

PLANNING APPLICATION REPORT

Case Officer: Darren Henry

Parish: Highampton **Ward:** Hatherleigh

Application No: 0529/22/FUL

Agent/Applicant:

Mr Edward Persse - EJFP Planning Ltd
49 Bannawell Street
Tavistock
PL19 0DP

Applicant:

Mr B Bailey
Lower Longwood Farm
Highampton
EX21 5LF

Site Address: Lower Longwood Farm, Highampton, EX21 5LF



Development: Replacement dwelling (Resubmission of 3874/21/FUL)

Reason item is being put before Committee:

Having taken advice Cllr Kemp requested that the application go before Committee as she would like to contest the reasons for refusal in the following material ways (the numbers below refer to the points made in the Officer/Committee report)

"1 The decision does not reflect the leading caselaw "The Mansell Case", in that case the judge considered that the dwellings did not need to be built for the replacement dwelling policies to be appropriate. Indeed in that case there were 4 dwellings granted under class Q although none of those buildings were converted when the Council granted planning permission. This decision was challenged and the Judge agreed with the Council. There are direct parallels with this case.

2 This reason logically falls away if the above points are accepted. In addition the application as proposed would not result in additional dwelling

3 In terms of the carbon reduction, the SAP report shows the carbon/sustainable benefits of the new scheme. The ability to retrospectively retro-fit the barn to the same level energy efficiency is seriously reduced when compared to a new build. Additional information would have been supplied had it been requested and can still be supplied

4 The proposal is that the existing barn will be used for ancillary residential purpose (this point is accepted by the council in reason 6). Therefore, once the permission is implemented then the building will automatically change its use from agriculture to ancillary residential use. A legal agreement would have been submitted if requested

5 Design can be subjective, we would argue that what has been designed is appropriate as it reflects the rural character of the area and the fact that it is a house. It is certainly a much better design than the approved class Q scheme

6 The dwelling as proposed is a three-bed dwelling and regardless of the size of the existing barn which will be used for an ancillary residential purpose to the house will only be a three-bed house, thus the concerns are unfounded. It would be entirely appropriate to impose a condition ensuring that the building should not be used for primary residential purposes.”

Recommendation: Refusal

Reasons for refusal

1. The development description proposes a replacement dwelling. Given that there is currently no existing dwelling within the site, there is no lawful existing dwelling to replace, contrary to Policy TTV29 of the Plymouth and South West Devon Joint Local Plan (2014-2034).
2. The proposal would result in the creation of a single, open-market dwelling located within an unsustainable countryside location, without good access to services and facilities and be reliant on the use of a private car. This would be contrary to policies SPT1, SPT2, TTV1, TTV26 of the Plymouth & South West Devon Joint Local Plan (2014- 2034); policy HNPH2 Housing Policy 2 of the Highampton Neighbourhood Plan (2014- 2034); and the National Planning Policy Framework (2021) (notably but not limited to paragraphs 12 and 79).
3. In order to meet the carbon reduction requirements of policy DEV32 (Delivering low carbon development), the proposal would need to demonstrate the carbon benefits of constructing a new dwelling rather than converting the existing agricultural building (0600/20/PDM). Such benefits have not been demonstrated and therefore the proposal would conflict with policies SPT1.2 and DEV32 of the Plymouth & South West Devon Joint Local Plan (2014- 2034); and the National Planning Policy Framework (2021) (notably but not limited to paragraphs 154 and 157).
4. The proposed dwelling is in close proximity to an existing barn which benefits from consent to a residential dwelling but has not yet been implemented. There is a potential that the agricultural operations of a barn would have a harmful impact on the amenity of occupants of the proposed dwelling, such as noise, odour, and general disturbance or that the presence of a dwelling would hinder the agricultural operations of the enterprise. In the absence of a legal agreement to prevent the implementation of the consented barn conversion scheme (LPA ref. 0600/20/PDM) the proposed dwelling would have an unacceptable amenity relationship with this property. The proposal would therefore

conflict with policy DEV1 of the Plymouth & South West Devon Joint Local Plan (2014-2034) and policy HNPEN1 Environment Policy 1 of the Highampton Neighbourhood Plan (2014- 2034).

