

West Devon Planning and Licensing Committee



West Devon
Borough
Council

Title:	Agenda								
Date:	Tuesday, 2nd February, 2016								
Time:	10.00 am								
Venue:	Chamber - Kilworthy Park								
Full Members:	<p style="text-align: center;">Chairman Cllr Sellis</p> <p style="text-align: center;">Vice Chairman Cllr Benson</p> <p><i>Members:</i></p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td>Cllr Baldwin</td> <td>Cllr Moyse</td> </tr> <tr> <td>Cllr Cann OBE</td> <td>Cllr Parker</td> </tr> <tr> <td>Cllr Hockridge</td> <td>Cllr Pearce</td> </tr> <tr> <td>Cllr Mott</td> <td>Cllr Roberts</td> </tr> </table>	Cllr Baldwin	Cllr Moyse	Cllr Cann OBE	Cllr Parker	Cllr Hockridge	Cllr Pearce	Cllr Mott	Cllr Roberts
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Cllr Hockridge	Cllr Pearce								
Cllr Mott	Cllr Roberts								
Interests – Declaration and Restriction on Participation:	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.								
Committee administrator:	Kathy Trant Specialist - Democratic Services 01803 861185								

1. Apologies for Absence

2. Declarations of Interest

Members are invited to declare any personal or disclosable pecuniary interests, including the nature and extent of such interests they may have in any items to be considered at this meeting.

[If Councillors have any questions relating to predetermination, bias or interests in items on this Agenda, then please contact the Monitoring Officer in advance of the meeting]

3. Items Requiring Urgent Attention

To consider those items which, in the opinion of the Chairman, should be considered by the Meeting as matters of urgency (if any).

4. Confirmation of Minutes

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Meeting held on 8th December 2015

5. Planning Applications

To see Letters of Representation and further supplementary information relating to any of the planning applications on the agenda, please select the following link and enter the relevant Reference number: <http://westdevon.gov.uk/searchlanding>

(a) 01092/2015

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22 North Street, Okehampton
Change of use from a first floor function room ancillary to drinking establishment (use class A4) to a wholesale mixing and distribution facility for the distribution of ethanol alcohol to drinks manufacturers.

(b) 01182/2015

11 - 20

Part of Glebelands, Hatherleigh
Outline application with all matters reserved for change of use of land and construction of live work accommodation

(c) 00987/2015

21 - 26

Land at SX 590990, Okehampton
Full application for erection of new agricultural livestock building and siting of a temporary agricultural workers dwelling.

6. Planning Appeals Update

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Agenda Item 4

At a Meeting of the **PLANNING & LICENSING COMMITTEE** held at the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the **8th** day of **DECEMBER 2015** at **10.00am**

Present:

Cllr D K A Sellis – Chairman	
Cllr M J R Benson – Vice-Chairman	
Cllr R E Baldwin	Cllr W G Cann OBE
Cllr L J G Hockridge	Cllr C Mott
Cllr D E Moyse	Cllr G Parker
Cllr T G Pearce	Cllr A Roberts

COP Lead Development Management (AHS)
COP Lead Environmental Health (IL)
Specialist Licensing (NW)
Specialist Assets (AW)
Solicitor (SN)
Senior Case Manager (KT)

In attendance: Cllrs D Cloke, J Evans, A Leech, R Musgrave, P Sanders and J Yelland

***P&L 40 DECLARATION OF INTEREST**

Cllr G Parker declared a personal interest in TPO s305 (Minute P&L 45 below refers) by virtue of being a local Ward Member for the application and remained in the meeting and took part in the debate and vote thereon..

***P&L 41 CONFIRMATION OF MINUTES**

The Minutes of the Planning and Licensing Committee Meeting held on 10 November 2015 (page 1 to the Agenda), were confirmed and signed by the Chairman as a correct record.

***P&L 42 TO DETERMINE THE RENEWAL OF A JOINT HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCE WHERE THERE MAY BE A 'REASONABLE CAUSE' FOR REFUSAL**

It was moved and seconded and upon being submitted to the Meeting was declared to be **CARRIED** and **RESOLVED** that under Section 100 (A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the debate that took place on this item of business on the grounds that exempt information may be disclosed under Paragraph 1 – Information relating to any individual from Part 1 of Schedule 12 (A) to the Act).

Consideration was given to an exempt report which sought to determine whether an applicant was a 'fit and proper' person to hold a Hackney Carriage Driver Licence with this Authority in accordance with section 61 of the Local Government (Miscellaneous Provisions) Act 1976, as amended by section 52 Road Safety Act 2006.

The Licensing Specialist introduced the report. The Applicant was in attendance at the meeting and was given the opportunity to address the Committee. Some Members asked questions of those attending and the Licensing Specialist confirmed the options that were open to the Committee when making its decision.

(At this point, the Committee left the meeting with the Solicitor to enable them to make a decision).

The Decision

The Chairman then proceeded to announce the decision as follows:

Members of the Licensing Committee have considered very carefully your application to renew your Joint Hackney Carriage and Private Hire Driver Licence.

- We have read the Licensing Officer's report and further information, which you have had sight of.
- We have listened very carefully to what you have told us this morning
- The main priority of the licensing regime is to ensure public safety. As this is a civil matter, the evidence of proof is based on the balance of probabilities, the onus being on yourself to satisfy the Authority that you are a 'fit and proper person' to continue to drive a Hackney Carriage or Private Hire Vehicle.

The Committee has decided to **GRANT** the renewal of your Joint Hackney Carriage and Private Hire Driver Licence. This decision is based on:

- Your previous record of good character and that it was an isolated incident.
- The Committee wanted to emphasise your duty as a licensed Joint Hackney Carriage and Private Hire Driver to report any future offences to the Licensing Authority as soon as possible.

***P&L 43 PLANNING, LISTED BUILDING, TREE PRESERVATION ORDER AND ENFORCEMENT REPORTS**

The Committee considered the application prepared by the Specialist – Assets and considered also the comments of Town and Parish Councils together with other representations received, which were listed within the presented agenda report and summarised below, and **RESOLVED**:

TREE PRESERVATION ORDER REPORT

Case Officer: Alex Whish

Ward: Tavistock South West

Ward Members: Cllr Evans and Cllr Parker

Application No: TPO s305

Site Address: Land at Brook Lane, Tavistock PL19 9DP

Development: A provisional TPO has been made on 5 trees within the boundary hedgerows to the west and south of Brook Farm, Brook Lane, Tavistock

COMMITTEE DECISION: Confirm Tree Preservation Order s305 as served.

