling on the site which is proposed to be replaced, and is considered an exceptional circumstance as there is a specific Policy TTV29 discussed below which addresses such situations. The second part of TTV26 relates to all development in the countryside and requires that, where appropriate, development should:

- i. Protect and improve public rights of way and bridleways.
- ii. Re-use traditional buildings that are structurally sound enough for renovation without significant enhancement or alteration.
- iii. Be complementary to and not prejudice any viable agricultural operations on a farm and other existing viable uses.
- iv. Respond to a proven agricultural, forestry and other occupational need that requires a countryside location.
- v. Avoid the use of Best and Most Versatile Agricultural Land.

vi. Help enhance the immediate setting of the site and include a management plan and exit strategy that demonstrates how long term degradation of the landscape and natural environment will be avoided.

In this case the development would not harm any public rights of way, the existing lawful dwelling proposed for replacement is not a traditional building, the development would not compromise agricultural operations, the development does not relate to an agricultural worker, it would avoid loss of best and most versatile agricultural land, and would help enhance the setting with landscaping.

The application proposes to demolish an existing dwelling on the site and construct a replacement dwelling in its place. JLP Policy TTV29 provides for the development of replacement dwellings in the countryside, subject to specific criteria. In this case it is considered that the proposal meets these criteria in that the existing dwelling has a lawful permanent residential use, the replacement dwelling would not be significantly larger and would be sited on the same position as the existing dwelling.

The concerns raised regarding the location of the site within the AONB are noted, however this designation does not preclude development from occurring, and in this case it is considered that the development proposed would not harm the special character, beauty and interest of the designated landscape, in compliance with the requirements of JLP Policy DEV25 Nationally Protected Landscapes.

The concerns regarding the planning history of the site, and the path towards establishing a lawful residential use on the site are duly noted. It is unfortunate however in this case it is clear that the site benefits from a certificate of lawfulness establishing residential use, and therefore must be considered on the merits of the proposal without prejudice.

Design/Landscape: The proposed development would take the form of a single storey dwelling with a rectangular plan form and a dual pitch roof. Internally the layout is in accordance with the national minimum design standards. Externally, when the application was submitted, the proposed finishing materials were not considered sympathetic or appropriate to the special landscape character of the designated Area of Outstanding Natural Beauty. After some discussion the agent agreed to a condition requiring details of the exterior finishing materials to be confirmed. The scale of the dwelling is acceptable, the exterior details can be confirmed via condition and the proposed landscaping will ensure that the development does not harm the special character or appearance of the site or the surrounding landscape. As mentioned above, there is already a building of a similar scale but lesser aesthetic quality to that proposed on the site. Therefore it is considered that subject to appropriate landscaping and materials, the proposed development would not have any significant harmful impact on the special qualities of the AONB landscape.

Neighbour Amenity: There are no near neighbours that would be affected by the proposed development.

Highways/Access: The existing development is already served by an existing farm track and the proposed new dwelling would utilise that same track. It is considered that the existing access is sufficient to accommodate traffic attracted to the developed site. The Devon County Highways Authority has requested that the application be determined in accordance with their "Standing Advice". In this case it is considered that the proposed arrangement would meet the requirements of the standing advice. Additionally, there is sufficient space within the development site to provide parking and turning space for vehicles attracted to the site. The

concerns regarding increased traffic pressure on local roads are noted, however as the site already has a residential use it is considered that the traffic attracted to the replacement dwelling site would be broadly similar to the current traffic levels and would not materially impact on highway safety.

Other Matters: The application is supported by a drainage design statement which sets out recommendations for the design of the proposed sustainable drainage system (SuDS) for surface water and the proposed package treatment plant for foul waste. The statement is informed by on site investigations and it is considered that the proposals are suitable to serve the needs of the development. A condition to ensure provision prior to occupation will be applied to ensure the site is served by adequate drainage from the beginning. The concerns raised regarding the level of drainage information provided are noted however it is considered that there is sufficient information to demonstrate adequate drainage can be provided and this will be secured through a planning condition.

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

Planning Policy

Relevant policy framework

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 Plymouth & South West Devon Joint Local Plan 2014 - 2034 is now part of the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts of South Hams and West Devon within Dartmoor National Park).

On 26 March 2019 of the Plymouth & South West Devon Joint Local Plan was adopted by all three of the component authorities. Following adoption, the three authorities jointly notified the Ministry of Housing, Communities and Local Government (MHCLG) of their choice to monitor at the whole plan level. This is for the purposes of the Housing Delivery Test (HDT) and the 5 Year Housing Land Supply assessment. A letter from MHCLG to the Authorities was received on 13 May 2019. This confirmed the Plymouth, South Hams and West Devon's revised joint Housing Delivery Test Measurement as 163% and that the consequences are "None". It confirmed that the revised HDT measurement will take effect upon receipt of the letter, as will any consequences that will apply as a result of the measurement. It also confirmed that that the letter supersedes the HDT measurements for each of the 3 local authority areas (Plymouth City, South Hams District and West Devon Borough) which Government published on 19 February 2019. On 13th February 2020 MHCLG published the HDT 2019 measurement. This confirmed the Plymouth, South Hams and West Devon's joint HDT measurement as 139% and the consequences are "None".