5. The proposed dwelling includes both utilitarian and traditional domestic design elements, which results in a poorly designed building which appears neither agricultural, nor residential in character. This ambiguous character, along with an inconsistent pattern of fenestration, does not constitute good design, and the development is therefore contrary to policy DEV20 of the Plymouth & South West Devon Joint Local Plan (2014- 2034), and paragraphs 130 and 134 of the National Planning Policy Framework (2021).
6. The proposed use of the existing barn to be retained as a domestic garage and workshop would result in an overall residential area of significant size for a three bedroom property which would not widen opportunities for home ownership or respond positively to the housing needs of the Thriving Towns and Villages Policy Area. The proposal would therefore conflict with Policies SPT2.4 and DEV8 of the Plymouth and South West Devon Joint Local Plan (2014-2034); and HNPH3 Housing Policy 3 of the Highampton Neighbourhood Plan (2014- 2034).

Key issues for consideration:

Principle of development, fall-back position, design, landscape impact, residential amenity, highways.

Site Description:

The site is an area of agricultural land in a rural setting just over 2km north-east of Highampton. The land currently includes a barn (within the red line application site) and a concrete base, which previously had an agricultural building on it. This building has now been demolished.

The site has an existing access from the main road, and is bordered by trees and hedgebanks. The site is in the open countryside but not within any special areas of designation.

The Proposal:

Whilst the application is been described as a replacement dwelling, the Officers disagrees with this, as will be discussed in the analysis later on, the proposal seeks to construct a dwelling on the site of the now-demolished agricultural building.

A previous application for a similar development was refused (LPA ref. 3874/21/FUL) on the following grounds:

1. *The development description proposes a replacement dwelling. Given that there is currently no existing dwelling within the site, there is no lawful existing dwelling to replace, contrary to Policy TTV29 of the Plymouth and South West Devon Joint Local Plan (2014-2034).*
2. *The proposal would result in the creation of a single, open-market dwelling located within an unsustainable countryside location, without good access to services and facilities and be reliant on the use of a private car. This would be contrary to policies SPT1, SPT2, TTV1, TTV26 of the Plymouth & South West Devon Joint Local Plan (2014- 2034), policy HNPH2 Housing Policy 2 of the Highampton Neighbourhood Plan (2014- 2034), as well as paragraphs 12 and 79 of the National Planning Policy Framework (2021).*

3. *In order to meet the carbon reduction requirements of policy DEV32 (Delivering low carbon development), the proposal would need to demonstrate the carbon benefits of constructing a new dwelling rather than converting the existing agricultural building (0600/20/PDM). Such benefits have not been demonstrated and therefore the proposal would conflict with policies SPT1.2 and DEV32 of the Plymouth & South West Devon Joint Local Plan (2014- 2034), and paragraphs 154 and 157 of the National Planning Policy Framework (2021).*
4. *The proposed dwelling is in close proximity to an existing barn. There is a potential that the agricultural operations of a barn would have a harmful impact on the amenity of occupants of the proposed dwelling, such as noise, odour, and general disturbance. The proposal would therefore conflict with policy DEV1 of the Plymouth & South West Devon Joint Local Plan (2014- 2034) and policy HNPEN1 Environment Policy 1 of the Highampton Neighbourhood Plan (2014- 2034).*
5. *The proposed dwelling includes both utilitarian and traditional domestic design elements, which results in a poorly designed building which appears neither agricultural, nor residential in character. This ambiguous character, along with an off-centre ridge and projecting balcony, does not constitute good design, and the development is therefore contrary to policy DEV20 of the Plymouth & South West Devon Joint Local Plan (2014- 2034), and paragraphs 130 and 134 of the National Planning Policy Framework (2021).*

The current proposal seeks to address the reasons for above previous reasons for refusal. The detailed design of the proposed dwelling remains unchanged. Prior to determination the agent submitted an additional plan showing how the barn on the site with Class Q consent for residential conversion would be used as a domestic garage and workshop as part of the current proposal (no external changes proposed).

Consultations:

Highampton Parish Council—In support

- *“Highampton Parish Council discussed the details of the Resubmitted application at the meeting held on 6th April 2022. Councillors were all familiar with the details of the application as well as the site of the proposed dwelling. The Applicant attended the meeting to answer any questions relating to his application. No concerns have been raised by Parishioners or the wider community.*

Parish Councillors were pleased to learn that the conditions for refusing the initial application have been dealt with and noted the clarification regarding the SAP reports and the boundary line. (Particular attention was paid to the settlement boundary as defined in the Neighbourhood Plan document). It was also noted that a) the barn was in the wrong place on the original application (this has now been addressed) and b) the application is for a replacement dwelling. Councillors all agreed to support the application on the conditions that the existing barn loses its Class Q permission, and a legal covenant is in place to prevent its future development.

