

PLANNING APPLICATION REPORT

Case Officer: Clare Stewart

Parish: East Allington **Ward:** Allington and Strete

Application No: 1360/17/VAR

Agent/Applicant:

Ged King
30 Dean Park Road
Plymstock
Plymouth
PL9 7NZ

Applicant:

Mr & Mrs Stephen & Heather Bennett
Harleston Farm
Harleston
TQ7 2BH

Site Address: Harleston Farm, Harleston, TQ7 2BH

Development: Variation of condition number 2 following grant of planning permission 2829/15/FUL to allow changes to approved plans

Reason item is being put before Committee:

The DM CoP Lead has referred the application to Committee in view of the issues raised by the proposal.



Recommendation: Refusal

On the basis that the proposal does not constitute a minor material amendment within the meaning of Section 73 of the Town and Country Planning Act 1990, refusal is recommended for the following reason:

1. Planning permission 2829/15/FUL was for the conversion of an existing building to holiday use. It is considered that the changes proposed do not constitute a conversion and the current proposal is for a fundamentally different form of development. The proposal cannot therefore be considered as a minor material amendment within the meaning of Section 73 of the Town and Country Planning Act 1990 and the Planning Practice Guidance.

Should Members be minded that that proposal can be considered as a minor material amendment within the meaning of Section 73 of the Town and Country Planning Act 1990, refusal is recommended for the following reason:

1. The approved scheme provided for a conversion that would not present an outward appearance of living accommodation, and would retain the small scale of a minor rural building that would not appear unduly domesticated. The proposed amendments would result in the appearance of the building being overtly domestic and increase its visual prominence not in keeping with rural character of the original building. The proposal is therefore contrary to the National Planning Policy Framework (notably but not limited to paragraph 55); Policies CS7 and CS9 of the LDF Core Strategy; Policies DP1 and DP2 of the LDF Development Policies DPD; and Policies DEV20, DEV24 and TTV31 of the emerging Plymouth and South West Devon Joint Local Plan.

Key issues for consideration:

Whether the proposed changes would still result in a conversion rather than new build, design, heritage, neighbour impact, highways.

Site Description:

The site is situated to the north of Chillington and west of Slapton, and includes a historic farmhouse with associated outbuildings. A large existing barn sits to the south of the main dwelling, and includes a pitched roof element adjacent to a mono-pitch roof. Some of the external wall sections are clearly historic with later blockwork alterations. The building currently sits within its own yard area. Externally some historic stonework is visible along with modern blockwork.

The Proposal:

Planning permission was granted on appeal in 2016 for the change of use of the existing barn to holiday accommodation (LPA ref. 2829/15/FUL, appeal ref. APP/K1128/W/16/3155501). The current application seeks approval for design changes including rebuilding stone walls (to address structural issues), and providing a new natural slate roof rather than the previously approved corrugated metal). A single storey extension is also proposed on the south elevation, with a porch canopy on the north (front) elevation. Amendments to the fenestration are also proposed.

The design was further amended prior the application being put before the Committee, and the revised plans were advertised for public comment. The changes included reducing the amount of glazing on the north and south elevations and introducing hit/miss cladding to the proposed extension.

Consultations:

- County Highways Authority – No highway related issues
- East Allington Parish Council – No comments received

Representations:

10 letters of objection have been received (with some local respondents residents responding to both rounds of consultation, with concerns raised summarised as follows:

- The proposal constitutes a new application, not a variation of existing permission
- Increase in size of building
- Inspector's decision refers to no outward appearance of living accommodation and no enlargement
- Building would be more domestic in appearance, destroying current barn character
- Revised plans make cosmetic changes to the current proposal which still fail to comply with Inspector's decision
- Existing consent cannot be implemented as building has been demolished
- Future change of use application for permanent residential use
- No reasons given within application why one bedroom unit no longer viable
- Continued objection to introduction of holiday let in this location, two bedroom let will increase disturbance from use and traffic
- Public right of way does not end at Harleston Farm, continues on towards Start and can be used by any vehicle. It is used by walkers, people on horseback, quad bikes, farm vehicles and local residents
- Trees which are suggested to provide screening belong to third parties
- Impact on setting of Harleston Farm and Harleston House, increase status of building not in keeping with the historic relationships
- No revised site plan showing porch and additional car parking
- Works to other barns on site being carried out without planning permission
- Lane already damaged by construction traffic
- Subversion of planning process
- Assertions that original proposal is unviable unsupported by any evidence and contradictory to statements made by the applicants and third parties in support of the original application
- No requirement to include a porch under Building regulations as suggested

Relevant Planning History

- 2829/15/FUL: Change of use of barn to holiday accommodation. Refurbishment of other barns to provide storage and ancillary music room. Harleston Farm, Harleston Cross To Harleston, Harleston, Devon, TQ7 2BH. Allowed on appeal: 29 Dec 16.