Speakers:
Cllr G Parker – Ward Member

***P&L 44 PLANNING APPEALS UPDATE**

The Committee received and noted the updated list of Planning Appeals including enforcement appeals. The Lead Specialist Development Management provided more detailed information on specific decisions where requested.

P&L 45 REVIEW OF PLANNING DELEGATION SCHEME

The Committee was asked to consider a report that presented a review of the Planning Scheme of Delegation. The COP Lead Development Management introduced the report, and in doing so outlined the main reasons for the review, the most important of which was to align working practices across West Devon Borough Council and South Hams District Council in order to increase the efficiency of the service.

Members discussed this matter at length, in particular the detail of some of the specific proposed changes, and there were differing views expressed amongst the Committee Members.

It was then **PROPOSED, SECONDED** and on being put to the vote declared **LOST** that:

Members recommend to Council the adoption of the revised Planning Delegation proposals (as attached at Appendix 1 to the presented Committee report).

Following this, a Member proposed that two Members of the Committee be authorised to meet with Members of South Hams District Council as a joint group to undertake a review of the draft Scheme. This proposal was seconded and it was therefore **RECOMMENDED** that:

Council be **RECOMMENDED** that two Members of the Planning and Licensing Committee be authorised to work with two Members of South Hams District Council as a joint group to be tasked with reviewing the Planning Scheme of Delegation.

P&L 46 APPROVAL OF LICENSING POLICY FOR HORSE DRAWN HACKNEY CARRIAGE/OMNIBUS

The Committee was presented with a report that sought recommendation to Council of approval of a policy and fees in relation to Horse Drawn Hackney Carriage/Omnibuses.

The COP Lead Environmental Health introduced the report and set out the background. He then responded to specific questions raised by Members of the Committee.

It was then **RECOMMENDED** that Council be **RECOMMENDED** that:

1. The Horse Drawn Hackney Carriage/Omnibus Policy be adopted at the Council meeting on 8 December 2015; and
2. The resolution of 19 May 2015 be amended to exclude the requirement to prepare byelaws, and the proposed fees and charges be amended, so that the fees for a driver licence shall be the same as the current hackney carriage fee, and the carriage fee shall be £200.

P&L 47 APPROVAL OF LICENSING FEE FOR DOG DAY CARE CENTRES

The Committee was presented with a report that sought recommendation to Council of licensing fees for dog day care centres.

The COP Lead for Environmental Health introduced the report.

It was then **RECOMMENDED** that Council be **RECOMMENDED** that, at the Council meeting on 8 December 2015, the initial annual fee for a Dog Day Care Centre Licence under the Animal Boarding Establishments Act 1963 be set at £150.

(The Meeting terminated at 12.50pm)

Dated this 2nd February 2016

Chairman

PLANNING APPLICATION REPORT

Case Officer: Chris Gosling

Parish: Okehampton **Ward:** Okehampton East

Application No: 01092/2015

Agent/Applicant:

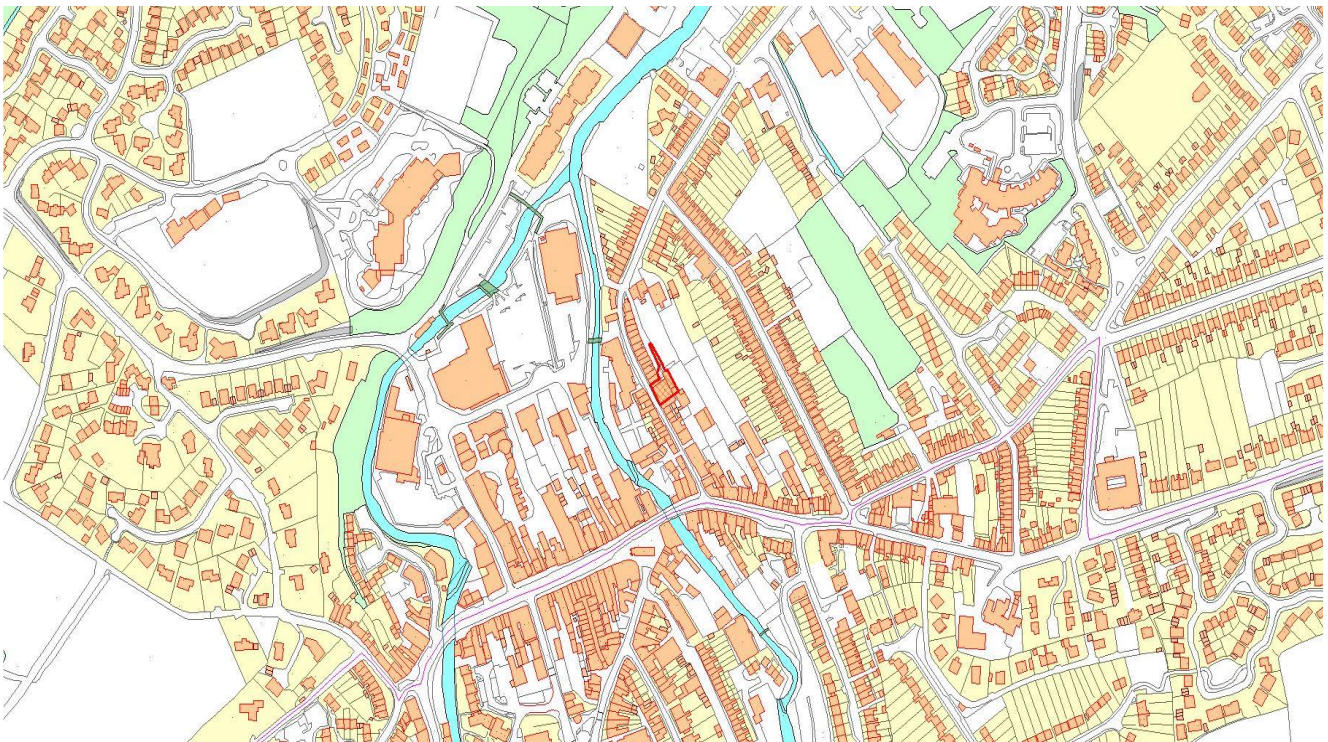
Mr E Baily
Pretoria Wine Vaults
22 North Street
Okehampton
Devon
EX20 1AR

Site Address: 22 North Street, Okehampton, Devon, EX20 1AR

Development: Change of use from a first floor function room ancillary to drinking establishment (use class A4) to a wholesale mixing and distribution facility for the distribution of ethanol alcohol to drinks manufacturers.

