

PLANNING APPLICATION REPORT

Case Officer: Chris Gosling

Parish: Hatherleigh **Ward:** Hatherleigh

Application No: 01182/2015

Agent

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Applicant:

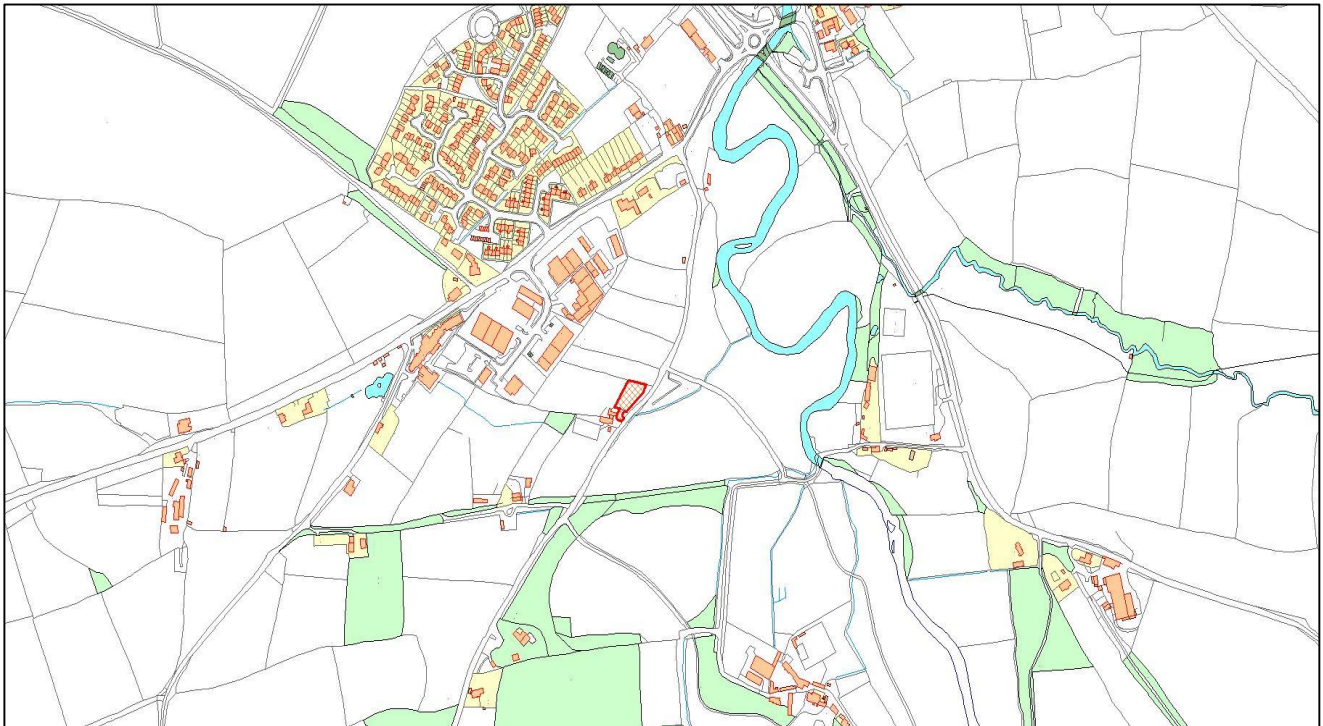
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Site Address: Part Of Glebelands, Hatherleigh, Okehampton, Devon

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.