Application supported by five Councillors present.”

Representations from Internal Consultees

Tree Officer—No objection

Representations from Statutory Consultees

DCC Highways Authority

Representations from Residents

One letter of support has been received, which stated in summary there were no reasons for refusal and the proposal would provide a more efficient dwelling with an improved design.

Relevant Planning History

3874/21/FUL. Replacement dwelling. Refused on the 17/12/2021

0600/20/PDM. Notification for prior approval for proposed change of use of agricultural building to dwellinghouse (Class C3) and for associated operational development (Class Q(a+b))- prior approval given

3193/19/PDM. Notification for prior approval for proposed change of use of agricultural building to dwellinghouse (Class C3) and for associated operational development (Class Q(a+b)). Prior Approval refused.

ANALYSIS

Background

In relation to the previously refused application the Officer Report states that *“An amended red line, which includes the barn which benefits from the Class Q fallback was sent to Officers during the application process. Paragraph 61 of the National Planning Practice Guidance, in addressing the question whether an applicant can amend an application after it has been submitted concludes: - ‘It is at the discretion of the local planning authority whether to accept such changes, to determine if the changes need to be re-consulted upon, or if the proposed changes are so significant as to materially alter the proposal such that a new application should be submitted.’*

The Officer Report also states:

“Officers considered the amended location plan, noting that the change in red line would require the application to be formally re-advertised. Given the other issues with the proposed development, as detailed in this report, Officers did not consider that amending the red line and re-advertising the proposal would result in a recommendation of approval of the development, and therefore the revised plan was not accepted. The application has therefore been determined as originally submitted.”

The applicant has submitted the same application but has included the barn which benefits from consent for residential conversion under Class Q within the red line site area. As stated above, whilst being located outside the redline was one reason for refusal, there were other issues with the proposal that resulted in the refusal of the previous application which also need to be addressed.

Principle of Development/Sustainability:

Policy SPT1 of the Joint Local Plan (JLP) seeks a sustainable society where sustainable and health-promoting transport options are available to access local education, services, and jobs. Policy SPT2 sets out that development should support the overall spatial strategy through the creation of communities which; have reasonable access to a vibrant mixed-use centre, which meets daily community needs for local services such as neighbourhood shops, health and wellbeing services, and community facilities, and; are well served by public transport, walking and cycling opportunities.

Policy TTV1 of the JLP prioritises growth through a defined four-tier hierarchy of settlements within the Thriving Town & Villages Policy Area (TTV), and is further explained in policy TTV25.

Paragraph 5.5 of the JLP explains that policy TTV26 (Development in the Countryside) will be applied 'outside built up areas'.

The site is not within an area identified as a 'Main Town', 'Smaller Town', 'Key Village' or 'Sustainable Village' within the Council's Thriving Towns and Villages Policy Area. Consequently, the proposal site is considered to be located within the fourth tier of the Council's settlement hierarchy, which relates to Smaller Villages, Hamlets and the Countryside, where development will be permitted only "*where it can be demonstrated to support the principles of sustainable development and sustainable communities (policies SPT1 and SPT2), including as provided for in policies TTV26 and TTV27*".

Policy TTV26 of the JLP relates to development in the countryside. The aim of the policy is to protect the role and character of the countryside. Paragraph 5.169 of the JLP provides reasoned justification for TTV26 in general, and explains how the policy works in conjunction with TTV1 and the settlement hierarchy. Of particular relevance is the statement that 'the delivery of new homes that are distant from existing services and amenities do not represent a sustainable solution to the need for new homes in rural areas.' This accords with the wider spatial strategy for meeting housing and employment needs in the TTV policy area, which seeks to direct the vast majority of development towards the named sustainable settlements identified in paragraphs 5.8 - 5.10 of the JLP.

The policy is divided into two different sets of policy requirements; part one (TTV26(1)) applies to development proposals considered to be in isolated locations. The second part of the policy, (TTV26(2)) is applied to all development proposals that are considered to be in countryside location.