The barns to be refurbished for storage and ancillary music room use were granted consent by virtue of a separate planning consent which was considered whilst the above appeal was ongoing (LPA ref. 2192/16/FUL) with subsequent amendments also approved (LPA ref. 4061/16/HHO, 2271/17/HHO).

ANALYSIS

Principle of Development/Sustainability:

The principle of the change of use of the barn to holiday accommodation has been established by virtue of the previous appeal decision. In terms of policy justification this decision focused on paragraph 55 of the NPPF, which allows for the isolated residential use in the countryside where there are special

circumstances (which in this case was the re-use of a redundant building which was considered to lead to the enhancement of the immediate site setting).

The Inspector's decision on the existing permission was clear that it considered the scheme on the basis the proposal was for the conversion of the existing building. There have been suggestions from third party objectors that the building has in fact been demolished. The most recent site visit by Officers revealed that little of the existing building remains. In a supporting statement provided with the revised plans, the Agent comments:

"The original building was evidently unsuitable in its construction to create habitable accommodation and to achieve compliance with the building regulations. Structurally, it was evidently unstable, evidenced by cracks and leaning external walls. Further, the roof structure was inadequate to support the introduction of insulation and ceilings without considerable amendment and upgrade."

The submitted Design and Access Statement acknowledges that areas of wall would be rebuilt on the south, east and north elevations, with the existing stone wall on the west elevation being retained. The degree of rebuild shown on the submitted plans goes beyond what was originally approved, and Officers consider the current proposal does not constitute a "conversion" of the original building and is tantamount to the construction of a new building (also noting the amount of demolition works that have already been carried out on site).

The current application has been made under Section 73 of the Town and Country Planning Act 1990, which provides for the variation or removal of conditions attached to an existing planning consent, in this case condition 2 (accordance with plans). In relation to such a "minor material amendment" application, the Planning Practice Guidance states:

"There is no statutory definition of a 'minor material amendment' but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved." (Paragraph 017)

On the basis that the current proposal is not for a conversion, Officers consider it cannot be approved under the Section 73 process as it is fundamentally different to the original permission and does not constitute a minor material amendment. This does not preclude the Applicant from submitting a separate fresh application for new building holiday accommodation, which would be considered on its planning merits and on the basis of adopted planning policy and guidance at the time of application.

Whilst the Agent/Applicant were advised prior to submission of the current application that a Section 73 application would be the appropriate procedure for amendments to planning permission 2829/15/FUL to be considered, no assurance was given that such an application would be successful. Detailed assessment of the proposed amendments and a further site visit have subsequently revealed the above issue. It is acknowledged that urgent works can sometimes be necessary in the interests of health and safety. However, if a building is found to be unstable then any planning consent for a 'conversion' scheme is potentially put in jeopardy. There is always an element of risk involved when working with existing built fabric, and the financial and other consequences of this are the responsibility of the person(s) carrying out the development.

There has been some suggestion that Officers should have been aware of the issues with the building subject of this application at an earlier stage, due to the amendments to the approved Music Room (4061/16/HHO and 2271/17/HHO) arising from structural issues. DM Specialists are not qualified structural engineers, and that issues have arisen on one part of site cannot be taken to mean that similar issues will automatically arise elsewhere.

Should Members be minded to disagree with the above assessment regarding the nature of the application (or an Inspector takes an alternative view in considering any subsequent appeal), an analysis of the general planning merits of the current proposal (on the basis that it could still be considered a conversion) is set out below.

Design/Landscape:

With reference to the design the Inspector noted: *"It would be a contemporary but understated treatment that would not present an outward appearance of living accommodation. There would be no enlargement and the proposal would retain the small scale of a minor rural building. It would not appear unduly domesticated."* Reference is also made to the modest size of the garden area.

The current scheme would change the character of the building to one which was overtly domestic and increase its visual prominence. This is directly at odds with the Inspector's reasoning for allowing the conversion. Whilst the revised plans are considered to be a marginal improvement to the plans originally submitted with this application, it is considered they have not sufficiently addressed this issue. The proposal is not in keeping with rural character of the original building and would still appear overly-domesticated. It does not accord with the Inspectors' reasoning for allowing conversion in the first instance (with particular reference to paragraph 55 of the NPPF).

The submitting supporting statement argues that the existing approval would not provide a building that would be attractive to prospective customers, however it was on this basis that consent was originally granted.

