

PLANNING APPLICATION REPORT

Case Officer: Clare Stewart

Parish: Marystow **Ward:** Bridestowe

Application No: 0978/18/OPA

Agent/Applicant:

Mrs Gill Makin
Round House
Cookbury
Holsworthy
EX22 7YG

Applicant:

Mr Heath Weymouth
1 Cannon Barn Cottages
Lewdown
EX20 4BT

Site Address: Land West of Cannon Barn Cottages, Lewdown, EX20 4BT

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

Reason item is being put before Committee: On request of Ward Councillor Mott to enable the Committee to consider whether the economic benefit of live/work unit in this location outweighs the landscape impact, having regard to any changes in planning guidance since the previously dismissed appeal for a similar development on this site.



Recommendation: Refusal

Reasons for refusal

1. The proposed development would erode the rural setting of the village and interrupt long public landscape views by reason of its amalgamation of the built form into more continuous ribbon development. This development could also cause it to be difficult to resist similar development in this area which would further exacerbate this harm to the open character and appearance of the landscape. This landscape/environmental harm demonstrably outweighs the positive benefits of the provision of a single live/work unit. The proposed development is therefore contrary to National Planning Policy Framework (notably but not limited to paragraph 11); Strategic Policy 17 of the LDF Core Strategy; Policies NE10 and ED16 of the WDBC Local Plan Review; and Policy TTV31 of the emerging Plymouth and South West Devon Joint Local Plan.

Key issues for consideration:

Principle of development, with an earlier appeal decision on the same site being a significant material consideration.

Site Description:

The site is located on the north side of the old A30 highway to the west of the village of Lewdown, outside the established village settlement boundary. The old A30 was built at an elevated grade, which falls away to the north. The boundaries of the site are delineated by Devon Hedgerows along the northern, western and southern boundaries of the site. There is an existing vehicular access onto the site whilst alongside the highway is a metalled footpath and wide grass verge.

1 Cannon Barn Cottages is currently within the same land ownership and lies to the east of the application site. Outside of the defined settlement of Lewdown there is significant sporadic development alongside the old A30, particularly along the northern side of the road, immediately to the west of the village.

The Proposal:

Permission is sought in Outline with all matters reserved for the provision of a live/work unit. It is stated the Applicant would utilise the 'work' element as a podiatry clinic to enable expansion of their existing business, which they are currently operating from 1 Cannon Barn Cottages.

The Application contends the site should be considered as brownfield land, on the basis that is currently a residential garden outside a built up area.

Consultations:

- County Highways Authority – Standing Advice
- Drainage – Refer to guidance
- Landscape Specialist – Objection –
“This site was the subject of an appeal in 2015, which considered the impact of a single dwelling and live/work unit in this location. As the same principle of development is being considered in this application, the comments of the inspector are relevant and discussed below:

In relation to landscape and visual impacts, the inspector considered that the site was physically annexed from the built form of the village by other open areas and that the degree of openness around the site and nearby properties gave them an open countryside appearance. It was also noted that this location was prominent in long landscape views from the north and, as a consequence, any additional houses within the undeveloped spaces would result in a ribbon pattern of development that would erode the open character at this location to the detriment of the rural setting of the village.

The inspector concluded that such an effect would result in clear and unacceptable environmental harm by consolidating the existing scattered pattern of development leading to an urbanising effect, and would not accord with the landscape conservation aims of the adopted local plan policy. The inspector also raised concerns about this particular development plot setting a precedent for further harmful ribbon development along the A30 eroding the open countryside setting to the village.

The current application does not represent any change in terms of landscape and visual impact, and consequently the position in respect of landscape harm is considered to be as before. The policy principles remain the same, with adopted Core Strategy Policy SP17 requiring that: The quality, character, diversity and local distinctiveness of the natural and historic environment will be conserved and enhanced. Emerging Joint Local Plan Policy DEV24 contains the same principle objective.

For that reason I would raise an objection to the application on landscape grounds, considering that it fails adopted and emerging landscape policies.

If you, or members of the planning committee were minded to weigh against this objection in the planning balance, please ensure that full details of hard and soft landscaping, landscape maintenance, boundary treatments, and materials are conditioned to ensure that we have a full suite of detail to consider at Reserved Matters stage, in order to secure the highest possible quality of built form in this prominent rural location.”

- Marystow Parish Council – Support

Representations:

One letter of objection has been received, with concerns raised summarised as follows:

- Detrimental impact on appearance of area
- Significant precedent for future applications
- Expansion of business not sufficient reason to allow harm
- Impact on private views from neighbouring property

Relevant Planning History

- 00107/2015: Erection of single dwelling to include Podiatry Clinic parking and amenity space. Land Adjacent To Cannon Barn Cottages Lewdown Devon. Refusal: 07 Apr 15

It should be noted that residential use of the site in association with 1 Cannon Barn Cottages has never been authorised.

