

West Devon Development Management and Licensing Committee



West Devon
Borough
Council

Title:	Agenda								
Date:	Tuesday, 18th September, 2018								
Time:	10.00 am								
Venue:	Chamber - Kilworthy Park								
Full Members:	<p>Chairman Cllr Sanders</p> <p>Vice Chairman Cllr Roberts</p> <p><i>Members:</i></p> <table> <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 Yelland</td></tr> </table>	Cllr Baldwin	Cllr Moyse	Cllr Cann OBE	Cllr Parker	Cllr Hockridge	Cllr Pearce	Cllr Mott	Cllr Yelland
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Cllr Cann OBE	Cllr Parker								
Cllr Hockridge	Cllr Pearce								
Cllr Mott	Cllr Yelland								
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 14 August 2018

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) 0989/17/FUL

5 - 14

Erection of 6no. supported living units of accommodation

Hele View, Meeth, Devon, EX20 3QN

(b) 1771/17/FUL

15 - 28

New dwelling Land adjacent to, 10 Upper Crooked Meadow, Okehampton, EX20 1WW

6. Planning Appeals Update

29 - 30

7. Adoption of procedures and fees in relation to the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

31 - 38

Agenda Item 4

At a Meeting of the **DEVELOPMENT MANAGEMENT & LICENSING COMMITTEE** held at the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the **14th** day of **AUGUST 2018** at **10.00am**

Present: Cllr P R Sanders – Chairman

Cllr R E Baldwin	Cllr W G Cann OBE
Cllr L J G Hockridge	Cllr B Lamb
Cllr C Mott	Cllr D E Moyse
Cllr G Parker	Cllr T G Pearce
Cllr J Yelland	

COP Lead Development Management (PW)
Planning Senior Specialist (AHS)
Planning Specialist (CS)
Solicitor (SN)
Specialist Democratic Services (KT)

***DM&L 06 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Cllr A Roberts for whom Cllr B Lamb substituted.

***DM&L 07 DECLARATION OF INTEREST**

Members were invited to declare any interests in the items of business to be considered and the following were made:

Cllr R E Baldwin declared a Personal Interest in application **0978/18/OPA**: Outline application with all matters reserved for 1 no. live work unit – Land west of Cannon Barn Cottages, Lewdown, by virtue of knowing the applicant when he was his local Ward Member, and he remained in the meeting for the duration of this item and took part in the debate and vote on this application;

Cllr C Mott declared a Personal Interest in application **0978/18/OPA**: Outline application with all matters reserved for 1 no. live work unit – Land west of Cannon Barn Cottages, Lewdown, by virtue of knowing the applicant and being his local Ward Member, and she remained in the meeting for the duration of this item and took part in the debate and vote on this application;

Cllr T G Pearce declared a personal interest in all applications by virtue of being a Member of the Devon Building Control Partnership. He remained in the meeting and took part in the debate and vote on the item.

***DM&L 08 CONFIRMATION OF MINUTES**

The Minutes of the Development Management and Licensing Committee Meeting held on 19 June 2018 were confirmed and signed by the Chairman as a correct record.

***DM&L 09 PLANNING, LISTED BUILDING, TREE PRESERVATION ORDER AND ENFORCEMENT REPORTS**

The Committee considered the applications prepared by the Development Management Specialists and considered also the comments of Town and Parish Councils together with other representations received, which were listed within the presented agenda reports and summarised below, and **RESOLVED**:

(a) Application No: 0978/18/OPA Ward: Bridestowe

Site Address: Land west of Cannon Barn Cottages, Lewdown

Outline application (all matters reserved) for 1no. live/work unit

Case Officer Update: None

Speakers included: Objector: Mrs Audrey Murphy; Supporter – Mrs Gill Makin; Parish Council representative – Cllr Dunn; local Ward Members – Cllrs Mott and Hockridge

RECOMMENDATION: Refusal

COMMITTEE DECISION: Refusal

***DM&L 10 PLANNING APPEALS UPDATE**

The Committee received and noted the updated list of Planning Appeals including Enforcement Appeals.

DM&L 11 AMENDMENTS TO THE PUBLIC PARTICIPATION SCHEME FOR DEVELOPMENT MANAGEMENT

The Committee were presented with a report that sought approval to amend the Development Management Public Participation Scheme in light of General Data Protection Regulations.

During discussion, one Member stated that restricting all speakers other than Ward Members was not right, and it was **PROPOSED, SECONDED** and on being put to the vote declared **LOST** that Ward Members also be restricted to speaking for three minutes. Whilst Members did not agree with a restriction of three minutes, they did agree that a restriction in line with the existing Council Procedure Rules to speak for five minutes would be appropriate. It was then **PROPOSED, SECONDED** and on being put to the vote declared **CARRIED**, that the public participation scheme be further amended so that Ward Members are limited to speaking for a maximum of five minutes. It was made clear that this would not restrict Ward Members sitting on the Development Management and Licensing Committee from being able to take further part in the debate on an application.

One Member asked that the public participation scheme be amended to include notification that the meeting may be recorded. Another Member asked that the scheme be amended to clearly show that questions of clarity could be asked of each speaker.

It was then:

RESOLVED that Council be **RECOMMENDED**:

1. That the proposed amendments to the Development Management Public Participation Scheme be approved, as set out in Appendix 1; and
2. The Public Participation Scheme be further amended so that Ward Members are limited to speaking for a maximum of five minutes

(The Meeting terminated at 11.40am)

Chairman

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PLANNING APPLICATION REPORT

Case Officer: Tom French

Parish: Meeth **Ward:** Hatherleigh

Application No: 0989/17/FUL

Agent/Applicant:

Mr Chris Tyson
40 Normandy Way
Walker Lines Industrial Estate
Bodmin
Cornwall
PL31 1EX

Applicant:

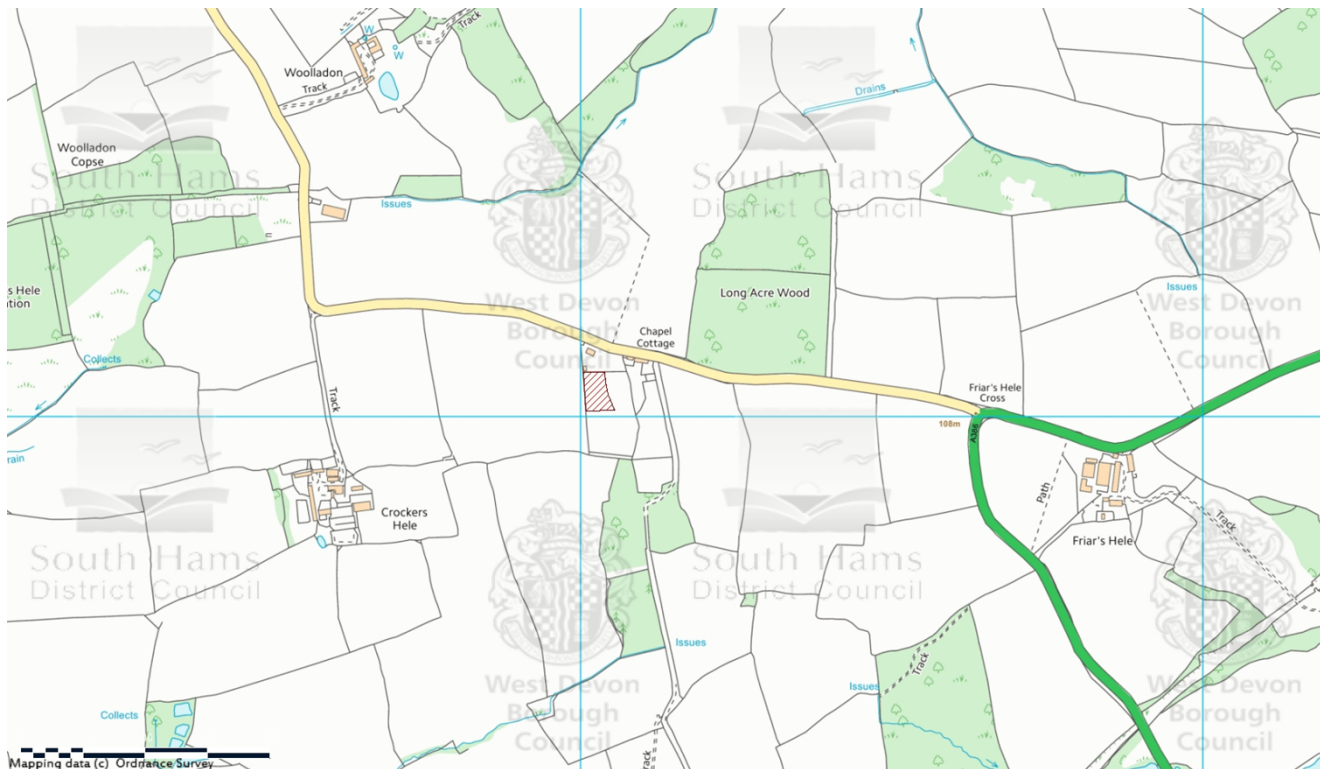
Mrs C Barkwell
Made-Well Centre
West Fishleigh Farm
Hatherleigh
EX20 3QA

Site Address: Hele View, Meeth, Devon, EX20 3QN

Development: Erection of 6no. supported living units of accommodation

Reason for item being called to Committee: At the request of Ward Councillors for the following reasons:

- We don't think that this sort of provision has been looked at in the Joint Local Plan
- Saying that Meeth Parish does not have any local need is missing the point. This sort of provision would have residents from Devon if they were suitable.
- Being isolated is a great advantage for the residents living in this sort of facility, where they need peace and quiet. Public transport is not the issue.



