

PLANNING APPLICATION REPORT

Case Officer: Charlotte Howrihane

Parish: Sparkwell **Ward:** Newton and Yealampton

Application No: 0746/22/FUL

Agent:

Mrs Amanda Burden - Luscombe Maye
59 Fore Street
Totnes
TQ9 5NJ

Applicant:

Mr And Mrs J Kendrick
Houndall Farm
Sparkwell
Plymouth
PL7 5DG

Site Address: Houndall Farm, Sparkwell, PL7 5DG



Development: Construction of replacement dwelling in place of barn with Class Q approval under 1567/21/PDM

Reason item is before Committee: Cllr Baldry has referred the application to committee for the following reasons:

1. *The size of the building. Two storeys instead of the single level allowed for a Class Q*
2. *Size of the footprint*
3. *Overdevelopment*
4. *Not a sustainable site. 1501/18/OPA refused at DMC. 'The proposed development would result in a new dwelling which by virtue of its location and limited accessibility to essential services would be considered environmentally unsustainable'. Went to appeal and refusal upheld.*

5. 2598/20/PDM refused.

Recommendation: Conditional approval

Conditions:

Standard time limit
Accord with plans
Removal of permitted development rights
Walls to be natural timber
Details of materials
No external lighting
Accord with drainage details
Details of ASHP prior to installation
Details of noise mitigation prior to occupation
Accord with ecology survey
Unsuspected contamination

Key issues for consideration:

Principle of development, design, landscape impact, neighbour amenity, highways, proximity to mining works

Site Description:

Houndall Farm is an existing agricultural holding, just over 1km north-east of Sparkwell. The site is within the consultation area for Hemerdon tungsten mine, and is in the open countryside, but not within any special areas of designation.

The Proposal:

Prior approval was granted in 2021 under Class Q of the GPDO, permitting the conversion of a former agricultural building to a single dwellinghouse. This application is a full planning application for the demolition of the agricultural dwelling, and the construction of a replacement three-bedroom, two storey dwelling.

Consultations:

- County Highways Authority- no highways implications
- Environmental Health Section- no objection, recommend conditions regarding ASHP and noise mitigation against mining operations
- Parish Council- objection: *'The fallback position maybe applicable to this site, however the proposed design for the dwellings is dramatically different to the building under class Q. The drawings show the proposed dwelling to be significantly taller, going from a single storey to a double storey building with a tall apex roof. The appearance would be dramatically different, and the impact would be very different on this rural site. The Parish Council do acknowledge and commend the superior energy efficiency proposed'*
- DCC Minerals- no objection

Representations:

Eight letters of support have been received. These representations can be seen in full on the Council's website, but can be summarised as follows:

- Environmental benefits of the building
- Enhancement of the site
- Low carbon development should be encouraged
- The site is not visible from the road
- Applicants are very involved in the community and should be supported to stay
- Design is an improvement on what is permitted under the previous class Q application
- There would be no visual impact on the landscape
- There would be no impact on traffic as applicant already lives on site
- Drainage has been considered so unlikely to result in flood risk lower down the slope

Relevant Planning History

1567/21/PDM	Application to determine if prior approval is required for a proposed change of use of Agricultural Buildings to 1 x no. dwellinghouse under Class Q (a and b)	Prior approval given
2598/20/PDM	Application to determine if prior approval is required for proposed change of use of agricultural building to dwellinghouse (Class C3) and for associated building operations (Class Q(a+b))	refused
3871/19/PRE	Pre application enquiry for a Proposed new dwelling	no support
1501/18/OPA	Outline application with all matters reserved for the erection of one dwelling	refused
4380/17/PDM	Notification for prior approval for proposed change of use of agricultural buildings to dwellinghouse (Class C3) (Class Q(a))	refused

ANALYSIS

1. Planning History:

- 1.1. Previous planning applications have been refused on the site, including 1501/18/OPA, which was an outline application for the erection of a dwelling. This was also dismissed at appeal, due to the site being considered to be an unsustainable location for a dwelling. The applicant also applied for a prior approval for conversion under Class Q in 2020 (2598/20/PDM) which was refused due to the lack of evidence regarding the structure capability of the building to be converted. This was then resubmitted in 2021 (1567/21/PDM) which included a structural survey confirming that the building was capable of being converted. This prior approval remains extant and there is therefore an outstanding consent for a residential dwelling on the site.