Also of relevance:

- 00663/2014. Change of use of studio building to podiatry clinic. 1 Cannon Barn Cottages, Lewdown. Conditional approval: 29 Jul 14

ANALYSIS

Principle of Development/Sustainability:

Background

A previous application for a dwelling and podiatry clinic on the land was refused by the Council in 2015 on the following grounds:

- 1. Planning consent is sought for residential development on an unallocated Greenfield site. If permitted this would result in a new isolated home in the open countryside where no special circumstances have been forwarded by the applicant to justify the proposal, and so the proposal does not satisfy the aims of paragraph 55 of the NPPF, Policy 31 of the WDBC Local Plan Review and Strategic Policy 5 of the Core Strategy.*
- 2. Outside of the defined settlement limits of Lewdown there is significant sporadic development alongside the old A30, particularly along the northern side of the road, immediately to the west of the village. There are concerns that development on the application site will set a precedent for the development of other gap sites along the old A30 which would be difficult to resist and would consolidate ribbon development alongside the old A30 to the detriment of the open character and appearance of the area. As such the proposed new dwelling would detract from the open character of the landscape contrary to Policy NE10 of the WDBC Local Plan Review and SP17 of the LDF Core Strategy.*

A subsequent appeal was dismissed. The Inspector identified the main issue to be whether the proposal would result in a sustainable form of development having regard to the Development Plan and the NPPF. They noted that the site is well related for access to facilities within Lewdon itself. They attached limited weight to live/work dimension to the proposal in the absence of suitable evidence to demonstrate that this could not conceivably be carried out on any other suitable premises in the locality. The decision goes on to state:

“The site is an undeveloped area between existing houses located along the Old A30. Although these properties and the site lie at the approach to Lewdown, they are physically annexed from the built form of the village by other open areas and the degree of openness around them gives them an open countryside appearance. I noticed at my site inspection that these properties were also prominent in long landscape views from the north and, as a consequence, any additional houses within the undeveloped spaces would result in a ribbon pattern of development that would erode the open character at this location to the detriment of the rural setting of the village. Such an effect would not accord with the landscape conservation aims of Policy NE10 and would result in the dwelling being isolated for the purposes of paragraph 55.

Moreover, the provision of an additional dwelling at this location could be repeated a number of times at other gaps along the Old A30, notwithstanding that some historic ribbon development is a characteristic of the area. Although each case is to be considered on its own merits, I am concerned that such a pattern of development, as would be difficult to resist should the appeal be allowed, would cumulatively erode the openness of the countryside setting to the village. It appears that the Inspector in the North Tawton appeal cited by the appellants did not have concerns about the risk of precedent thereby reducing the parallels between that case and this appeal.

Therefore, whilst the proposal would contribute towards economic and social vitality of Lewdown it would lead to clear and unacceptable environmental harm by consolidating the existing scattered pattern of development leading to an urbanising effect. I find that such harm would outweigh the limited benefits and would not therefore result in a sustainable development for the purposes of the Framework, when considered as a whole.”

In their supporting statement for the current application, the Agent has drawn attention to a recent High Court decision regarding the meaning of the word “*isolated*” for the purposes of the NPPF. In essence it should be given its ordinary meaning of being “far away” from other places or buildings. On this basis a dwelling on the site would not in the Agent’s view be considered “*isolated*” having regard to the proximity to Lewdown, and would help maintain the vitality of this rural community.

The Agent has also drawn attention to an appeal decision in North Tawton (APP/Q1153/A/13/2196454), but this is actually the same decision referred to in the appeal decision on the site subject of this application (which did not in the Inspector’s view raise the same issue of precedent). The supporting statement also refers to a number of other more recent approvals within the Lewdown area – each case needs to be considered on its own merits and the appeal decision relating to the site subject of this application carries significant weight.

Current policy position

At the present time the Council is unable to demonstrate a five year supply of housing. Current adopted policies are dated and the emerging policies of the Plymouth and South West Devon Joint Local Plan (JLP) do not carry full weight.

Paragraph 11 (as revised July 2018) of the NPPF states:

“Plans and decisions should apply a presumption in favour of sustainable development...”

For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay;*
- or*
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or*
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

The “*tilted balance*” described in paragraph 11 of the NPPF (previously paragraph 14) needs to be applied in this case.

Paragraph 78 of the NPPF states: “*To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.*” Paragraph 79 goes on to state that new “*isolated*” countryside homes should be avoided unless there are special circumstances.