Recommendation: Refusal

Reasons for refusal:

1. The development would result in the erection of 6No isolated homes in the countryside in a location that has poor access to services, leading to a reliance on private transport. Whilst there is an identified need within the borough for affordable supported living accommodation, there is no identified need within the Meeth Parish Area and is considered to not meet the tests required to constitute a rural exceptions site. In the absence of compliance with the requirements of NPPF paragraph 79 exceptions, it is concluded that the proposal is an unsustainable pattern of development, contrary to the aim stated in part 2 of the Framework of achieving sustainable development, and at odds with existing and emerging local plan policies.

Key issues for consideration:

Principal of the development, impact on landscape, neighbouring residents, highways and drainage.

Site Description:

The application site forms part of a field to the south of 'Hele View'. The site has a default agricultural use and is used for agricultural purposes.

Within the wider blue line there is a dwelling 'Hele View' with residential curtilage, along with access to the highway and remaining agricultural land.

The site is not within a defined settlement, Meeth is approximately 1.7 miles to the northeast. Meeth is identified as a settlement that can accommodate small scale development, however it has a very limited range of services. Hatherleigh is the nearest 'service' settlement being approximately 2 miles to the south.

The site is in the countryside in policy terms, however there are neighbouring properties to the east of the application site, a solar farm is sited within the field to the west.

The Proposal:

The erection of 6No supported living units. The proposed units would be sited to the south of 'Hele View' in the area of land which is currently used for agricultural purposes.

The proposed units would be in the form of single storey 'lodge' style buildings. 3No units would be 1 bedroom and 3No would be 2 bedroom. Each would contain a living room/kitchen and shower room as well 1 or 2 bedrooms. Parking would be provided to the front and each unit is proposed to have a modest garden area.

Consultations:

- County Highways Authority: From a highway point of view, the existing access is acceptable to serve the proposed development with the modest level of additional vehicular trips that will arise. Although the visibility in the leading traffic direction is marginal, it is acceptable having regard to the observed approach speeds from that direction.

Suitable conditions are therefore recommended to be imposed on any planning permission granted.

- Meeth Parish Council: Meeth Parish council objects to this application.

The location is deemed inappropriate for the purpose and the adjacent field was identified as 'Unsuitable for development' in the recent Joint Local Plan. The existing facility at Made Well would be far more suitable.

The concept of 'shared ownership' of the units by vulnerable adults, whom are unlikely to be permanent residents in what are described as 'accommodation units', requires to show 'proof of need'.

The references to the Tarka Trail at this location as an amenity are spurious as this has not yet been decided or built.

- Devon County Education Authority: No requirement for education contributions

Representations:

Representations from Residents

Both support and objection comments have been received

Objection

- Loss of productive agricultural land
- Meeth Neighbourhood plan at advanced stage
- Proposed development not in accordance with policies contained within Meeth Neighbourhood Plan
- The placement of vulnerable adults in a remote rural environment is not a positive sustainable approach to providing home ownership options
- These homes would be better sited within the curtilage of the Madewell centre or Hatherleigh where services such as transport connections, schools, shops, local health care and local employment is accessible
- Irregularities in applications and other applications submitted by applicant
- The proposed site for building is directly adjacent to a solar panel field, this has inherent dangers attached
- Harm to landscape resulting from buildings
- Tarka trail is not easily accessible due to gradients
- Highway safety concerns
- Pre-application enquiry not published
- Plan showing link from site to Tarka Trail is a misrepresentation of the current position
- Enforcement action not been taken
- Site in unsustainable location, adjacent site considered unsuitable for residential at SHLA process
- Appeal for similar proposal at Price of Peace dismissed
- Waste storage issues
- Drainage issues, land unsuitable for septic tank
- Approval would set a precedent for other such developments in inappropriate locations

Support

- I write in general support of this planning application. I have no connection with Made Well, but I cannot see why this Parish Council is unable to consent to six units offering support to people with learning difficulties in a rural location away from the main arterial road, and adjacent to the main support centre from which it will be managed. If the residents of this village cannot offer support to others who are less fortunate than us, a chance to experience and develop work and skills experience in rural Devon in this small way, I would say that this says something about the community in which we live. I wish to make it clear that the Parish Council is not necessarily representative of all the Parish residents, hence my response.

Representations from Internal Consultees

Landscape officer – No objection, with provision of onsite landscaping the proposed units will not be overly prominent or harmful to the wider landscape setting

Drainage – Objection due to insufficient information provided

Affordable Housing officer: I have no objection to the principal of supported affordable housing, especially with it being such a low number. However, I am not comfortable with agreeing to supported housing being built without adequate evidence to support this. My additional concerns are that future occupiers would not have a local connection to Meeth as per the policy requirements of a Rural Exceptions Site. Should robust evidence come forward which is accepted by Devon County Council and West Devon Borough Council to provide supported housing meeting a local need to Meeth, a location better related to the village would be preferred.

Relevant Planning History

None relevant

ANALYSIS

Principle of Development/Sustainability:

The principal issues to be considered are whether the site is a sustainable site for development and whether there is an exceptional need for the development in this location.

The site falls outside of a defined development boundary where development is strictly controlled. A site nearby (Giffords Hele Farm) was put forward as part of the Strategic Housing Land Availability Assessment (SHLAA) process in July 2016 and was concluded to be “an isolated site with poor access to services”.

Paragraph 79 of the National Planning Policy Framework states;

Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;

b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;

c) the development would re-use redundant or disused buildings and enhance its immediate setting;

d) the development would involve the subdivision of an existing residential dwelling; or

e) the design is of exceptional quality, in that it:

- is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and

- would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

The development of isolated homes in the countryside would be likely by definition to be in a location that has poor access to services, leading to a reliance on private transport. In the absence of compliance with the requirements of paragraph 79 exceptions, it is concluded that the proposal is an unsustainable pattern of development, contrary to the aim stated in part 2 of the Framework of achieving sustainable development, and at odds with existing and emerging local plan policies.

The application site is some way from any settlement boundary; hence the reason it falls to be considered as isolated homes in the countryside, although there is sporadic built form nearby and in particular on eastern side of the site. Nevertheless, the development of the site would be further south than neighbouring built form. As such, it is considered to be an isolated site and the provisions of paragraph 79 apply.

Meeth village has a very limited range of facilities and services with Hatherleigh being the local service centre, which is some 2 miles away from the site.

Sustainable Development and Housing Land Supply:

The Council cannot demonstrate a deliverable five year supply of housing land. Paragraph 11 of the Framework states that relevant policies for the supply of housing should therefore not be considered up-to date. However, just because they are out of date does not mean that they no longer apply. It is considered that the proposed development would conflict with several development plan policies by reason of its location and limited accessibility to essential services. Recent appeal decisions within West Devon have concluded that Policies H31 and SP5 are relevant policies for the supply of housing and they therefore attract very limited weight. Policies SP1 and NE10 are not specific for the supply of housing and are not necessarily out of date, but they pre-date the Framework and have some inconsistencies with and therefore have only moderate weight for the purposes of assessing this planning application.

However, when weighed against paragraph 7 and 8 of the NPPF which state that “the planning system is to contribute to the achievement of sustainable development” and goes on in paragraph 8 to outline the need for proposals to meet the 3 objectives, which are the social, economic and environmental element to meet the requirements. Whilst undoubtedly, there is a need for supported living, the location is considered to be unsustainable and therefore the three requirements of sustainable development are not met.

Affordable housing and need for the proposed units:

The application has been accompanied by supporting information submitted by the applicant, which indicates the need for such accommodation. However an in depth report by Devon County Council and the council has not yet been commissioned. The council accepts that there is a need for supported living accommodation within the borough. This detailed information is due to be completed by Devon County Council in the near future, however we are not aware of a publication date at the time of writing this report.