Reason item is being put before Committee:

At the request of the Ward Member who has safety concerns and the risk of deliveries blocking North Street.



Recommendation: Conditional approval

Conditions:

- Standard time limit
- Adherence to plans
- Use within building only
- Retain parking
- Hours of operation no longer than those applied for

Key issues for consideration:

Impact on residential amenity, given immediate proximity of neighbours

Ability of the highway to cope with goods in and good out

NB: Health and safety issues are covered by other legislation

Site Description:

The site is a three story building in a very narrow terraced street near Okehampton town centre. The street is one way (heading towards) the main road through town and has double yellow lines on each side. The site includes a yard area at the rear leading to an off-site rear access and borders long rear gardens for buildings fronting the main road and properties in North Road north of the site. The site also borders the rear of No. 24 North Road, the next door neighbour.

The site context is urban and cramped. At the time of the site visit, late afternoon, the premises (Pretoria Wine Vaults; a public house) was not open and appeared to be closed for some time prior to that. The site comprises the top floor only. The ground floor of the building is the bar and the first floor has accommodation. Vehicular access and parking is available from the rear.

The Proposal:

Change of use of function room ancillary to drinking establishment (Use Class A4) to a whole sale mixing and distribution facility for the distribution of ethanol alcohol to drinks manufacturers (sui generis).

The proposed composite use is considered inherently to incorporate a B8 (storage and distribution) element, but the process proposed to take place on the premises means that the B8 element would be of similar importance and not ancillary.

The proposal would create two new part time jobs and the proposed working times are 0900-1700 Monday to Friday only as stated on the application form. Deliveries to the site are intended to amount to no more than 2 to 4 a month. Sales are via the internet and there would be no walk in sales, although the latter would appropriately be controlled through licensing and not the planning system.

Consultations:

- County Highways Authority
 - The street in the vicinity of the site is narrow, one-way southbound only for motorised vehicles with a contra-flow northbound cycle lane. There are restrictions on waiting, but no restrictions on the loading and unloading of vehicles. The existing uses on the site will already give rise to unloading from the highway which will no doubt give rise to instances of temporary inconvenience at the times that the unloading is taking place. I have never been on site at the time a delivery arrives.
 - When assessing an application such as this I have to consider the traffic generation potential of the proposed use compared with the existing. The existing use certainly has the potential to generate vehicle movements and loading and unloading from the highway from users of the function room. Although there would appear to be no figures provided in the documentation for the anticipated trip generation / attraction it appears from the information provided that the operation is very low key indeed and is extremely unlikely to lead to an unacceptable increase in instances of loading from the highway, when compared with the existing use of the site. On that basis, the highway authority has no comments to make on the proposed change of use.

- Environmental Health Section

No comments to make. Regulation of the site would be through compliance with Health and Safety regulations. There are unlikely to be noise implications arising from the proposed change of use.

- Town/Parish Council

Neutral view

- Others:
Health and Safety Executive

HSE's role in the planning process is limited to that of statutory consultee on:

- (a) relevant developments within the consultation distance of major hazard sites and major accident hazard pipelines – see the [Schedule 4\(e\) of the Town and Country Planning \(Development Management Procedure\) Regulations 2015](#), and
- (b) applications for hazardous substances consent under the [Planning \(Hazardous Substances\) Act 1990](#) and the [Planning \(Hazardous Substances\) Regulations 2015](#).

A major hazard site is one which requires hazardous substances consent to hold a specified quantity of a hazardous substance in accordance with Schedule 1 of the [Planning \(Hazardous Substances\) Regulations 2015](#). Major accident hazard pipelines are defined in the [Pipelines Safety Regulations 1996](#). HSE sets a consultation distance around major hazard sites and major accident hazard pipelines and planning authorities are required to consult HSE on relevant developments within a consultation distance.

As the proposed site for wholesale mixing and distribution facility in planning application 01092/2015 does not lie within the consultation distance of a major hazard site or major accident hazard pipeline, HSE is not a statutory consultee in respect of this application and therefore HSE has no comments to make.

The planning application indicates that the proposed facility will hold up to 1,800 litres of ethanol. Although ethanol is a flammable liquid, the quantity which will be present falls below the threshold

quantity at which hazardous substances consent is required – see Schedule 1 of the [Planning \(Hazardous Substances\) Regulations 2015](#), Therefore, the proposed facility would not require hazardous substances consent.

If planning permission is granted for this facility, when it is operational it will be subject to the requirements of [the Health and Safety at Work etc Act 1974](#) and any associated relevant legislation, including the [Dangerous Substances and Explosive Atmospheres Regulations 2002](#). Section 3 of the Health and Safety at Work etc Act 1974 requires the operator of the site to ensure, so far as is reasonably practicable, that people in the vicinity are not exposed to risks to their health or safety by activities carried on at the site.

Representations:

No comments have been received

Relevant Planning History

F/3/22/803/1992/7240/002/ Fire precaution work including fire escape Approved 1992
The remainder of the planning history relates to uPVC windows and advertisements

ANALYSIS

Principle of Development/Sustainability:

The site is located in a sustainable location, close to the town centre, which is served by bus routes and is easily accessible. The function room at present offers no employment opportunities according to the application form and under the proposal two part time jobs would be generated, although they would not reach sufficient hours for a full time equivalent. Nevertheless, in terms of economic development, this would have a positive effect and also represent a social benefit. In environmental terms, the risk of contamination and fire is governed by other, issue-specific legislation, as detailed above in the Health and Safety Executive's consultation reply. In planning terms, however, the site size falls below the HSE's remit for an involvement in this development proposal. The overall benefits of the proposed development are considered to outweigh the disadvantages and the proposal is considered to accord with adopted Policy SP1.

The site, although in A4 use, is effectively already in employment use and therefore only the specific character of that use would change under this proposal. As such, policy ED14 does not apply.

Design/Landscape:

The impacts of the development, apart from the occasional deliveries envisaged, would be limited to within the building. This is reinforced by the condition preventing outside operation of working processes. Subject to this safeguard there are no relevant external factors under this heading.