2. Principle of Development/Sustainability:

- 2.1. The site is not within a named settlement, and lies within tier 4 of the settlement hierarchy outlined in the Joint Local Plan (JLP) (Tier 4 is named as Smaller villages, hamlets, and the countryside), where development is usually only supported if it meets the principles of sustainable development and sustainable communities (policy TTV1 of the JLP).
- 2.2. Although the site is not somewhere where the principle of residential development would generally be supported, a dwelling has previously been consented on the site, and the existing agricultural building benefits from prior approval to conversion to a dwelling under Part 3, Class Q of the General Permitted Development Order 2015 (as amended) (prior approval reference 1567/21/PDM).

- 2.3. When considering the impact of the Class Q fallback position, Officers are mindful of the relevant case law: *Mansell v Tonbridge & Malling Borough Council*, which accepts that a Class Q prior approval can establish the principle of residential development in a location otherwise considered inappropriate and contrary to policy.
- 2.4. However, the proposal still needs to accord with the Development Plan taken as a whole and to support an alternative scheme to that which would otherwise be delivered under the Class Q consent, the proposal needs to demonstrate that it would result in betterment compared to the development which could otherwise be delivered under the approved Class Q consent (the fall-back option).
- 2.5. Case law has also clarified the principle that, in considering proposals for new development, decision-makers should have regard to whether or not there is a realistic prospect of the class q fallback option taking place, should planning permission not be granted for the proposed development.
- 2.6. In this instance, works have not yet commenced to implement the conversion, however there is nothing to indicate that it would not be implemented should this application be refused.

3. Design/Landscape:

- 3.1. The design of the proposed dwelling differs from the consented scheme; the fallback permission is for a single-storey dwelling within the footprint of the existing agricultural building. The replacement dwelling proposed would be a two-storey property, constructed with timber logs and a metal-profiled roof. The applicant describes the proposed dwelling as a Scandinavian-style log cabin aesthetic.
- 3.2. Although the proposed dwelling would be higher than the consent scheme, due to the additional storey, the ground level would be lowered to minimise this impact, to the extent that the ridge height of the dwelling would be no higher than the existing building. The property is in a rural location with no immediate neighbours, and as such, there is no 'street scene' or existing residential character for the dwelling to be mindful of. The increased height is therefore not considered to be so significant as to warrant a refusal of the application.
- 3.3. The Parish Council have objected to the design, although several residents have written in support of it. Officers consider that a log-cabin façade is appropriate in a rural setting, and will require details of materials to be submitted for consideration prior to their installation to ensure that they are of a quality and finish that are appropriate to the landscape setting. Officers would also note that the site is extremely well screened by trees and vegetation, and the dwelling would scarcely be visible from outside of the site.
- 3.4. Officers are also mindful that the dwelling permitted under the Class Q prior approval was bound by the limitations of the legislation, which permitted no significant external works to be undertaken, resulting in an unattractive property which had little benefit to the local landscape. The proposed dwelling would have its permitted development rights removed, to prevent unsympathetic alterations and additions in the future that may dilute the rural, cabin aesthetic currently proposed. Due to the countryside location of the site, it is also proposed to restrict external lighting, to prevent unnecessary light pollution to the surrounding countryside.
- 3.5. Subject to the recommended conditions, the design is considered to be an improvement on the consented dwelling, and the style and materials would be appropriate for a rural

setting such as Houndall Farm. The proposal therefore complies with policies DEV20 and DEV23 of the JLP.

4. Neighbour Amenity:

- 4.1. As previously mentioned, the site is former agricultural building which is a reasonable distance from any other residential properties (other than existing barn conversions within the Houndall Farm complex). The site is surrounded by trees and not even visible from the rest of the buildings within the farm complex, and the proposed dwelling therefore does not raise any concerns in terms of residential amenity, and Officers note that eight local residents have written in support of the proposal, which is considered to comply with policy DEV1 of the JLP.