The applicant has also put forward the units to be affordable and has agreed that if approved, a S106 agreements tying the units to be an intermediate home ownership in conjunction with the help to buy scheme and meet a local need. If both of these elements are met, then the scheme could be considered as a rural exceptions site. However, in terms of local need, this could not be tied down to local needs as the Homes England funding does not allow for such restrictions.

The accompanying text to Strategic Policy 9, Meeting Housing Needs states in paragraph 4.49;

Saved Local Plan Policy H37 remains relevant and it is not proposed to alter it in this Core Strategy. The dwellings provided through it will be welcomed and will support the strategy of maintaining the viability of rural communities. The policy states that:

“As an exception to other planning policies and proposals, planning permission will be granted for development adjoining the defined settlement limits of villages to provide affordable housing to meet local needs where the Borough Council is satisfied that those needs cannot be met in any other way.

Such proposals will be required to satisfy the following criteria:

- (i) The development should be sympathetic to the form and character of the settlement;*
- (ii) The number of units should not exceed the identified local need; and*
- (iii) The proposal must in all other respects conform to normal planning and highway requirements.*

The Council will seek to ensure that the initial and subsequent occupants are controlled by condition

or agreement to ensure that such housing remains affordable to those in need.”

There is also a requirement for the affordable units to meet the requirements of Core Strategy Policy 24, which states that “In the local centres and villages of West Devon, small scale development within, adjoining or closely related to settlement limits will be permitted where a need has been identified through the use of the Sustainable Rural Communities Toolkit and, where appropriate, a Parish Housing Survey has been undertaken.” A Meeth Housing needs survey has been undertaken and it has not identified the need for the supported living accommodation within the parish. In addition, due to the distance from the site to the village of Meeth, the site is considered to not be adjoining or closely related to the settlement limits of Meeth and is therefore considered unsuitable for affordable housing and supported housing as there will be a reliance on services, which would primarily be met in Hatherleigh or other larger settlements.

The Sustainable Rural Communities Toolkit also requires affordable housing to come forward with support from the community and Parish Council, which in this instance it does not.

Therefore, as the proposed accommodation is not likely to meet a local need and evidence to justify the supported housing in this location has not been satisfactorily provided, it is considered to not pass the requirements to be positively accepted as a rural exception site.

In conclusion, whilst there is an identified need borough wide for supported living accommodation, there is no identified need within the Meeth Parish Area and as such, the proposal constitutes unsustainable development.

Design/Landscape:

The proposed units of accommodation are acceptable in design terms, their positioning on the site appearance and scale would much like a small scale tourist development which is a common feature within the wider West Devon landscape.

The site is well screened to the south and west, with established planting on the eastern boundary of the wider site. If recommended for approval, a landscaping scheme would be controlled via condition to ensure that the development integrated into the wider landscape and the proposed planting was provided and maintained for a period of time.

The Landscape Officer has offered no objections to the proposed development.

Neighbour Amenity:

The proposed units of accommodation would not result in a loss of privacy or light to adjacent occupiers, the nearest unrelated residential are to the northeast and at a sufficient distance to not be detrimentally affected by the proposed development.

Highways/Access:

The site is served by an existing highway access, subject to conditions, the County Highways Engineer has offered no objections subject to conditions if the application were to be recommended.

Drainage:

The proposal does not include detailed designs for the disposal of foul and surface water. The submitted information indicates that the use of septic tanks for foul waste is the preferred option. It is considered that a package treatment system would be more suited to serve the proposed units and therefore, if recommended for approval, conditions requiring these details to be agreed prior to installation would be recommended.

In respect of surface water drainage, the field in which the units are proposed to be sited on is just over 1 hectare in area and the applicant has control over all the land. If recommended for approval, conditions ensuring all access drives and parking areas were fully permeable would be recommended as well as a condition requiring a drainage solution for the proposed units to be approved prior to their installation and maintained as such. It is acknowledged that the soil in the area being of clay type soil has drainage issues, however, given the small scale nature of the proposed buildings and the area of land within the applicant's control, it is considered that a sufficient drainage scheme could be achieved that did not result in flood risk or harm to nearby watercourses.

Other matters:

The Meeth neighbourhood plan is still in draft stage and therefore carries very limited weight in the consideration of this application.

The extension to 'Hele View' which has been referenced in the objection comments was given consent under 1676/17/HHO, it is also noted that the Officers report states;

“The site is a large two storey dwellinghouse in multiple occupation. The dwelling is occupied by persons with learning disabilities and other special needs and is attended by carers. The occupants live as one household and share all living facilities. As such, the use falls within the definition of a dwellinghouse and an application for ‘Change of use’ is not required.”

This conclusion is supported.

The application was accompanied by a wildlife trigger table, which concluded that no further surveys were required.

Waste storage would be controlled via condition if the application were recommended for approval. Issues relating to pre-application advice given or enforcement investigations on the site are not relevant to the consideration of the planning merits of this application. It is considered that the proposed occupiers of the development would not be at risk of harm from the adjacent solar farm. The position of the tarka trail is indicative and has not been a deciding factor on the application. The application has been considered in accordance with the Development Management Procedure Order and assessed against National and Local policies as well as other material considerations and therefore the LPA consider that the application has been handled correctly. Other applications submitted by the applicant are not relevant to the consideration of this application. The appeal at the Price of Peace is not directly relevant to this application.

Planning balance:

The scheme would bring about a number of benefits, most importantly the provision of affordable supported living units, which it is acknowledged there is a need for, the proposal would also include the provision of additional small dwellings to local stock and associated benefits to the local economy. The positive effects of 6 dwellings would be very modest in terms of boosting supply. Nonetheless, the various benefits offer little weight in favour of the application. The harm that has been identified in respect of the location of the site would conflict with one of the Framework’s core planning principles, significant weight must be attributed to this conflict. Whilst the provision of the proposed affordable supported living accommodation would provide much needed accommodation, the proposals lack of conformity with the Rural Exception sites requirements and the lack of services and facilities with this isolated site override the benefits arising from the proposal.

Taking everything into account, it is considered that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits in this case, when considered against the Framework as a whole. The application of Paragraph 14 of the Framework does not indicate that permission should be granted, and the proposal would not represent sustainable development. Therefore, in the circumstances of this proposal, the material considerations do not justify recommending a decision other than in accordance with the development plan.

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

Planning Policy

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

The relevant development plan policies are set out below:

West Devon Borough Council Core Strategy 2011

SP1 – Sustainable Development
SP5 – Spatial Strategy
SP8 – Inclusive Communities
SP9 – Meeting Housing Needs
SP17 – Landscape Character
SP24 – Sustainable Rural Communities

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
T8 – Car Parking
T9 – The Highway Network

Emerging Joint Local Plan

The Plymouth and South West Devon Joint Local Plan (the JLP) will replace the above as the statutory development plan once it is formally adopted.

Annex 1 of the National Planning Policy Framework (the Framework) provides guidance on determining the weight in relation to existing and emerging development plan policies.

- For current development plan documents, due weight should be given to relevant policies according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
- For the JLP, which is an emerging development plan, the weight is to be determined by the stage of its preparation, the extent to which there are unresolved objections, and its degree of consistency with the Framework.

The JLP is at a relatively advanced stage of preparation. The precise weight to be given to policies within the JLP will need to be determined on a case by case basis, having regard to all of the material considerations as set out on the analysis above.

**PLYMOUTH AND SOUTH WEST DEVON JOINT LOCAL PLAN -: PUBLICATION
(as considered by the Full Councils end Feb/Early March 2017)**

SPT2 Sustainable linked neighbourhoods and sustainable rural communities
SPT3 Provision for new homes
TTV30 Empowering local residents to create strong and sustainable communities

TTV31 Development in the Countryside
DEV1 Protecting amenity and the environment
DEV2 Air, water, soil, noise and land
DEV8 Meeting local housing need in the Thriving Towns and Villages Policy Area
DEV9 Accessible housing
DEV10 Delivering high quality housing
DEV20 Place shaping and the quality of the built environment
DEV24 Landscape character

Neighbourhood plan

The Meeth Neighbourhood plan is currently at draft stage and therefore carries very limited weight in the consideration of this planning application.

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.