Neighbour Amenity:

The site is taller than surrounding buildings, but in close proximity to neighbouring properties, in particular upper floors. Therefore it is appropriate to safeguard amenity by preventing working hours exceeding those applied for. There remains scope for the condition to be amended at a later date once the proposed use of the site has commenced, if it can be demonstrated through continued operation that the use has no adverse impact on neighbour amenity.

Highways/Access:

There is on site employee car parking available at present to serve the function room and therefore it would be retained under the proposed use. In any case the site is in a sustainable location, as discussed above. With regard to access for deliveries, given the road width any parking in the street

would disrupt traffic flow, whether in connection with this site or any of the dwellings. Against this backdrop, occasional deliveries can be expected to the public house as a result of having a function room. The change of use proposed is considered likely to lead to no greater traffic generation. If there is an increase it is not considered to be a significant change to prevailing conditions under the current use of the site. Deliveries are anticipated to take no more than about 5 minutes per event.

Other Matters:

None.

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

Planning Policy

All standard policies listed (delete where not relevant, add others as relevant, including NPPF):

National Planning Policy Framework

West Devon Borough Council Core Strategy 2011

SP1 – Sustainable Development

SP10 – Supporting the Growth of the Economy

SP14 – Accessibility Planning

West Devon Borough Council Local Plan Review 2005(as amended 2011)

T8 – Car Parking

T9 – The Highway Network

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.

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PLANNING APPLICATION REPORT

Case Officer: Chris Gosling

Parish: Hatherleigh **Ward:** Hatherleigh

Application No: 01182/2015

Agent

Mr S Blakeman
Architecture & Design Technology
Rose Cottages
North Road
Exbourne
Okehampton
Devon
EX20 3SH

Applicant:

Mr R Brock
50 Moorview
Okehampton
EX20 3LB
50 Moorview, Hatherleigh, Okehampton, EX20
3LB

Site Address: Part Of Glebelands, Hatherleigh, Okehampton, Devon

Development: Outline application with all matters reserved for change of use of land and construction of live work accommodation

Reason item is being put before Committee:

At the request of the Ward Members - the recommendation is an "on balance" one. Supporting rural business is important and the Planning Committee needs to discuss the application.



Recommendation: Refusal

Reasons for refusal

1. This proposal would compromise the employment development of the remainder of the ED7 allocation and/or the residential amenity for future occupiers of the proposed live/work unit, if the remainder of the allocation were to be developed. This would be contrary to saved policies ED7 and H41 of the 2005 West Devon Borough Council Local Plan as amended 2011.

2. This proposal, should it be approved, would generate a requirement for a contribution under Section 106 towards the provision of affordable housing in West Devon Borough. The absence of such an agreement is contrary to policy SP9 of the adopted West Devon Core Strategy 2011.

Key issues for consideration:

- The impact upon the character of the area
- The location – is it sustainable?
- Adequacy of access arrangements
- Would accepting the development proposal compromise the rest of the ED7 allocation?
- Would the development of the rest of allocation ED7 have an adverse effect upon the residential amenity of the live/work unit?

Site Description:

The site lies outside of the built up boundary of Hatherleigh, separated from it by a field and accessed from a country lane, leading from the town towards Northlew. It consists of a field currently in equestrian use and would share its access with the existing field access to serve the stables connected to that use. The proposal would therefore change the existing unauthorised equestrian use of the land to residential curtilage/live work unit. The only other likely previous use of the land would be agricultural, as the site and surrounding land are fields in agricultural use, with the exception of the industrial estate. It is not known how long the equestrian use has been established on the site. The application forms claim the land use to be agricultural.

The 0.9 hectare site slopes from the north down to the south, where it is divided from the access lane by a hedgerow. To the north, in the same landholding, the slope continues up to the rear elevations of buildings of Hatchmoor Industrial Estate. The grazing land for the horses is separated from the stable area at present by a post and rail fence. The character of the landscape in the site's locality is open and agricultural, more immediately, equestrian. The access lane (unnamed) is a narrow country lane, does not support two way traffic and has no footway.

The landholding contains allocation ED7 in the adopted Local Plan Review (2011) of which this site is part. This allocation is specifically for the expansion of employment uses as explained in policy ED7.

The site lies in Flood Zone 1.

The Proposal:

This application seeks outline planning permission for the erection of a single live/work unit. Indicative plans show that this would take the form of two linked buildings, a workshop and a dwelling, with a narrow link between the two. Only the principle of development is to be tested at this stage, although in order to achieve a connection to the highway network, it is noted that the site is shaped such that the only access point would share or replace the existing access to the field and stables. Further detail is provided in the Design and Access Statement:

Design and Access statement

'The workshop building unit would be used for the restoration of classic and vintage motor vehicles. The business would in effect be an expansion of Exbourne Cross Garage, and as well as allowing this specialist part of the business to continue and expand, it would free up valuable space that is required at Exbourne. While this activity requires high quality workspace the actual number of vehicle movements would be quite small. It is estimated that 5 to 6 cars would undergo full restoration each year. Thus there would be minimal implication for traffic using the access road.'

'This application may reasonably be considered as the first phase of development of this land'.

Since this proposal is for a live/work unit and none of the Local Plan or Core Strategy policies specifically relate to such development, this proposal will be assessed under housing and economic development policies, recognising the inherent inter-relation of the two elements.

It is noted that the description of the proposal in the DAS, alongside the indicative site plan, is considered to strongly imply that a subsequent Reserved Matters application would feature two buildings that would later have the potential for straightforward subdivision: 'the workshop building unit'. While it is acknowledged that this is an outline application, if the link shown on the indicative plan were not to be built, or were to be built and subsequently demolished, the site would contain a detached workshop building and a detached dwelling. As the following analysis will demonstrate, if the proposal were for the workshop alone, the scheme would be completely compliant with policy.

Consultations:

- County Highways Authority:

Pre-application advice was given which stressed the difficulties in providing a new access to the site in that sightlines would have to be provided at the cost of the hedgerow. The proposal has taken this into account and proposes to share the live/work unit access with the existing equestrian one. Subject to the provision of adequate on-site parking and turning (part of the design at Reserved Matters stage, but conditioned at this stage) there is no objection.

- Environmental Health Section: No comments received
- Hatherleigh Town Council – Fully support the application as it will allow expansion of a local business.

- WDBC Drainage Officer – No comments received
- WDBC Landscape Officer – No comments received
- Environment Agency – Standing advice

Affordable Housing -

This application does not make provision for an affordable housing contribution. The affordable housing contribution will be required as per the Affordable Housing Code of Practice, this was adopted in March 2012 and the overarching policy is SP9 of the Core Strategy. Affordable Housing contributions are required for any new residential dwelling which is created unless they are excluded through planning conditions. The exceptions are detailed in the Code of Practice.