Lewdown has been identified as a sustainable village within the emerging JLP. Policy TTV31 (Development in the countryside) states: “*Housing and employment development adjoining or very near to an existing settlement will only be supported where it meets the essential, small scale local development needs of the community and provides a sustainable solution.*”

Policy NE10 of the WDBC Local Plan Review includes:

- “Development within the countryside outside settlement limits or not otherwise in accordance with policies or allocations in the Plan will not be permitted unless:*
- (i) It provides an overriding economic or community benefit and cannot be reasonably located within an existing settlement;*

(ii) It does not cause unacceptable harm to the distinctive landscape character of the area and the important natural and made features that contribute to that character including views;”

Policy ED16 of the WDBC Local Plan Review states:

“The development of employment generating enterprises will be permitted in or adjacent to rural settlements where:

(i) The size of the enterprise will be of a scale appropriate to the size of the settlement;

And there is no significant adverse impact on any of the following:

(ii) The rural character and appearance of the site, the settlement, its setting and the surrounding countryside;

(iii) Wildlife, landscape or historic interests;

(iv) The amenities of nearby residents or other land uses; and

(v) Travel, access and highway safety.”

Strategic Policy 17 of the Core Strategy also seeks to avoid harm to distinctive landscape character areas.

Principle of residential/employment development

The site is accessible to the facilities within Lewdown, which could realistically be reached on foot. The provision of a live/work unit in this location would make a contribution to the vitality of Lewdown as a sustainable settlement.

The previous appeal decision on this site considered that the environmental harm outweighed the above positive benefits of the proposal. Regardless of whether or not a live/work unit on the site would be considered “*isolated*” within the meaning of paragraph 79 of the NPPF, it would still result in a ribbon pattern of development that would erode the open character of the countryside in this location through the amalgamation of the built form along this section of road and the consequential interruption to long public views from the north and looking north from West Devon Drive. The cumulative effect of further developments coming forward also remains a concern. This remains contrary to the adopted Development Plan and also the emerging JLP. The Council’s Landscape Specialist has objected to the current application on the basis that the previous position remains unchanged (with the emerging JLP policies containing the same principle objective as adopted Core Strategy Policy SP17. This weighs heavily against the application in the planning balance.

The Agent has suggested the site should be considered to be brownfield land on the basis that it is residential garden outside a built up area (having regard to a High Court Case - Dartford Borough Council v Secretary of State for Communities & Local Government (CO/4129/2015)). Paragraph 111 of the NPPF encourages the re-use of previously developed (brownfield) sites. The Committee report in respect of the previously refused application on this site notes that its use as a domestic garden is not authorised, and a Lawful Development Certificate application to establish this as a lawful use has not subsequently been submitted. It is therefore considered this argument does not carry extremely limited weight. However, even were it garden and therefore previously developed land, this does not give an automatic green light to development. The NPPF’s encouragement of the use of PDL is to direct appropriate development towards brownfield land before greenfield as a preference, it is not to justify otherwise inappropriate development simply because it is on PDL.

The submission also includes information about the business case for the ‘work’ element proposed. The Applicant operates a podiatry clinic from an outbuilding at 1 Cannon Barn Cottages (see planning history section above). There are presently approximately 380 patients on the records with approximately 10-15 new patients registering each month. It is understood referrals come from surgeries in Lifton, Okehampton, Hatherleigh and Chagford. The Applicant considers the business is therefore expanding beyond its current site and new premises are required. Some consideration of alternative sites has been provided within the application, focusing on the financial cost of alternative

sites/premises and advising that these unaffordable for the Applicant. The above needs to be weighed in the “*tilted balance*”, and it should be noted that the Inspector did not assess the business case for the development in considering the previous appeal as no details were presented at the time. The business case now being put forward therefore constitutes a material change in circumstances and should be considered accordingly, but still needs to be balanced against the landscape harm identified above. It should also be remembered that the proposal is for an additional residential unit alongside enhanced business facilities, not just for the business facilities alone.

The Agent has drawn attention to a number of more recent planning decisions within West Devon which they argue demonstrate the principle of development on this site should be supported. Whilst each case must be considered on its own merits (and material considerations will be weighted differently in different cases), the following observations can be made in respect of the cases cited:

3363/17/FUL – single dwelling at Homeleigh, Chillaton – the site is just outside Chillaton, which has been identified as a sustainable settlement within the emerging JLP. The Officer report notes the site is well hidden from public view and no harmful landscape impact on landscape character was identified. As clear landscape harm has been identified in respect of the application subject of this report, the considerations are different.

2592/16/FUL – single dwelling at Braemer House, Chillaton – the site is just outside the Chillaton Settlement Boundary and was viewed as an infill plot. No landscape harm was identified, and as such the consideration was different to the case subject of this report which is not considered to constitute an infill site.