PLANNING APPLICATION REPORT

Case Officer: Ian Lloyd

Parish: Okehampton **Ward:** Okehampton South

Application No: 1771/17/FUL

Agent/Applicant:

Mr Gerry Binmore
Lucerne
Popes Lane
Colyford, Colyton
EX24 6QR

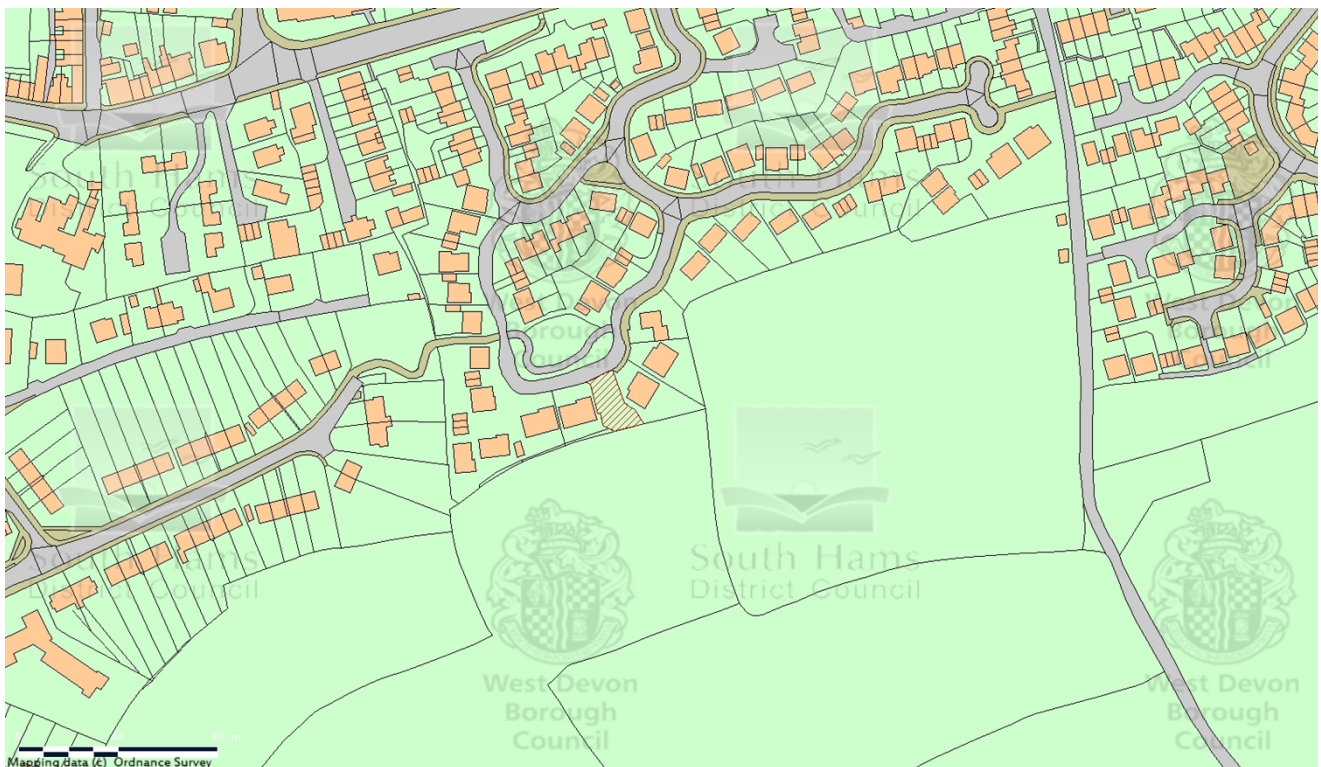
Applicant:

Mr A Jones
Doggamarsh
TQ13 8LB

Site Address: Land adjacent to, 10 Upper Crooked Meadow, Okehampton, EX20 1WW

Development: New dwelling

Reason item is being put before Committee: The Ward Member requests Committee consideration and a Member's site visit on the basis of density, impact on neighbours, privacy and drainage.



Recommendation: Conditional Approval

Conditions:

1. Time Limit
2. In Accordance with Approved Plans
3. Drainage (Grampian Condition)
4. Parking & Garaging provided and retained
5. Samples of Materials including walls roof and hard surfacing
6. PD rights removed (open plan estate)
7. PD rights removed extensions (gardens of limits size/neighbour impacts/drainage impacts)
8. Boundary details and landscaping details required
9. Side windows obscure glazed/non-openable unless the method of opening is agreed in advance
10. CEMP including photo survey

Key issues for consideration:

The main considerations surround:

The principle of development/sustainability: issues relating to a proposed dwelling located within the settlement boundary for Okehampton.

Flood risk & drainage: having regard to the location within a Critical Drainage Area (CDA) and the limited capacity of the site to accommodate a sustainable drainage solution, whether surface water run-off concerns and previous reason for refusal on this basis can be overcome.

Design/landscape: considerations of locating a detached dwelling within a small and steeply sloping infill plot within an existing housing estate.

Neighbour Amenity: considerations arising from an infill dwelling set close to the boundaries with neighbouring dwellings.

Highways/access: notably whether adequate, safe off-street parking can be provided. Also relevant are any highways implications arising out of the intended drainage solution

Site Description:

Upper Crooked Meadows is a modern early twenty first century residential estate, part of a slightly earlier, larger estate, on the south-eastern outskirts of Okehampton town centre. Accessed off Exeter Road (B3260) via De Brionne Heights, the site is a small infill plot in an elevated position on the south side of Upper Crooked Meadows backing onto agricultural land.

Set between two detached dwellings (Nos. 10 & 11 – the numbering runs consecutively) on a row of other detached dwellings, the plot is narrow and slopes from south to north such that the rear garden, like those of its neighbours, would be set at a higher level. The plot is currently undeveloped and is just beyond the crest of a rise in the land where levels begin to fall east to west across the site frontage.

The properties here all front onto a shared surface access, opposite an open green space.

The area has a modern suburban character, with the open space providing welcome relief from the built form. Properties have a similar form but subtle differences in appearance which contributes positively to the character of the area.

The Proposal:

The proposal seeks permission for a new detached dwelling, parking and associated works on an infill plot (0.03 ha.) adjacent to No.10 Upper Crooked Meadows, Okehampton.

The proposal is for a 4 bedroom dwelling with 2 parking spaces, one in an integral garage and one on the forecourt in front.

The property is stepped, to accommodate changing levels, being higher at the rear, and the rear garden will also be elevated, as are neighbouring rear gardens.

Consultations:

- County Highways Authority: Standing advice applies.
- Okehampton Town Council: Objection on the following grounds: density – site is extremely small for development size; impact on neighbours – overlooking & privacy issues; site levels – site is extremely steep to be built on; Drainage – surface water, the site is already renowned for overflowing of system during/after heavy rain.
- WDBC Specialist (Engineer) – Assets: This is a small scale minor application for the erection of a new dwelling within a Critical drainage Area (CDA). Development within the CDA requires the surface water to be managed on site to reduce the burden on the sewer network. Soakaways are the first choice and must be fully explored and discounted before an offsite discharge can be considered.

Following our previous objection dated 26th July, 2018, the applicant has provided further drainage information. The proposed method of surface water drainage is an attenuated discharge to South West Water (SWW) main sewer in Exeter Road (circa 200m away) at an attenuated discharge rate not exceeding 1l/s. Although it is likely to be a difficult and costly solution but is acceptable in principle as all other options have been exhausted and it is the only achievable sustainable solution that can currently be established.

Suggested condition:

No development above damp course level (dpc) authorised by this permission shall begin until the drainage works hereby approved, including surface water drainage incorporating a connection to the combined sewer in Exeter Road (circa 200m away) at an attenuated discharge rate not exceeding 1l/s has been made, to be to adoptable standards, and written evidence of both South West Water's certified approval of the completion of the works and Devon County Council's approval for the completion of works in the public highway have been submitted to and approved in writing by the local planning authority.

Reason: to ensure that a sustainable form of drainage is achieved to prevent the increased risk of flooding elsewhere and in the interests of highways safety. A condition precluding advanced built development above dpc level is necessary to ensure the extensive and expensive off-site drainage works in the public highway are implemented before the dwelling is constructed to avoid a scenario whereby a completed dwelling is built without sustainable drainage which would increase run-off and increase the risk of flooding elsewhere and it would be unacceptable to construct a dwelling without a sustainable drainage solution, which could result in unacceptable pressure on the Authority to allow occupation when to do so would be unsustainable. [Note, the wording of this suggested condition has been amended to reflect the twin aims of no development before SWW and County Highways have agreed the works and no work above dpc until the agreed sewer connection has been made/ works in the highway completed].