5. Highways/Access:

- 5.1. The proposal provides two parking spaces, and in this regard, does not differ from the consented scheme. Highways have raised no objection and the proposal is acceptable in this regard.

6. Low Carbon development:

- 6.1. The Council has declared a Climate & Biodiversity Emergency, along with the national government, Devon County Council, and many other local authorities. Policy DEV32 of the JLP requires development to contribute to the carbon reduction targets of the Plan Area, and identify opportunities to minimise the use of natural resources in the development over its lifetime.
- 6.2. The proposed dwelling would use Scandinavian Homes principles- air source heat pumps, heat recovery systems, and solar panels. Electric vehicle charging provision is included, along with passive-standard foundations and triple glazing to provide high levels of insulation. When compared to the consented scheme, the proposal is considered to result in significant betterment in terms of low carbon development and policy DEV32.

7. High quality housing:

- 7.1. Policy DEV10 requires new dwellings to be of a size and layout to provide good quality accommodation for the needs of its occupants. Due to the personal circumstances of the applicant, the dwelling would be designed to be lifetime accessible, including an en-suite on the ground-floor, and a lift as well as stairs, to ensure that the dwelling remains accessible for its occupants.

8. Mining:

- 8.1. The site is within the consultation zone for the Hemerdon tungsten mine, because there is potential for this group of properties to be affected by noise from the mine activities. DCC Minerals have been consulted on the application and offered the following comments:

‘The site lies within the Mineral Consultation Area for the nearby tungsten and china clay operations, with Policy M2 of the Devon Minerals Plan seeking to protect such operations from constraint by new development.

In response to application 4380/17/PDM, Devon Council raised no objection, commenting “Although the site lies within a Mineral Consultation Area, it is considered that the proposal will not result in any greater constraint of the operations at Drakelands Mine or Headdon china clay works due to the application site’s distance from those operations”.

Given that the new proposal will create a new dwelling in the same location as the approved conversion, Devon County Council has no objection in its role of mineral planning authority.'

- 8.2. The proposal has also been reviewed by the Council's Environmental Health Officers, who made the following comments:

We are considering a full application for the installation of a log and timber frame "kit" property sourced in Finland. The proposal is to site this on the footprint of the barn that was previously subject to a Class Q planning approval (1567/21/PDM) and close to a further residence which was converted under Class Q in 2018 (4380/17/PDM). There are two other residences already in this group.

The location is within the consultation area for Hemerdon tungsten mine because there is potential for this group of properties to be affected by noise from the mine activities; and theoretically complaints of unreasonable noise made by these residents could impact on the working of the mine if the noise complained about cannot be remediated. In reality, the applicant is the current landowner who would be well aware of the existence of the mine and used to the occasional inconvenience caused by noise.

The log cabin is constructed in such a way that the insulation value of the external walls is very high. Furthermore, the proposed windows will be triple glazed. Both of these elements will also benefit people inside the building when it comes to off-site noise. The elevations show the main glazed areas facing south west and south east, ie. away from the mine, and this is also beneficial. Furthermore the main bedrooms are on the ground floor facing SW and SE, and again this is beneficial in terms of reducing potential noise impacts at night.

We recommend that the existence of the mine close by is acknowledged by the applicant and that they demonstrate that noise from the various activities there will not adversely affect residents whilst inside their home. There is substantial information regarding noise from the various activities already in the public arena, but the applicant might prefer to contact the noise consultant directly.

An air source heat pump is mentioned although no details are provided. There is potential for this to impact on residents living in the other 3 properties close by. The applicant should provide sound power level information in relation to the air source heat pump together with an assessment of whether noise might unreasonably affect near neighbours. The background noise level is significantly below 40dB and therefore the permitted development option for these will not be available. The installer must provide details of noise mitigation that will be incorporated.