0147/17/OPA – 22 dwellings on site at Abbey Meadows Crapstone – allowed on appeal, the Inspector found that no adverse impacts significantly and demonstrably outweighed the benefits which included the provision of 40% affordable housing which was given “*substantial weight*”.

2323/16/OPA – 20 dwellings on land south of North Road Lifton – allowed on appeal, the Inspector considered the proposal would not result in harm to the character of the area.

2568/17/OPA – single dwelling on land at Rushford Cottage Lamerton – it was considered the proposal would read as an infill within the settlement, which is not the case with the application subject of this report.

3244/16/OPA – 5 dwellings on land at Ashton Court Lamerton – this was again considered as an infill site with surrounding countryside character being conserved. Landscape harm has been identified with the current application so the balance of considerations differs.

2242/17/OPA – single dwelling on land previously St Johns, Lamerton – no planning harm was identified having regard to the local context of Lamerton (which is generally devoid of footway provision). The balance of considerations is therefore entirely different to the current proposal.

1462/17/OPA – 5 dwellings on land at Kooshti Bok Lamerton – considered to be infill to the built environment with the character of the surrounding countryside being conserved, which is materially different to the proposal subject of this report.

4161/16/OPA – 4 dwellings on land opposite Springfield Park Bridestow – Site was considered to be well related to existing development within the village, with the rural fringe character being broadly conserved. Again this differs from the proposal subject of this report where landscape harm has been identified.

2472/17 – 24 dwellings at Town Meadow, Bridestow approve – Committee resolution to approve subject to completion of Section 106 Agreement.

The Agent has also provided comments on the consultation response from the Landscape Specialist, which are available to view on the Council's website. These include a query on whether the Landscape Specialist has considered that "*The siting of the dwelling could be angled and sunken into the land which would have no impact or harm to the surrounding landscape.*" The application has been submitted in outline with all matters reserved, and on this basis the LPA are not satisfied that it has been adequately demonstrated that the development could be achieved without causing harm to the landscape.

Design:

Detailed design matters would be considered at the Reserved Matters stage. It can be noted that the previous refusal was a full application and detailed design was not a reason for refusal.

Drainage:

The size and topography of the site would allow for drainage matters to be appropriately dealt with at Reserved Matters stage.

Ecology:

The site area did not trigger the need for a Preliminary Ecological Appraisal as a validation requirement.

Neighbour Amenity:

There would be sufficient separation between the proposed live/work unit and existing nearby properties to achieve satisfactory levels of privacy.

Highways/Access:

The current application has been submitted with all matters reserved (including access). It is noted the site benefits from an existing field gate which could be utilised. Further details would need to be considered as part of any Reserved Matters application.

Other Matters:

Impact on private views – this is not a material planning consideration.

The Planning Balance:

The proposed development would make a modest positive contribution to the vitality of the adjacent settlement of Lewdown. Whilst attention has been drawn to the recent High Court case concerning the definition of "*isolated*" within paragraph 55 (now 79) of the NPPF, although the LPA agrees that the site is not isolated, it is considered that this issue does not fundamentally change the fact that the proposal would result in harm to the open character of the landscape in this location. Approval would still make it difficult to resist future applications for similar ribbon development that would cumulatively erode the openness of the countryside, which the Inspector in the previous appeal on this identified as a legitimate and significant concern.

Whilst a business case have been provided with the current application, it is not considered this provides substantive special circumstances that outweigh the identified environmental harm as the economic benefit of a single live/work unit would not be significant in planning terms. Overall it is considered the harmful impacts of the proposal in relation to landscape character would demonstrably outweigh the benefits contrary to the NPPF (in particular paragraph 11), and the adopted and emerging Development Plan policies identified above. As such the application is recommended for refusal. Whilst it is acknowledged that the business case is an additional consideration from

previously dismissed appeal scheme, Officers do not consider it carries sufficient weight to tip the balance in favour of the proposal.

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

SP7 – Strategic Distribution of Housing

SP10 – Supporting the Growth of the Economy

SP17 – Landscape Character

SP21 – Flooding

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

NE10 – Protection of the Countryside and Other Open Spaces

BE1 – Conservation Areas

H31 – Residential Development in the Countryside

ED16 – Development for Employment in the Countryside

T9 – The Highway Network

PS2 – Sustainable Urban Drainage Systems

PS3 – Sewage Disposal

PS4 – Private Water Supply

National Planning Policy Framework

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

DEV20 Place shaping and the quality of the built environment

DEV21 Conserving the historic environment

DEV24 Landscape character

DEV28 Protecting and enhancing biodiversity and geological conservation

DEV30 Trees, woodlands and hedgerows

DEV31 Specific provisions relating to transport

DEV37 Managing flood risk and Water Quality Impacts

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.