Representations:

Representations from Residents

5 comments have been received from the occupiers of 4 nearby properties objection on grounds summarised as:

- Soakaway tests conducted at the wrong time of year; water already floods onto Exeter Road;

- Vibration and possible property damage from the removal of shale rock;
- Loss of daylight to a room served by a small side window;
- Declaration refers to 10, not land adjacent to No. 10;
- Dwellings are stone and brick, not block and plaster and will be obtrusive/out of character;
- Plans are the same as those refused but in someone else's name;
- Site is too small for a house;
- Queries whether the land was left as future access to land beyond;
- Request a site visit is made before decision;
- More houses than originally approved should not be allowed;
- Car parking is inadequate
- Loss of daylight/privacy; windows facing; 2-storeys at rear
- Boundaries not shown;
- Potential for damp/noise/dust/mud on roads

Relevant Planning History

2076/2001/OKE Erection of 91 dwellings garages and associated estate road and sewers (revision of originally submitted application for 95 dwellings) Conditional Consent: 15 Oct 2002

00074/2015: FUL Erection of detached dwelling Refusal: 10 Mar 2015

ANALYSIS

Principle of Development/Sustainability:

The site is within a residential estate in a sustainable town, supported by Policies SP1 and H28, and there is no objection to the principle to the development. Previously a similar application proposal in 2015 was refused solely on drainage grounds. If drainage issues can be resolved and other material considerations addressed, there is no barrier in principle to approval of the development.

There is currently no five year supply of deliverable housing land and in such circumstances, where the development plan is out of date, advice in the NPPF (recently updated) and Planning Practice Guidance supports sustainable development. The delivery of one family dwelling in a sustainable location will make a small but valuable contribution towards meeting an identified housing need where there is a recognised shortfall in supply.

No objections are raised on policy grounds, subject to other material considerations surrounding compliance with the criteria in Policy H28, addressed under the headings below.

Flood Risk & Drainage:

Objections have been received, including from the Town Council on drainage and flood risk grounds, with the site identified as having surface water run-of problems during prolonged periods of wet weather.

The site lies within a Critical Drainage Area (CDA). Policies SP21 and PS2 seek to prevent problems arising from surface water run-off, including preventing the increased risk of flooding elsewhere. While the site is within Flood Zone 1 and at the lowest risk of flooding, the development must not lead to an increased risk of flooding elsewhere. Unless appropriate means to regulate surface water run-off can be achieved, there will potentially be an increased risk to flooding elsewhere and the development could not be supported in such circumstances (as was the case in 2015).

Prolonged and protracted discussions have taken place over a considerable period involving WDBC's drainage specialists and the applicant's consultants. Ultimately, despite exploring a number of different approaches, only one achievable acceptable sustainable drainage solution can be agreed.

This involves surface water run-off connecting into SWW's combined sewer in Exeter Road, some 200m downhill at a low rate not exceeding 1l/s and is the only achievable acceptable solution.

It should be noted that the successful future implementation of the drainage strategy is likely to be extremely costly. Estimates have been provided but the applicant would prefer to keep financial matters confidential. Nevertheless, information has been provided to demonstrate that, as the land is already owned, building a dwelling would be viable in current market conditions. The circa 200m length of works within the public highway and will be disruptive, requiring connection from the property to the combined sewer in Exeter Road. More is said about this in the report below under the amenity heading.

WDBC drainage specialists have agreed a condition to secure the necessary measures in these circumstances. A Grampian condition, a negatively worded condition, requiring no commencement until evidence that a connection is achievable has been received from SWW and Devon County Highways and that the drainage works are undertaken in advance of the construction of the house is considered necessary. This is to ensure that the connection is not only achievable **but achieved before the dwelling is fully built**, to avoid a scenario where in future, pressure for a less sustainable drainage solution may be applied - and which could cause additional run-off problems - if the dwelling was built but then finances not available for the costly connection to the combined sewer. In these circumstances Members could come under intolerable pressure to allow occupation of a constructed dwelling without the connection, which possible situation must be avoided.

It could also be the case that if the plot is marketed it could appear attractive to purchasers unaware of the likely cost of the only acceptable drainage solution, which again could increase pressure for a less sustainable solution. An informative is recommended advising future prospective purchasers of the issues.

Permitted development rights for extensions should be removed to prevent increased run-off problems arising in the future and also to retain the small garden as amenity space and prevent overdevelopment and neighbour impact issues.

Design/Landscape:

This late twentieth/ early twenty first century estate has been developed on steeply sloping land and the application plot is no exception when compared with its neighbours in this regard. It is though slightly narrower than most plots in the immediate vicinity.

This part of the estate comprises principally of detached dwellings, of different design (subtly so in some instances), largely using a shared palette of materials.

The Town Council are concerned at the steepness and density of development and that the proposed dwelling is too large for the plot. All the plots have been built on similarly steep ground.

While slightly smaller than the majority (though not all) of the other plots locally, the density is slightly higher than most, at 33.33 dwellings per hectare (dpha), but is in no way excessive and consistent with densities aimed at making best use of land. For comparison purposes, the density of No.10 is circa 29.0 dpha, No. 11 with its larger triangular corner rear garden is circa 22.22 dpha and Nos. 3 & 4 both comparable with the application site at circa 33.33 dpha and circa 34.01 dpha respectively. It can be seen that, despite the Town Council's concerns, the building is not unusually or excessively large for its plot when compared with others locally, though its frontage onto the road is comparably slightly narrower.

The gable is proportionately wider than most others locally, but front gables are a common feature in the area. What is important is that the dwelling would not look out of place, still maintaining a small degree of separation, as do other dwellings locally. The property is split level, slightly higher at the rear to take account of changing levels. Proposed external finishes include facing masonry and

rendered blockwork under a slate roof. While the dwelling would not be out of character with other development local, materials do depart from the stone and brick used locally and should be revised to reflect this. Materials should therefore be controlled by condition, requiring samples to be approved, consistent with the established palette of materials used on the estate.

Landscape issues are localised and limited to the townscape appearance, which is considered to be satisfactory. There are no wider landscape impacts.

The plot has limited visibility in the wider area as a result of the position of the neighbouring dwellings, the elevation of the land and curve in the road. Though these plots are detached, they seldom read as such as the gaps are narrow and not clearly apparent unless viewed from directly in front. No significant design and character concerns arise.

While the open garden land currently makes a positive contribution to the open setting of the neighbouring properties and the character of the area generally, reinforced by the public open space in front, its loss would not have a significant wider townscape impact. No undue design/landscape concerns arise.

The estate has an open plan layout and landscaping and boundary treatment details are required and permitted development rights should be removed to maintain the open character.

Neighbour Amenity:

The potential impacts are to the occupiers of properties immediately to the east and west.

The property to the east, No. 11, sits in a corner at the turn of the road and is angled such that part of its principal north-westerly outlook to the front is across the application plot frontage. While the application property is proposed to be set back, like its neighbours, to accommodate off-street parking to the frontage, part of the outlook from the property to the east would be lost, as the corner of the proposed dwelling would be visible in views out from habitable room windows. As this view is borrowed from across the application site and both properties are set back, no undue loss of amenity will result and the relationship is not considered to be unneighbourly.

The property to the west, No. 10, is set into the ground to address changing land levels and has a small east-facing side window towards the application site. There would be some loss of daylight and outlook to this window as a result of the proposed development and an objection has been received on these grounds. Again the amenity for this window is, to an extent, borrowed from across the application site. The principle outlook for the dwellings either side are front to back, not to the side, and though daylight will be reduced, impacts are limited, not unduly unneighbourly nor result in harm to any degree that would warrant refusal of the application on this basis.

Notwithstanding this, side windows in the proposed dwelling should be obscure glazed and if to be openable, should have fixed or limited opening to minimise overlooking, in accordance with a means of opening to be agreed by condition.

Having a dwelling built nearer than is currently the case will increase overshadowing and reduce daylight to an extent. However, the relationship of the proposed dwelling to its immediate neighbours is comparable with other relationships locally, in no way unusual and impacts fall within acceptable limits.

To the rear there are neighbour concerns about overlooking of rear gardens. While the rear of the proposed dwelling is two storeys and the neighbours are not, overlooking is oblique and the situation is in no way unusual or unduly unneighbourly.

Permitted development rights for extensions should be removed in the interests of neighbouring amenity as well as maintaining reasonable open space for future occupiers and avoiding increased drainage concerns.

There will be disruption during construction on this constrained plot. Additionally, circa 200m of public highway will need to be excavated to install a connection to the combined sewer between the application site and the nearest connection opportunity in Exeter Road. This will be extremely disruptive, though not grounds to refuse an application. This work will be best managed through a CEMP, to minimise nuisance and disruption, including access to properties and for emergency vehicles. A photographic survey should be part of the CEMP. More is said about these issues under nuisance during construction below.