There is dispute between the Applicant/Agent and third party objectors regarding the visibility of the site from public vantage points, with specific reference to the access lane serving Harleston Farm and how much this is actually used. The area subject of this application is set back from the lane, which does impact on its visibility. The lane does join a track which provides onward access towards Start for those that choose to use it. The Inspector's decision noted that the outdoor living spaces would be at the rear of the building, with a garden area that would also remain largely out of view, but also makes specific reference to the elevational treatments. It goes on to state: *"I am satisfied that the design and landscape treatment proposed would be sympathetic to the characteristics of the area and result in an enhancement to the immediate setting."* With the current proposal Officers consider this would no longer be the case.

Neighbour Amenity:

The Inspector considered the impact on the amenities of Harleston House in assessing the appeal on the existing consent, noting the large size of the garden and many opportunities for sitting out. It was also noted that outdoor living space for the holiday unit would be sited to the rear (and would therefore be partially screened from Harleston House by the holiday unit itself due to the orientation of the buildings). It is considered that the current proposal would not result in any substantive additional impacts compared with the approved scheme (having regard to the fact that the holiday unit would have only one additional bedroom compared with the previous approval and the outside living area would still be located at the rear). Whilst third parties have raised concern about the additional number of persons that could theoretically be accommodated within the holiday unit, it is not considered refusal could be justified on this basis. It should be noted that amenity impact did not form part of the Council's reason for refusal of the original application, and it remains the case that noise complaints could be investigated by the Council's Environmental Health team under separate legislation.

Highways/Access:

Concern has been raised by third parties regarding the impact of increasing the size of the holiday unit to two bedrooms and associated impact on traffic generation. It is considered that this would not result in a substantive increase in vehicle movements compared with the previous approval such that refusal could be substantiated on this basis.

Heritage:

There are listed buildings to the west of the application site, the nearest being Harleston House (Grade II). In considering the appeal on the original approval, the Inspector considered that the setting of Harleston House would be preserved notwithstanding that there would be some impact (as both buildings can be seen together). Officers consider the current proposal would not result in substantive additional impact on the setting of Harleston House compared with the approved scheme, and the setting would still be preserved for the purposes of the statutory test and the NPPF.

Other Matters:

Officers are of the view that the works that have already taken place to remove substantial and significant areas of the building go well beyond works to convert an existing building and, as such those works are not authorised by the original planning permission. This means that the original permission is no longer capable of implementation as the original building is no longer in place to be converted. It follows that development on the site contrary to the permission is unlawful development and the Council has a duty to consider possible remedies through enforcement action. Officers will consider appropriate next steps following the determination of this application (and any resultant appeal if the decision is refusal).

The appeal decision on the original permission included a condition regarding bat mitigation which could be re-imposed should the current application be approved. There were no specific conditions in respect of drainage.

Conclusions:

Officers consider the current proposal is not for a conversion, and as such it cannot be approved under the Section 73 process as it is fundamentally different to the original permission and does not constitute a minor material amendment. Even it were considered to constitute a minor material amendment, the proposal is not in keeping with rural character of the original building and would appear overly-domesticated. Having regard to the reasons why the Inspector approved the original application, Officers consider the proposed design cannot be supported. There are therefore two potential routes for refusal as identified in the recommendation at the beginning of this report.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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:

South Hams LDF Core Strategy

CS1 Location of Development

CS7 Design

CS9 Landscape and Historic Environment

Development Policies DPD

DP1 High Quality Design

DP2 Landscape Character
DP3 Residential Amenity
DP4 Sustainable Construction
DP5 Conservation and Wildlife
DP6 Historic Environment
DP7 Transport, Access & Parking
DP12 Tourism and Leisure
DP15 Development in the Countryside
DP16 Conversion and Reuse of Existing Buildings in the Countryside

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)

SPT1 Delivering sustainable development
SPT2 Sustainable linked neighbourhoods and sustainable rural communities
TTV1 Prioritising growth through a hierarchy of sustainable settlements
TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area
TTV31 Development in the Countryside
DEV1 Protecting amenity and the environment
DEV2 Air, water, soil, noise and land
DEV10 Delivering high quality housing
DEV15 Supporting the rural economy
DEV20 Place shaping and the quality of the built environment
DEV21 Conserving the historic environment
DEV22 Development affecting the historic environment
DEV24 Landscape character
DEV28 Protecting and enhancing biodiversity and geological conservation
DEV31 Specific provisions relating to transport
DEV37 Managing flood risk and Water Quality Impacts
DEV38 Coastal Change Management Areas

National Planning Policy Framework

Neighbourhood Plan

N/A

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.