The application would need to be supported with a Section 106 agreement to pay the required contribution. The section 106 would require that 50% of the sums are due on commencement of the development and 50% on completion. If the applicant believes that the proposal would not be viable to provide an Affordable housing contribution, a viability assessment should be. Neither of these have been included with the application.

This is an outline application therefore the amount due cannot be confirmed at this time, however the legal agreement would be drawn up to state that a contribution would be required as per a formula. This is as follows:

Two bedroom house £6,000

Three bedroom house £7,875

Four + bedroom plus house £13,125

The off-site financial contribution is required to support affordable housing within the Borough of West Devon.

Representations

Neighbours have been consulted about the application in accordance with council practice and a site notice posted. This has resulted in receipt of 1 letter of representation, supporting the proposal.

Relevant Planning History

This site has no recorded planning history.

ANALYSIS

Principle of Development/Sustainability:

The site forms part of a specific Local Plan allocation for employment development, under policy ED7. It therefore has to be considered to be a sustainable location for such activities. The policy states that a flexible use of the land on the industrial estate is required in order to gain maximum employment benefit to the town. Though preference will be given for smaller, light industrial, manufacturing, office based businesses, other enterprises (for example in the service sector) will be considered if they offer significant employment opportunities. Policies SO7 and SO9 of the subsequent Core Strategy (which saved policy ED9) state that the Borough will plan for a balance of jobs and housing to maintain or improve existing levels of self-containment in existing settlements (SO7) and sustain an active and working countryside, acknowledging the importance of agriculture, tourism and small rural business. Furthermore, Policy SP10 promotes the diversification of the rural economy as well as the provision of business and employment land in the main towns, albeit this site sites just outside the town. The early publication version of Our Plan (2015), at Policy OP12, maintains the allocation of land at Hatchmoor for employment use, in order to enable the expansion of existing businesses from Hatherleigh and the surrounding area and/or support start-up businesses. This is not yet an adopted Plan.

Regarding the work part of the live/work unit, therefore, it is considered that the proposal meets the requirements of existing and emerging policies. The application form states that the proposal will create two new jobs. The remaining issue to be examined is therefore the residential part of the proposal, whether it would compromise the further development of the land allocation under policy ED7 and whether it meets sustainability criteria. On the application form, it is proposed that this accommodation will comprise three bedrooms. With the claimed generation of two jobs on site, it is considered to be highly unlikely that all employees of the employment part of the proposal will live at the site, threatening the functional integrity of the live/work unit.

While Core Strategy policy SP11 encourages rural regeneration, policy SP24 further requires that small scale development should be within, adjoining or closely related to settlement limits, where a need has been identified through the use of a Sustainable Rural Communities Toolkit. This proposal is not considered to meet these criteria.

Impact of this proposal on the rest of the ED7 Allocation:

This issue is considered to hinge on the access point to the site. It is understood that access can no longer be guaranteed to be from the existing estate as the Council has sold the land that linked the estate and the ED7 allocation. It is therefore considered unlikely that the new owner would choose not to build on the previously purchased land and instead provide a link to the ED7 site. Under these circumstances, the ED7 site can only be accessed from the lane and this lane is likely to be incapable of supporting the full employment development of the site. Whilst the current policy position is for employment development of the ED7 site, this was on the basis of achieving access from the Hatchmoor Industrial Estate and without that assurance, it is possible that in future plans this allocation will be deleted, due to the access difficulties.

This proposal therefore has to be judged against a situation where further development of the remainder of the allocation would necessarily have to have an access from the lane. Overall,

if this scheme were to be approved, there would potentially be a residential element of the live/work unit in close proximity to employment uses. This is considered to be a factor which could limit those potential uses in terms of noise and operating hours which would not be the case if, as clearly intended in the allocation, employment uses were to be surrounded by open countryside. The NPPF, at paragraph 123 makes clear that decisions should 'avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development' and 'recognise that development will often create some noise and existing businesses wanting to develop in continuance of their of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established'. While the policy specifies a preference for smaller light industrial, manufacturing and office based employment, the overall aim is to 'gain maximum employment benefit to the town.' Given that this aim requires the stated flexibility, it is considered that the introduction of a residential use on the site would work counter to this flexibility, with a consequential potential loss to employment growth for the town, notwithstanding the access difficulties. It is acknowledged that this live/work proposal is the only current one for (part of) the site, but without the residential element, as explained above, it would fulfil the policy requirements. It is also acknowledged that in the lifespan of the Local Plan, with the availability of a link from the Hatchmoor Estate, no employment proposals have come forward on this site. Balancing these factors, it is considered that as a live/work unit, the residential component of the proposal would compromise the remainder of the ED7 allocation promoted by the Local Plan and this forms one of the refusal reasons for this proposal.

Design/Landscape:

The impact of the proposal on the character of the area has to be understood in the context of the site being part of an allocation for employment use. In this context, the likely physical effect on the rural character of the area, despite the limited information in support of this outline application is not considered to be adverse. The hedgerow bounding the site would be unchanged under this proposal, with the existing access point shared.

Neighbour Amenity:

No near Neighbours, although the nearest dwelling supports the proposal.

Impact on amenity for future occupiers of the live/work unit:

The impact of the proposed residential element of the proposal on the potential employment use of the rest of the site has been examined above. While it is acknowledge that under present landownership arrangements, the applicant would have the choice of who the balance of the land is sold/leased to, this ownership situation can be subject to change. The future users of the rest of the ED7 site are unknown, but the policy makes clear the types of use that would be acceptable. In addition, policy ED8 makes clear that on the (existing) industrial estate the only permitted uses would be B1, B2 and B8, giving rise to the existence and future possibility of manufacturing and out of hours lorry movements, both potentially inimical to residential amenity.

Furthermore, the policy emphasis is on achieving maximum employment and this follows principles of sustainability in achieving the most efficient and effective use of land, bringing the greatest economic and social benefit to the town. In order to achieve this aim, it could be that a 24 hour industrial process, which is partly outdoors, comes forward on land next to the live/work unit. With the residential element there first, such a use is unlikely to be approved,

as examined above, which compromises the flexibility of employment generation within the allocation. But if a potential 'bad neighbour' use were to be allowed in line with the broad sweep of policy, then there could be adverse effects on the occupiers.