Highways/Access:

Pedestrian and vehicular access is practical, as it is to neighbouring plots. By reducing land levels near the highway, off-street parking can be provided for 2 cars, one in an integral garage and one on the forecourt. Two spaces are appropriate for a 4-bed dwelling within a sustainable town location with good access to public transport. Pedestrian access is via a shallow incline.

Despite neighbour concerns about adequate parking, there is some capacity on street on approach roads for visitors to park and the impacts of additional vehicular traffic from one dwelling raises no significant concerns. Having regard to advice in paragraph 109 the NPPF, development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

A condition is recommended requiring parking to be provided prior to occupation and thereafter retained.

As referred to above, a connection to the combined sewer in Exeter Road is required, involving considerable works for circa 200m in the public Highway. Conversations have taken place with Devon Highways about this possibility. While such works are inevitably hugely costly and disruptive (it is estimated by highways that the works approximately 60m of works might be undertaken on average weekly and the highway sewer connection works would therefore likely take a little over three weeks) nevertheless, if the appropriate licenses were acquired and necessary agreements for the works secured from the highway authority, there would be no barrier in principle to the works going ahead. More is said about this under nuisance during construction below, including the need for a CEMP.

Other Matters:

Land stability – Land stability is a material planning consideration. There is no indication that the land is unstable, neighbouring development has been carried out successfully and the ground investigations to resolve drainage considerations do not raise potential stability concerns. Despite the likely need for retaining structures, Building Regulation Consent would be required for the dwelling. The land sits on rock and in the absence of identified concerns about stability, no stability conditions are considered necessary.

Heritage Issues – There are no Listed Buildings or other heritage designations nearby and no heritage concerns arise.

Ecology & Biodiversity – No concerns arise in relation to this infill plot on a modern residential estate.

Vibration – A neighbour has raised concerns about impacts from vibration from the removal of shale to build the dwelling. Such issues and impacts are covered under other legislation.

Nuisance during construction – as referred to above, the site is constrained, as are local roads and excavation would be necessary, including for the connection to the combined sewer in Exeter Road,

which could likely cause temporary congestion and nuisance. There is limited access for vehicles, plant and machinery and for construction workers to park. A CEMP condition is recommended as necessary. This should include the need for a photographic survey to establish a baseline.

Access to land to the rear – objectors have raised the issue that the site was intended as future access to land to the rear. There is nothing to suggest the site was intended as future access to adjoining land, nor would the land to the rear be unduly prejudiced by the development of this site.

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

Planning Policy

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

The relevant development plan policies are set out below:

West Devon Borough Council Core Strategy 2011

SP1 – Sustainable Development
SP6 – Density of Housing Development
SP7 – Strategic Distribution of Housing
SP16 – Safer Communities
SP17 – Landscape Character
SP19 – Biodiversity
SP20 – Promoting High Quality Design
SP21 – Flooding
SP22 – Okehampton

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

BE5 – Important Open Space within Settlements
BE13 – Landscaping and Boundary Treatment
BE16 – Potentially Polluting Activity
BE17 – Potentially Polluting Activity
BE18 – Potentially Polluting Activity
H28 – Settlements with Defined Limits
T2 – Pedestrian and Cyclist Safety
T8 – Car Parking
PS2 – Sustainable Urban Drainage Systems
PS3 – Sewage Disposal

Emerging Joint Local Plan

The Plymouth and South West Devon Joint Local Plan (the JLP) will replace the above as the statutory development plan once it is formally adopted.

Annex 1 of the National Planning Policy Framework (the Framework) provides guidance on determining the weight in relation to existing and emerging development plan policies.

- For current development plan documents, due weight should be given to relevant policies according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

- For the JLP, which is an emerging development plan, the weight is to be determined by the stage of its preparation, the extent to which there are unresolved objections, and its degree of consistency with the Framework.

The JLP is at a relatively advanced stage of preparation and an interim report recently issued. The precise weight to be given to policies within the JLP will need to be determined on a case by case basis, having regard to all of the material considerations as set out on the analysis above.

PLYMOUTH AND SOUTH WEST DEVON JOINT LOCAL PLAN -: PUBLICATION (as considered by the Full Councils end Feb/Early March 2017)

SPT3 Provision for new homes

TTV1 Prioritising growth through a hierarchy of sustainable settlements

DEV1 Protecting amenity and the environment

DEV2 Air, water, soil, noise and land

DEV10 Delivering high quality housing

DEV20 Place shaping and the quality of the built environment

DEV24 Landscape character

DEV28 Protecting and enhancing biodiversity and geological conservation

DEV29 Green and play spaces (including Strategic Green Spaces, Local Green Spaces and undesignated green spaces)

DEV30 Trees, woodlands and hedgerows

DEV37 Managing flood risk and Water Quality Impacts

NPPF, including chapter 12 Achieving Well Designed Places, notably paragraph 127 and paragraph 109 relating to highways.

Planning Practice Guidance

Neighbourhood Plan

The Okehampton Town & Hamlets Neighbourhood Plan is not sufficiently advanced to constitute a material planning consideration

Summary/Conclusions/Planning Balance

In principle a dwelling on this residential estate on the outskirts of Okehampton is an acceptable and sustainable form of development, subject to an achievable sustainable drainage solution.

Permission has been sought and refused previously due solely to problems achieving a sustainable drainage solution.

Due to the difficulties in restricting run-off rates on a constrained and sloping site on underlying shale, in consultation with WDBC's drainage experts, the only available option for an acceptable drainage strategy has been identified and an appropriate planning condition to secure its delivery has been agreed. This involves a connection to the combined sewer in Exeter Road some 200m away. Though likely extremely costly, this solution is claimed to be economically viable in circumstances where the land is currently owned. If the land is sold, future purchasers should be wary of the price to be paid for the land due to viability issues and an informative is recommended and a Grampian condition is considered necessary to ensure the sewer connection is delivered first and avoid a scenario where a house is built with no sustainable drainage solution financially feasible. An informative is also recommended such that if the dwelling is not built within the three year time limit, this would be a clear indication that, notwithstanding current assurances regarding viability, viability is a problem and serious consideration should be given to whether permission should be renewed in the event of a future re-application.

The plot is small, but the proposed dwelling can be accommodated satisfactorily on the site without impacting unduly adversely on the character of the area, the amenities of neighbouring occupiers or on highway safety/congestion. That said, disruption, including from the connection to the combined sewer in Exeter Road, will be considerable and a CEMP is required as being a proportionate response to these concerns.

A new dwelling will make a small but valuable contribution to the local housing stock where there is an identified need and no five year supply of deliverable housing land currently exists.

On balance, as there is a potentially achievable sustainable drainage solution, notwithstanding the difficulty and cost in achieving it, the application is recommended favourably.

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.

Conditions In Full

1. The development hereby approved shall in all respects accord strictly with drawing numbers Site Location Plan 1413 – PL01 Revision A, Site Layout/ Block Plan 1413 – PL02, Floor Plans 1413 – PL03 Revision A, Site Layout and Proposed Section 1413 PL04 and Elevations 1413 PL05 Revision B Received by the Local Planning Authority on 31 May 2017, and drawing numbers 17013 200 Revision E and Micro Drainage calculations dated 08/10/2018 received by the Local Planning Authority on 14 August 2018 and email dated 14 August 2014.

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. No development above damp course level (dpc) authorised by this permission shall begin until the drainage works hereby approved, including surface water drainage incorporating a connection to the combined sewer in Exeter Road (circa 200m away) at an attenuated discharge rate not exceeding 1l/s has been made, to be to adoptable standards, and written evidence of both South West Water's certified approval of the completion of the works and Devon County Council's approval for the completion of works in the public highway have been submitted to and approved in writing by the local planning authority.

Reason: to ensure that a sustainable form of drainage is achieved to prevent the increased risk of flooding elsewhere and in the interests of highways safety. A condition precluding advanced built development above dpc level is necessary to ensure the extensive and expensive off-site drainage works in the public highway are implemented before the dwelling is constructed to avoid a scenario whereby a completed dwelling is built without sustainable drainage which would increase run-off and increase the risk of flooding elsewhere and it would be unacceptable to construct a dwelling without a sustainable drainage solution, which could result in unacceptable pressure on the Authority to allow occupation when to do so would be unsustainable.

4. The proposed garage and forecourt parking hereby approved shall be provided prior to the first occupation of the dwelling hereby permitted and thereafter permanently retained and maintained for purposes not precluding the parking of private motor vehicles.

Reason: To avoid congestion in the interests of residential amenities and the free flow of traffic.

5. Notwithstanding the materials indicated on the application, prior to their installation details / samples of facing materials, and of roofing materials to be used in the construction of the proposed dwelling, which shall be consistent with the established palette of material locally, shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with those details/ samples as approved.