Therefore a 5% buffer is 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 6.1 years at end March 2020 (the 2020 Monitoring Point). This is set out in the Plymouth, South Hams & West Devon Local Planning Authorities' Housing Position Statement 2020 (published 22nd December 2020).

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
TTV1 Prioritising growth through a hierarchy of sustainable settlements
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
DEV10 Delivering high quality housing
DEV20 Place shaping and the quality of the built environment
DEV21 Development affecting the historic environment
DEV23 Landscape character
DEV25 Nationally protected landscapes
DEV26 Protecting and enhancing biodiversity and geological conservation
DEV28 Trees, woodlands and hedgerows
DEV29 Specific provisions relating to transport
DEV32 Delivering low carbon development
DEV35 Managing Flood Risk and Water Quality Impacts

Other material considerations include the policies of the National Planning Policy Framework (NPPF) and guidance in Planning Practice Guidance (PPG). Additionally, the following planning documents are also material considerations in the determination of the application: SPD 2020.

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.

Proposed Conditions:

1. The development hereby approved shall in all respects accord strictly with drawings/documents:

Received 04/10/21:

Drainage Design Statement

Received 08/10/21:

LP001 Site Location Plan

PP003 Proposed Site Plan

Ecology Report

Received 18/10/21:

PP010 Proposed Floor Plan

PP011 Proposed Elevations

Reason: To ensure that the proposed development is carried out in accordance with the drawings forming part of the application to which this approval relates.

2. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason: To comply with Section 91 of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

3. Notwithstanding the submitted details, the development hereby permitted shall not be brought into use until:

1. Percolation testing in accordance with DG 365 will be required to support the use of soakaways. The report should include the trial logs and calculate the infiltration rate.

2. SuDS to be designed for a 1:100 year event plus 40% for climate change.

3. If the Local Planning Authority concludes that the method of drainage approved as part of this permission is undermined by the results of the percolation tests, a mitigating drainage

alternative shall be agreed with the Local Planning Authority

4. The drainage scheme shall be installed in strict accordance with the approved plans, maintained and retained in accordance with the agreed details for the life of the development.

Reason: To ensure surface water runoff does not increase to the detriment of the public highway or other local properties as a result of the development.

4. Notwithstanding the submitted details, and prior to first use of the development hereby approved, details of the works for disposal of sewage shall be approved in writing by the Local Planning Authority. Such details shall include a location plan, cross-sections/elevations, specification and its capacity to hold additional load.

Reason: In the interests of the prevention of pollution and to accord with Development Plan Policy C24 (Protecting Water Resources).

5. Prior to construction above ground level, and notwithstanding the documents hereby approved, details of the proposed finishing materials for external surfaces shall be agreed in writing by the Local Planning Authority.

Reason: To ensure details appropriate to the special character of the designated AONB landscape.

6. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development)(England) Order 2015, as amended (and any Order revoking and re-enacting this Order), no development of the types described in the following Classes of Schedule 2 shall be undertaken without the express consent in writing of the Local Planning Authority other than those expressly authorised by this permission:-

(a)Part 1, Class A (extensions and alterations)

(b)Part 1, Classes B and C (roof addition or alteration)

(c)Part 1, Class D (porch)

(d)Part 1, Class E(a)(swimming pools and buildings incidental to the enjoyment of the dwellinghouse)

(e)Part 14, Class A-I (renewable energy)

Reason: To enable the Local Planning Authority to exercise control over development which could materially harm the character and visual amenities of the development and locality.

7. No external lighting shall be installed without the prior written consent of the local planning authority.

Reason: In the interests of amenity and to protect the local dark skies and protect the habitats of nocturnal species.

8. The recommendations, mitigation and enhancement measures of the Ecological Report, by EcoLogic dated September 2021 shall be fully implemented prior to the commencement of the use hereby approved and adhered to at all times. In the event that it is not possible to do so all work shall immediately cease and not recommence until such time as an alternative strategy has been agreed in writing with the local planning authority. Reason: To safeguard the interests of protected species.

9. Before the development hereby approved is first brought into use, details of proposed hard and soft landscaping, including means of enclosure (boundary fencing) shall be approved in writing by the Local Planning Authority and thereafter be so maintained.

Reason: In the interests of visual amenity.