With a live/work unit, it is a given that nuisance from the work element can be controlled by the occupiers. A Section 106 Agreement would need to be in place to ensure that only the occupiers of the unit live and work there. The application form's claim of generating two jobs runs counter to this aim, but it is acknowledged that it is possible that both workers would live in the three bedroom residential part. In the absence of in principle support for the scheme, this factor has not been explored.

Highways/Access:

No changes to any access arrangements. Local Plan policy T2 applies. Although the access would be shared with the stables/ equestrian use, this is within the same landownership at present, but this would not always necessarily be the case. The development of the rest of the allocation would lead to a situation where residential and employment traffic would use the same access, but in an uncontrolled manner. However, given the limited residential part of this proposal, this is not considered to lead to a high likelihood of conflict on its own. Of greater importance is the relatively remote location of a dwelling that relies on the nearby town for obtaining goods and services. Pedestrian movement is not supported in the narrow lane, with a footway and given the limited width of the lane, providing a footway by condition or through a Section 106 Agreement would be impractical for effective traffic flow. When the site and allocation are in employment use, it would be likely that it would be accessed by foot and bicycle necessarily via the lane. Pedestrians using the lane to access the site would also be vulnerable from traffic movements. The very nature of a residential use in this location is therefore considered to promote car-borne journeys for safety reasons and therefore reduce the sustainability of the location, or to lead to the risk of injury in a lane which will in time support a greater number of traffic movements when the full ED7 site is occupied and accessed from this direction. This factor has to be balanced against the material consideration of the lane already supporting the town's cemetery, opposite the site and a few other remote dwellings further out of town. It is considered that the impact on future occupants of the live/work unit could not be sustained at appeal and is therefore not put forward as a refusal reason.

Could the development proposal be made sustainable through planning controls?

Notwithstanding the fact that the proposal is considered to be contrary to policy, it is acknowledged that the identified harm that it would cause is finely balanced with the economic benefit that the employment use would bring. The NPPF cautions that sustainable development can be achieved when a proposal can be made sustainable, for instance through the imposition of planning controls. In this case, it is considered that conditions or a Section 106 could ensure that the residential element site is only used to accommodate those working in the work part of the unit. However, this could potentially prevent the business from growing its employee base and run counter to the policy intention requiring maximum employment within this allocated site. Since the inherent sustainability of a live/work unit is for employees not to have to travel to their place of work, this factor could potentially be undermined by the normal planning controls. It is acknowledged that although there is a projection on the application form for the creation of two jobs, in reality only one may be generated, allowing the site to operate in a more inherently sustainable manner, but with lesser economic benefit. The assessment must however be made on the available information. It is therefore not considered that planning controls could help make the site

sustainable, while allowing the business to grow and provide a greater number of jobs to benefit the local, rural economy.

Housing Need

West Devon's latest Annual Monitoring Report makes clear that a five year housing supply within the Borough is established. This proposal would provide residential accommodation, but the policies that mitigate against this, mentioned above take precedence in line with the plan led system advocated by the NPPF.

Affordable Housing

The comments of the Affordable Housing Officer for the Borough appear above. A contribution would be required through a Section 106 Agreement, commensurate with the number of bedrooms in the residential component of the proposal towards the provision of affordable housing within the Borough. This has not been sought in light of the lack of support for the proposal and the absence of such an Agreement, contrary to policy SP9, forms the second refusal reason for this proposal.

Conclusion

It is acknowledged that the proposal is the only one that has come forward on this allocated site and due to landownership issues, it may not be viable due to the constraint of having to use the lane to access the allocated site, to maintain its prescribed use in subsequent plans. The decision requires to be taken on the basis of current policy, in the light of all material considerations. The material considerations are not considered in this case to outweigh policy: Although there is some potential for the proposed use being sustainable, in this form there are doubts about its sustainability credentials in practice. This proposal also does not meet the prescribed use of the site in respect of its residential element. This component of the proposal is considered to compromise the employment generation of the balance of the ED7 allocation, to the detriment of the potential economic benefits to the Hatherleigh community. The key issue to be balanced is one of limited benefits today, set against potential benefits of employment generation in the short to medium term, to be understood in the light of the applicants having ultimate control of this factor through their control of access to and ownership of the ED7 allocation. This issue is considered to be finely balanced, but in the absence of this proposal fully representing NPPF-compliant sustainable development, it is considered that there is demonstrable harm to the policies quoted in the refusal reasons and that the material considerations are insufficient to outweigh this harm. The proposal is recommended for refusal on that basis.

Planning Policy

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

Planning Policy

NPPF – in particular paragraph 123, regarding noise impacts on health and quality of life as a result of new developments.

West Devon Borough Council Core Strategy 2011

SP1 Sustainable development

SP5 – Spatial Strategy

SP9 – Meeting Housing Needs

SP10 – Supporting growth of the economy

SP11 – Rural Regeneration

SP20 - High Quality design

SP24 – Sustainable Rural Communities

West Devon Borough Council Local Plan Review 2005(as amended 2011)

BE18 – Noise Generating Development

ED7 – Land to the South of Holsworthy Road Employment Area

ED8 – Use Classes within Holsworthy Road Employment Area

NE10 – Protection of the Countryside and Other Open Spaces

H28 – Development within Defined Settlement Limits

H41 – Business uses in Residential Areas

T2 – Pedestrian and Cyclist Safety

T8 – Car Parking

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.

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PLANNING APPLICATION REPORT

Case Officer: Jenny Draper

Ward: Okehampton North

Application No: 00987/2015

Agent/Applicant:

Mr Andrew Hunter

AgriPlanning

Applicant:

Mr I Fewkes

The Hayloft

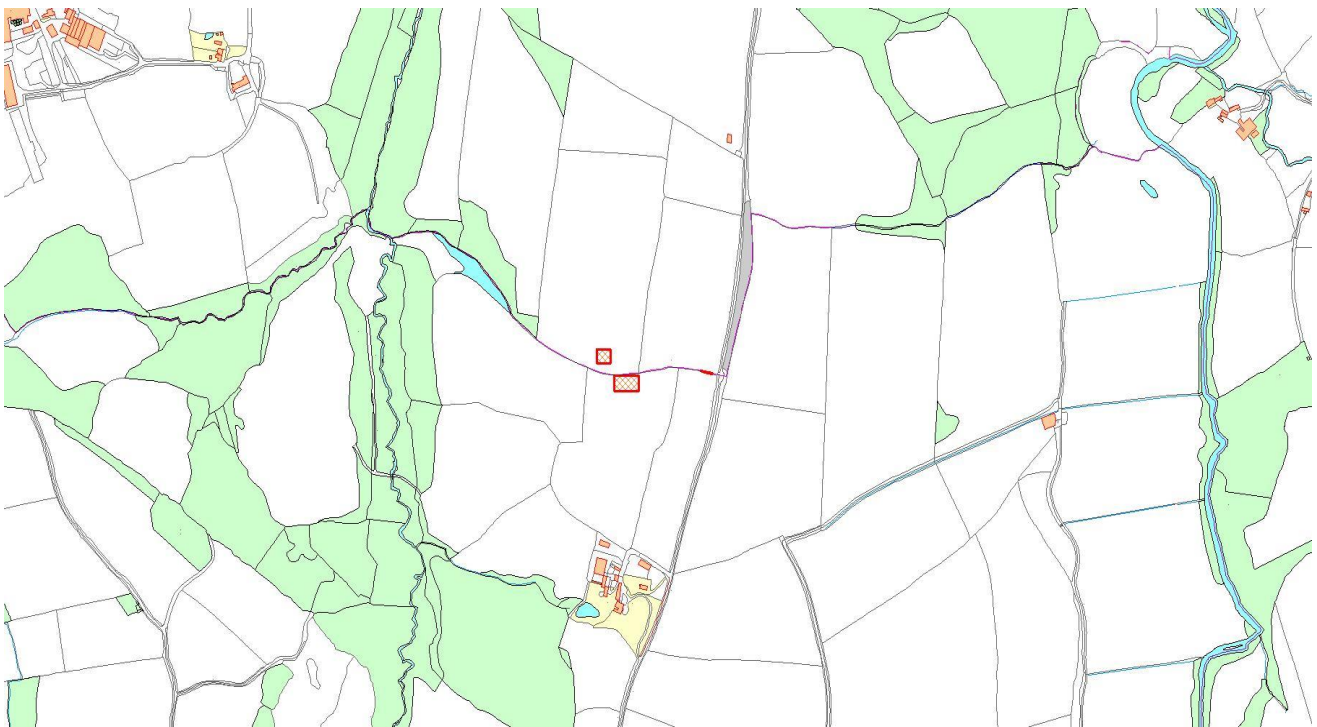
Hockworthy

Wellington

TA21 0NQ

Site Address: Land at NGR SX 590990, Okehampton, EX20 3BD

Development: Full application for erection of new agricultural livestock building and siting of a temporary agricultural workers dwelling.



Recommendation:

Conditional Consent

Conditions

Commencement within three years

Accord with plans

Agricultural use only

Agricultural building to be removed if use ceases

Agricultural buildings to be completed before the temporary dwelling is occupied

Agricultural workers dwelling to accord with the definitions and criteria of a caravan and be removed on or before three years from the date of this decision.

Prior to installation of dwelling, details of rain water and sewage disposal to be agreed

Removal of PD rights – curtilage outbuildings

Agricultural Tie

Key issues for consideration:

New buildings in the countryside – agricultural justification

Visual impact

Site Description:

Agricultural holding of 150 acres in open countryside setting located north of Okehampton. The development site is approximately 350m north of the nearest residential property at the group of dwellings known as Goldburn to the south.

The Proposal:

Erection of a new agricultural livestock building and siting of a temporary agricultural workers dwelling, close to previously approved agricultural storage building, approved under application 00374/2015.

Consultations:

- County Highways Authority - No comment
- Parish Council
 - Support if genuine need – Exbourne and Jacobstowe
 - Refuse – Inwardleigh and Follygate Parish
- Agricultural Consultant - Application satisfies the criteria as set out in both the NPPF and local plan policies H31 and H32

Representations

None

Relevant Planning History

00374/2015 – Prior approval for erection of agricultural storage building (not livestock) - Approved

ANALYSIS

The site is located 4.5 kilometres north of Okehampton to the west of the minor country lane from Okehampton to Jacobstowe. The land gently undulates away from Goldburn Cross to Jacobstowe which is located approximately 2.5 km to the north of the site.

Access is via an existing farm gate from the lane on the eastern boundary.

The applicant will operate 150 ewes with the intention to introduce a 90 head calf herd which will be fully reared within the proposed livestock building. It is proposed to increase that level up to approximately 115 head over a three year period.

Principal of the development

Policy H31 states;

Residential development, outside the defined limits of settlements and where Policy H29 does not apply will not be permitted unless all the following criteria are met:

- (i) There is written independent evidence that of a genuine and sustained need for the dwelling, that need being based upon an essential agricultural, forestry or horticultural requirement for a full time worker to be resident on the holding;
- (ii) The local planning authority has no reason to believe that the need for an additional dwelling has arisen primarily due to the recent sub-division of the holding and/or the recent disposal of a dwelling from the holding;
- (iii) There is no building on the holding suitable for conversion to a dwelling;
- (iv) The dwelling is sited close to existing agricultural buildings unless it can be clearly demonstrated that a more isolated location is essential for the operation of the holding; and
- (v) The dwelling is in keeping with the character of the area in terms of scale, design and materials.

Policy H32 states;

Where the creation of a dwelling is primarily dependent on the creation of a new, or the major expansion of an existing, agricultural, horticultural or forestry enterprise, any permission will be phased to ensure that the new enterprise is in operation prior to the erection of a permanent dwelling. Where the viability of a new enterprise needs time to become established, permission will only be granted for temporary accommodation for a maximum period of 3 years.

Policy ED18 states;

New agricultural buildings will be permitted where they are of an appropriate size for their proposed function and are designed and located so as to minimise their impact on the landscape.

The application is recommended for approval for the reasons set out below as it is considered that the proposed agricultural buildings and the temporary agricultural workers dwelling comply with the requirements of the policies above and do not result in other harm or conflict with other relevant development plan or national policies.

Agricultural justification

It is considered that this application satisfies the criteria as set out in both the NPPF and local plan policies H31 and H32.

In August 2015, the applicant purchased 59 hectares (approximately 146 acres) of farmland at the auction of Goldburn Farm, which was sold in various lots. The land is predominantly

temporary pasture, arable and areas of woodland. The holding perimeter is stock fenced throughout with established and well-managed indigenous mixed thorn, hazel and beech hedges dividing all the fields and on all boundaries.