Reason: In the interests of visual amenity.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking, re-enacting, or further amending that Order), no development of the types describes in Schedule 2, Part 2, Class A including gates, fences, walls or other means of enclosure shall be erected or constructed between the dwelling and the estate roads unless permission is granted by the Local Planning Authority.

Reason: In order to safeguard the character and visual amenities of the locality, which is characterised by an open estate layout.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking, re-enacting, or further amending that Order), no development of the types describes in the following classes of Schedule 2 shall be undertaken without the express written consent of the Local Planning Authority other than those expressly authorised by this permission: Part 1, Class A (extensions and alterations), classes B and C (roof additions and alterations), Class D (porches), Class E (incidental buildings), and Class F (hard surfaces).

Reason: To enable the Local Planning Authority to exercise control over development which could materially harm the character and visual amenities of the area, the amenities of neighbouring occupiers and/ or increase the risk of flooding elsewhere.

8. Prior to the first occupation of the dwelling hereby permitted, the site shall be enclosed and laid out in accordance with details of boundary treatment and landscaping which shall first have been submitted to and approved in writing by the local planning authority.

Reason: In the interest of neighbouring amenity and the character and visual amenities of the area generally.

9. The side windows hereby approved shall be permanently obscure glazed/ non-openable unless a method of opening has first been submitted to and agreed in writing by the local planning authority.

Reason: In the interests of the privacy and amenity of neighbouring occupiers.

10. Prior to the commencement of the development hereby permitted, a Construction Environmental Management Plan (CEMP) detailing measures to mitigate or reduce the impact of the construction activities shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall address the following issues:

- Contractor and construction traffic management, parking and vehicle delivery protocol in order to avoid obstructing the highway and aggravating congestion on the local road network, especially peak hour traffic and during refuse and recycling collection times, including no contractor's vehicles or delivery vehicles to be parked or unloaded on named local roads at any time (except where large delivery vehicles are too large to be able to off-load on-site, a minimum 48 hours advance notice must be provided to all properties affected In Upper Crooked Meadow as part of the vehicle delivery protocol);
- The size of vehicles and provision for the turning and maneuvering of vehicles, with banksmen if necessary;

- Pedestrian safety, including in Upper Crooked Meadow and anywhere along the route of the proposed off-site drainage works in the public highway connecting to Exeter Road;
- Emergency vehicle access protocol;
- Hours of operation of all activities (including no works to begin or vehicles to arrive before 8.00 am) and all hours of operation;
- Construction noise and vibration management;
- Highway mud management and cleaning;
- Water management (surface and groundwater);
- Complaint handling procedure including dedicated site manager contact name, telephone number and email address provided to all residents of Upper Crooked Meadow;
- A photographic condition survey including Upper Crooked Meadow and the along the route of the proposed off-site drainage works to the point of connection in Exeter Road;

Once approved all construction activities shall be carried out in accordance with this management plan.

Reason: In the interests of the safety and amenities of neighbouring occupiers and the safety of highway users. A pre-commencement condition is necessary to minimise the effects of construction on local residents and for highway safety reasons

INFORMATIVES

1. This authority has a pro-active approach to the delivery of development. Early pre-application engagement is always encouraged. In accordance with Article 35(2) of the Town and Country Planning Development Management Procedure (England) Order 2015 (as amended) in determining this application, the Local Planning Authority has endeavoured to work proactively and positively with the applicant, in line with National Planning Policy Framework, to ensure that all relevant planning considerations have been appropriately addressed.
2. The responsibility for ensuring compliance with the terms of the approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details can render the development unauthorised and vulnerable to enforcement action.
3. If your decision requires the discharge of conditions then you must submit an application for each request to discharge these conditions. The current fee chargeable by the Local Planning Authority is £116 per request. Application forms are available on the Council's website.

4. CONSIDERABLE EXPENSE AND POTENTIAL DIFFICULTIES OF ACHIEVING THE ONLY IDENTIFIED SUSTAINABLE DRAINAGE SOLUTION INVOLVING A REQUIRED CIRCA 200M CONNECTION TO THE COMBINED SEWER IN EXETER ROAD, VIA WORKS IN THE PUBLIC HIGHWAY

For the avoidance of doubt, the only identified acceptable achievable drainage solution for this development involves the creation of a connection to the combined sewer in Exeter Road some 200m away. This would involve comparatively hugely expensive and disruptive works, including in the public highway, requiring the permission of SWW and Devon CC as Highway Authority, together with the appropriate licences.

A private drain would have to be subject to a licence (Section 50 Highways Act 1980) and also require the separate consent of the Highway Authority. It is estimated that 50m – 60m per week would be achievable and take circa 3 – 4 weeks. The works are likely to cost many tens of thousands of

pounds, if not more and the applicant and future potential purchasers are warned that the connection must be achieved before the house is built, as no other acceptable solution is presently conceivable. No exact cost has been verified and future owners/ developers are strongly advised to make their own robust enquiries.

It should not be assumed that an alternative drainage solution is achievable, as options have been explored and exhausted and the identified solution, though costly and disruptive, is the only presently identified achievable solution.

5. Without prejudice, in the event this development is not commenced and the drainage connection substantially completed within the three year time limit, the lpa may not look favourably upon any application to renew the planning permission as failure to implement could be construed as the scheme being demonstrably unviable, contrary to the case currently presented, on which this decision is based.

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West Devon Borough Council

DEVELOPMENT MANAGEMENT AND LICENSING COMMITTEE 18-Sep-18

Appeals Update from 28-Jul-18 to 30-Aug-18

Ward Bridestowe

APPLICATION NUMBER : **4182/17/FUL** APP/Q1153/W/18/3204250
APPELLANT NAME: Mr & Mrs J & S May
PROPOSAL : Demolition of existing outbuildings, change of use of part of field from agricultural to garden
change of use of part of field from agricultural to equestrian, new barn and stable, new
residential annexe within domestic curtilage.
LOCATION : South Hill Cottage, Bratton Clovelly, EX20 4JP
APPEAL STATUS : Appeal Lodged
APPEAL START DATE: 23-August-2018
APPEAL DECISION:
APPEAL DECISION DATE:

Ward Exbourne

APPLICATION NUMBER : **2935/16/COU** APP/Q1153/W/17/3192178
APPELLANT NAME: Mr Nigel Holman
PROPOSAL : Change of use of land and building from agricultural use to Class B1 & B8 usage
LOCATION : Land at Beacon Cross Farm, Sampford Courtenay, EX20 2SQ
APPEAL STATUS : Appeal Lodged
APPEAL START DATE: 29-May-2018
APPEAL DECISION: Dismissed (Refusal)
APPEAL DECISION DATE: 24-August-2018

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Agenda Item 7

Report to: **Development Management & Licensing Committee**

Date: **18 September 2018**

Title: **Adoption of procedures and fees in relation to the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018**

Portfolio Area: **Customer First**

Wards Affected: **All**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: Full Council on 25th September

Author: James Kershaw Role: **Senior Specialist**

Contact: **Tel: 01803 861287**
email: james.kershaw@swdevon.gov.uk

Recommendations:

1. That Committee recommend to Full Council; the adoption of the discretionary powers contained within the Animal Welfare Act 2006, and the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, and delegate decisions in relation to the determination of licences and enforcement action to the Community of Practice Lead for Environmental Health and Licensing by the 1st October 2018.
2. That the Committee recommend to Full Council that the Council's Constitution be amended to reflect a new sub-committee structure to consider Objections to conditions on an Animal Licence.
3. Having reviewed the proposed fees table, committee recommend to Full Council that the proposed fees and charges in relation to animal licensing as of 1st October 2018 are adopted.

1. Executive summary

- 1.1 In April 2018 the Government passed the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018. This legislation amalgamated, and replaced a number of pieces of legislation that governed the licensing of animals.
- 1.2 The legislation allows licensing authorities to charge a reasonable amount to cover the cost of considering the grant, renewal or variation of a licence.
- 1.3 The new regulations have amended the previous licensing regime in a number of ways but the three key changes are:-
 - A premises can have a single licence covering a number of licensed activities (similar to premises licences under the Licensing Act 2003).
 - The change of licensing authority from County to District for the consideration of licences pertaining to performing animals.
 - That a licence can last for 1 – 3 years depending upon a risk assessment produced in line with Secretary of State guidance.
- 1.4 Having undertaken an inspection of a premises the Council may impose conditions where they deem it appropriate to do so in accordance with s.15 of the regulations. A licence holder has a right of appeal to the Council against the imposition of conditions or variation of their licence, and it is recommended that this is heard by a sub-committee of the Licensing Committee rather than the full committee.