The applicant proposes a package treatment plant discharging cleaned water to a soakaway nearby. We have no concerns regarding this'

- 8.3. In line with the EH comments, conditions are recommended to ensure that details of the proposed air source heat pump, as well as noise mitigation measures for the dwelling are submitted prior to the installation of the ASHP, and prior to the occupation of the dwelling.

9. Summary:

- 9.1. The proposal is considered to be of an appropriate design for the countryside setting of the location. The proposed landscaping, and energy efficiency of the development would be an improvement on the consented scheme, and there would be no adverse impact on the highways network or neighbouring residents. The development is therefore recommended for approval, subject to the conditions detailed above.

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 the Housing Requirement 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 confirming the change.

On 13th January 2021 MHCLG published the HDT 2020 measurement. This confirmed the Plymouth, South Hams and West Devon's joint HDT measurement as 144% 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 5.8 years at end March 2021 (the 2021 Monitoring Point). This is set out in the Plymouth, South Hams & West Devon Local Planning Authorities' Housing Position Statement 2021 (published 12th November 2021).

[*now known as Department for Levelling Up, Housing and Communities]

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
TTV26 Development 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
DEV23 Landscape character
DEV26 Protecting and enhancing biodiversity and geological conservation
DEV29 Specific provisions relating to transport
DEV32 Delivering low carbon development
DEV35 Managing flood risk and Water Quality Impacts

Neighbourhood Plan

The site is not within an area currently designated as part of any neighbourhood plan.

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:

Plymouth & South West Devon JLP 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 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.

2. The development hereby approved shall in all respects accord strictly with drawing numbers XXX, received by the Local Planning Authority on XXX.

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.

3. The walls hereby approved shall be natural timber. This timber shall not be stained, colourwashed, or otherwise treated in a manner which would obscure the natural finish.

Reason: To retain the character and appearance of the building.

4. Prior to installation, a schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces, including roofs, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the details so approved.

Reason: To enable the Local Planning Authority to consider the details of the materials.

5. Details of any external lighting (including security lighting) to be erected, placed, or sited within the site shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The work shall thereafter be carried out in accordance with the approved details and under no circumstances shall it cause light pollution nor shall external illumination be operated on the site other than in accordance with the approved scheme.

Reason: In the interests of the rural character of the surrounding landscape.

6. 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.

7. Prior to installation, details of the proposed air source heat pump shall be submitted to, and agreed in writing by the Local Planning Authority. Details shall include sound power level information of the air source heat pump together with an assessment of the impact of such noise on neighbouring properties. The development shall hereafter been carried out in accordance with the approved details.

Reason: In the interests of residential amenity.

8. Prior to the occupation of the dwelling hereby approved, details of how the dwelling will be designed to mitigate potential noise impact from the nearby mining activities shall be submitted to and agreed in writing, by the Local Planning Authority. The development shall hereafter be carried out in accordance with the approved details.

Reason: In the interest of the amenity of future occupants of the dwelling.

9. Notwithstanding the details set out on the submitted drawings, the recommendations, mitigation and enhancement measures of the Bat & Protected Species Survey Report, by XXX, dated XXX, 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.

10. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an investigation and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with. Following completion of measures identified in the approved remediation strategy and verification plan and prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority.

Reason: No site investigation can completely characterise a site. This condition is required to ensure that any unexpected contamination that is uncovered during remediation or other site works is dealt with appropriately.

11. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) Order, 2015 (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, Class AA (enlargement of a dwellinghouse by construction of additional storeys)
 - (c) Part 1, Classes B and C (roof addition or alteration)
 - (d) Part 1, Class D (porch)
 - (e) Part 1, Class E (a) swimming pools and buildings incidental to the enjoyment of the dwellinghouse and; (b) container used for domestic heating purposes/oil or liquid petroleum gas)
 - (f) Part 1, Class F (hardsurfaces)
 - (g) Part 1, Class G (chimney, flue or soil and vent pipe)
 - (h) Part 1, Class H (microwave antenna) and;
 - (i) Part 2, Class A (means of enclosure)

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.