There is currently no agricultural dwelling on the holding and the proposal is to locate a temporary 'caravan' type structure with a condition that it be removed if the agricultural use of the buildings ceases or after a period of three years. This will allow the new farm enterprise to become established and start to expand. The applicant will then be able to make an application and justify the presence of a permanent agricultural dwelling of a more traditional build.

It is no longer a requirement to submit business or financial plans, which was referred to as the 'financial test' to justify the temporary agricultural workers dwelling and no such information has been submitted. It is considered if the applicant, or the agent, were asked to provide business plans or financial plans to justify that the proposed enterprises have either been planned on a sound financial basis or were likely to be viable and sustainable in the medium to long term, then those budgets and plans could be provided to make the proposals satisfy this particular criteria. The temporary agricultural workers dwelling is recommended with a condition requiring the two agricultural buildings are completed before the temporary dwelling is occupied. As the workers dwelling is justified in conjunction with the expanding business and livestock buildings it is considered both reasonable and necessary to ensure the agricultural buildings are provided prior to the temporary agricultural workers dwelling being occupied.

In the opinion of the authority, the objection received from Inwardleigh and Follygate Parish Council is misleading. The first application mentioned in their letter 00691/2015 pertains to a separate site at Goldburn Farm and an existing building that the owners were proposing to convert under Class Q of the GPDO. Bereavement then forced the sale of Goldburn at auction in August during which this plot was sold to the applicant of this application. The applicant bought the land without any buildings.

Highways, drainage and other matters

The County Highways Officer has offered no comments to the proposed agricultural buildings and temporary agricultural workers dwelling. The access is considered suitable and the site has sufficient parking.

A condition is recommended for details of surface water and foul drainage details are approved prior to occupation to ensure these details are suitable.

Due to the isolated nature, the proposed temporary dwellings and agricultural buildings do not result in harm to the living conditions of nearby occupiers. The mobile home by nature of it being a caravan does not enjoy permitted development rights for extensions or external alterations, however it is recommended to restrict curtilage outbuildings in order to protect the sites countryside location.

The proposed materials are acceptable and the siting does not result in the buildings being overly dominant in the wider landscape.

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

Planning Policy

All standard policies listed

West Devon Borough Council Core Strategy 2011

- SP1 – Sustainable Development
- SP3 – Renewable Energy
- SP5 – Spatial Strategy
- SP8 – Inclusive Communities
- SP10 – Supporting the Growth of the Economy
- SP11 – Rural Regeneration
- SP17 – Landscape Character
- SP19 – Biodiversity
- SP20 – Promoting High Quality Design
- SP21 – Flooding

West Devon Borough Council Local Plan Review 2005(as amended 2011)

- NE10 – Protection of the Countryside and Other Open Spaces
- H31 – Residential Development in the Countryside
- H32 - Residential Development in the Countryside
- H33 - Residential Development in the Countryside
- ED16 – Development for Employment in the Countryside
- ED17 – Farm Diversification
- ED18 – New Farm Buildings in the Countryside
- ED19 – Agricultural Related Activities

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.

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West Devon Borough Council **Agenda Item 6**
PLANNING AND LICENSING COMMITTEE 2-Feb-16

Appeals Update from 23-Nov-15 to 18-Jan-16

Ward Exbourne

APPLICATION NUMBER : **00579/2015** APP/Q1153/W/15/3136228
APPELLANT NAME: Mrs Kath Farrant
PROPOSAL : Outline application with all matters reserved for 10 dwellings.
LOCATION : Land To The Rear Of Copper Beeches Exbourne Okehampton Devon EX20 3SH
APPEAL STATUS :
APPEAL START DATE: 16-December-2015
APPEAL DECISION:
APPEAL DECISION DATE:

Ward Lydford

APPLICATION NUMBER : **00875/2015** APP/Q1153/W/15/3136708
APPELLANT NAME: Mr & Mrs Charles Middler
PROPOSAL : Full application for erection of dwelling.
LOCATION : Land North Of Bolts House Lydford Okehampton Devon EX20 4BE
APPEAL STATUS :
APPEAL START DATE: 17-December-2015
APPEAL DECISION:
APPEAL DECISION DATE:

Ward North Tawton

APPLICATION NUMBER : **01433/2014** APP/Q1153/W /15/3129102
APPELLANT NAME: Mr R Arcscott-Land Adjacent To 1 , Taw Vale Avenue , North T
PROPOSAL : Householder application for the installation of rooflight to create roof space accommodation.
LOCATION : Land Adjacent To 1 Taw Vale Avenue North Tawton Devon
APPEAL STATUS : Appeal Lodged
APPEAL START DATE: 23-July-2015
APPEAL DECISION: Upheld (Conditional approval)
APPEAL DECISION DATE: 18-December-2015

Ward Tamarside

APPLICATION NUMBER : **01204/2014** APP/Q1153/W /15/3089688
APPELLANT NAME: Mr R Checkerly-Ostashevo , Portington , Lamerton , Tavistoc
PROPOSAL : Erection of a dwelling
LOCATION : Ostashevo Portington Lamerton Tavistock Devon PL19 8QY
APPEAL STATUS : Appeal Lodged
APPEAL START DATE: 09-July-2015
APPEAL DECISION: Dismissed (Refusal)
APPEAL DECISION DATE: 02-December-2015

Ward Tavistock North

APPLICATION NUMBER : **00259/2015** APP/Q1153/W /15/3035736
APPELLANT NAME: Miss I Chambers-The Round House , Launceston Road , Tavisto
PROPOSAL : Demolition of the existing milking parlour and erection of a new dwelling on the same footprint.
LOCATION : The Milking Parlour Higher Wilminstone Farm Wilminstone Devon PL19 0JT
APPEAL STATUS : Appeal Lodged
APPEAL START DATE: 07-August-2015
APPEAL DECISION: Dismissed (Refusal)
APPEAL DECISION DATE: 08-January-2016

APPLICATION NUMBER : **00610/2015** APP/Q1153/W/15/3138936
APPELLANT NAME: 3H Investments Ltd
PROPOSAL : Outline application with access to be determined for residential development of up to 110 units including 40% affordable housing, parking, open space, play space and associated infrastructure.
LOCATION : Land Ne Redmoor Close Land Ne Redmoor Close Butcher Park Hill Tavistock Devon
APPEAL STATUS :
APPEAL START DATE: 09-December-2015