2. Background

- 2.1 The Animal Welfare Act was brought into force in 2006, and until this point the Local Authority has not needed to use the legislation. The legislation aims to ensure that animals are not mistreated, statutory guidance made under the legislation introduced the 5 freedoms of animal welfare which are:-
 - For a suitable environment (place to live)
 - For a suitable diet
 - To be housed with or apart from other animals
 - To be protected from pain, suffering, injury and disease
 - To exhibit normal behaviour patterns
- 2.2 The Act is the enabling legislation for new regulations that cover the licensing of activities involving animals. The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 repeals and amends the following legislation previously used:-
 - Animal Boarding Establishments Act 1963
 - Breeding of Dogs Act 1973
 - Breeding of Dogs Act 1991
 - Pet Animals Act 1951
 - Performing Animals (Regulation) Act 1925

- Riding Establishments Act 1964
Etc. a full list can be found in Schedule 9 and 10 of the act.
- 2.3 The Council can charge a fee for the consideration of an application for the grant, renewal, or variation of a licence. Section 13 of the regulation states:
"13.—(1) A local authority may charge such fees as it considers necessary for—
 (a) the consideration of an application for the grant, renewal or variation of a licence including any inspection relating to that consideration, and for the grant, renewal or variation,
 (b) the reasonable anticipated costs of consideration of a licence holder's compliance with these Regulations and the licence conditions to which the licence holder is subject in circumstances other than those described in sub-paragraph (a) including any inspection relating to that consideration,
 (c) the reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator, and
 (d) the reasonable anticipated costs of compliance with regulation 29.
 (2) The fee charged for the consideration of an application for the grant, renewal or variation of a licence and for any inspection relating to that consideration must not exceed the reasonable costs of that consideration and related inspection."
 It is not lawful for the Council to make a profit from its licensing functions, and the proposed fees have been set based on the guidance set out above and a reasonable estimate of the costs in undertaking this.
- 2.4 As part of the inspection process the Council will determine the level of risk posed by the activities on site using the DEFRA guidance. This risk assessment will determine the length of time that a licence will last for.
- 2.5 A person can appeal against a risk assessment score, and this appeal will be determined by the Community of Practice Lead for Environmental Health and Licensing.
- 2.6 A licensee can also request a re-score visit at any time, however the local authority can charge for this revisit score, and may charge the reasonable costs that they incur in doing so.

- 2.7 Based on the above it is recommended that the Council adopts the following fees and charges in relation to the granting of licences under the Act;

Licence Type	Licence Fee Proposed
Fee for a licence covering a single licensable activity	£234
Fee for each additional licensable activity	£87
Rescore visit	£120
Vets fees	A recharge to the licensee of the cost to the Authority

- 2.8 The current fee table for the licensable activities is set out below;

Animal Boarding Establishments (to 31 Dec each year)	Licence (per animal)	£5.00
	Minimum	£129.00
	Maximum	£187.00
	Home Boarding	£120.00
Dog Breeding Establishment	Licence Fee	£167.00
	Plus vet's fees and expenses	Actual Cost
Pet Shop (to 31 December each year)	Licensing Fee	£120.00
	Plus vet's fees and expenses	Actual Cost
Riding Establishment	Up to 10 horses	£168.00
	Plus for each additional horse	£8.00
	Plus vet's fees and expenses	Actual Cost
	Maximum Fee	£304.00

It is not possible at this moment to determine the impact that the proposed fees will have on the budget, although it is not envisaged that there will be a significant impact.

- 2.9 When considering the conditions that are placed on a licence the legislation states that the licensing authority may: suspend, vary or revoke a licence if they are satisfied that –
- The licence conditions are not being complied with,
 - There has been a breach of the Regulations
 - Information provided by the applicant was false or misleading,
 - It is necessary to protect the welfare of an animal
- 2.10 Where the authority chooses to vary or suspend a licence, the licence holder has 7 days in which they can make written representations to the authority, which must be considered within 7 days of receiving those representations.

- 2.11 Due to the timescales involved in trying to organise a full licensing committee it is recommended that the constitution of the Council be amended to allow these representations to either be heard by the Community of Practice Lead for Environmental Health and Licensing, or where they believe that there is wider social or economic issues being raised by the written representation that the matter be heard by a sub-committee of 3 members. It will also be necessary that the standard rules on publication of committee agendas be altered to allow a shorter time period, but the minimum period needs to ensure that the committee have ample time to properly consider the implications.

3. Outcomes/outputs

- 3.1 Under the constitution of the Council, decisions in relation to the determination of licences is currently delegated to the Community of Practice Lead for Environmental Health. It is proposed that similarly the new legislation is delegated in the same way.
- 3.2 We are not expecting that there will be a significant number of appeals against imposed conditions, however in order for there to be appropriate oversight and scrutiny of decisions made by the authority it is proposed that appeals that may have wider social or economic impacts are considered by a sub-committee of 3 members. It would be pertinent for the new committee structure to be in place for the 1st October 2018.
- 3.3 The fees and charges proposed above have been produced using a cost calculator and reflect predicted outgoings for considering the grant of a licence, the cost of enforcement of both licensed and unlicensed premises and the cost of providing the annual return. These are the reasonable costs that we are allowed to recover as described in the legislation.

4. Options available and consideration of risk

- 4.1 In relation to the fees and charges proposed there is the potential that we could try and seek to add additional costs, however based on our expectation of how we will licence under the new regime we believe that the proposed fees are appropriate in accordance with the legislation.
- 4.2 There will be a review of the fees after the first year of operating to assess whether they are appropriate and produce a report to this committee suggesting a new fee and charge if they are not.
- 4.3 Whilst all appeals against the imposition of a condition could be heard by committee it was felt that where there is a technical rather than socio-economic impact these would be best heard by the Community of Practice lead. The department will produce a report each year to the committee to show what action has been

taken under delegated powers, so that the committee can be satisfied that this approach is appropriate.

5. Proposed Way Forward

- 5.1 That Committee recommend to Full Council; the adoption of the Animal Welfare Act 2006, and the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, and delegate decisions in relation to the determination of licences and enforcement action to the Community of Practice Lead for Environmental Health and Licensing by the 1st October 2018.
- 5.2 That the Committee recommend to Full Council that the Council's Constitution be amended to reflect a new sub-committee structure to consider Objections to conditions on an Animal Licence.
- 5.3 Having reviewed the proposed fees table, committee recommend to Full Council that the proposed fees and charges in relation to animal licensing as of 1st October 2018 are adopted.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance		Failure to act appropriately under the legislation will make the Council non-compliant with legislation and prevent appropriate regulatory action being taken to safeguard the welfare of animals in the Council area
Financial		Failure to approve an appropriate fee for the licence that will mean that licences cannot be charged for or the fee may be challenged. The proposed fees should provide a cost neutral approach to the animal licensing regime.
Risk		Failure to regulate animal welfare activities may result in serious harm to animals and have serious reputational impact on the Council.
Comprehensive Impact Assessment Implications		
Equality and Diversity		None foreseen.
Safeguarding		None foreseen.
Community Safety, Crime and Disorder		None foreseen
Health, Safety and Wellbeing		None foreseen
Other implications		None foreseen

Supporting Information

Appendices:

Background Papers:

Hansard report on the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018:

[https://hansard.parliament.uk/Lords/2018-03-27/debates/077B086C-FFA3-4F67-8C6B-](https://hansard.parliament.uk/Lords/2018-03-27/debates/077B086C-FFA3-4F67-8C6B-95C8948D80B2/AnimalWelfare(LicensingOfActivitiesInvolvingAnimals)(England)Regulations2018)

[95C8948D80B2/AnimalWelfare\(LicensingOfActivitiesInvolvingAnimals\)\(England\)Regulations2018](https://hansard.parliament.uk/Lords/2018-03-27/debates/077B086C-FFA3-4F67-8C6B-95C8948D80B2/AnimalWelfare(LicensingOfActivitiesInvolvingAnimals)(England)Regulations2018)

Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018:

<http://www.legislation.gov.uk/ukxi/2018/486/contents/made>

Local Government Association: Open for business: LGA guidance on locally set licence fees

DEFRA guidance on the Animal Licensing Regime:

<http://www.cfsg.org.uk/layouts/15/start.aspx#/SitePages/Legislation%20and%20Guidance.aspx>

Approval and clearance of report

Process checklist	Completed
Portfolio Holder briefed	Yes
SLT Rep briefed	Yes/No
Relevant Exec Director sign off (draft)	Yes/No
Data protection issues considered	Yes/No
If exempt information, public (part 1) report also drafted. (Cabinet/Scrutiny)	Yes/No

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