The application site within the countryside and is near to an existing dwelling on the other side of the access track, with other clusters of farmhouses and associated buildings nearby.

The key to applying Policy TTV26 is whether the development proposal is "isolated development in the countryside". The Court of Appeal has held that "...the word "isolated" in the phrase "isolated homes in the countryside" simply connotes a dwelling that is physically separate or remote from a settlement. Whether a proposed new dwelling is or is not "isolated" in this sense is a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand". Equally, whether for the purposes of the policy, a group of dwellings constitutes a settlement, or a 'village', will again be a matter of fact in that particular case and planning judgment.

Applying this to the facts of this particular application the judgment is that whilst the proposal represents development in the countryside, it is not considered to be isolated development. It therefore does not meet the criteria to be assessed under policy TTV26(1), but TTV26(2) is applicable in this instance.

JLP Policy TTV26 (2) states:

Development in the countryside

The LPAs will protect the special characteristics and role of the countryside. The following provisions will apply to the consideration of development proposals:

2. Development proposals should, where appropriate:

i. Protect and improve public rights of way and bridleways.

ii. Re-use traditional buildings that are structurally sound enough for renovation without significant enhancement or alteration.

- iii. Be complementary to and not prejudice any viable agricultural operations on a farm and other existing viable uses.*
- iv. Respond to a proven agricultural, forestry and other occupational need that requires a countryside location.*
- v. Avoid the use of Best and Most Versatile Agricultural Land.*
- vi. Help enhance the immediate setting of the site and include a management plan and exit strategy that demonstrates how long term degradation of the landscape and natural environment will be avoided*

The proposal does not impact upon any public rights of way or bridleways, and so point (i) is not relevant to the proposal.

The proposal is to construct a new dwelling; therefore the development would not seek to preserve or re-use a traditional agricultural building (point ii). The proposed building is sited within a few metres of an existing barn to the southwest that benefits from a Class Q permission, which would be used as a double garage ancillary to the proposed conversion.

The application has not identified any agricultural, forestry, or other occupational need for the proposed dwelling, and so TTV26 (iv) is not met.

The site is currently a concrete platform where an agricultural building was previously sited (now demolished). As such the proposal would avoid encroaching on the best and most versatile agricultural land.

As the proposal would not re-use an existing traditional agricultural building and is not responding to a proven agricultural need suitable for its location, a new dwelling in this location would be contrary to the spatial strategy contained within the JLP and raises an in principle policy conflict.

Class Q 'fallback' position:

In this instance, the Officers are mindful that the barn to the south-west of the application site benefits from prior approval under Part 3, Class Q, of the General Permitted Development Order 2015 (as amended), for the conversion of the building to a single dwelling, as approved under application reference 0600/20/PDM.

The applicant states that the proposal benefits from a fall-back position under Class Q, and has therefore described the development as a 'replacement dwelling.' Officers disagree with the description for two reasons; firstly, although the adjacent barn has been granted prior approval to be converted, this conversion has not yet taken place, and the building would not be considered as a dwelling until such time as the conversion is implemented. As such, there is currently no dwelling to replace. The barn to the north of the proposed dwelling, which benefits from the Class Q prior approval, is within the red line application. As such, the applicant claims that a legal agreement, or condition, could secure that the Class Q permission is not carried out if planning permission is granted for the proposed dwelling.

Whilst this application has included the barn within the redline, unlike the previously refused application, Officers are still mindful of the relevant case law: *Mansell v Tonbridge & Malling Borough Council*, which accepts that a Class Q prior approval can establish the principle of residential development in a location otherwise considered inappropriate and contrary to policy. For this reason, the fact that the Class Q permission on the building to the north has not been implemented means that this is not of sufficient material weight to outweigh the fact that the proposal does not comply with policy TTV29 of the JLP, which permits replacement dwellings

in the countryside where *'the existing dwelling has a lawful use for permanent residential use and has not been abandoned.'*

The agent refers to a fall-back position. It is suggested by the agent that in the event that planning permission were to be refused, the applicant can implement the planning permission granted by Class Q to convert the barn to a single dwelling. This is, it is said, is a fall-back position and as such it is a material consideration when considering whether planning permission should be granted for the development that is the subject of the application. However, the fall-back position will only be a material consideration if there is a realistic prospect of the Class Q permission going ahead. A realistic prospect does not have to be probable or likely: a possibility suffices. This is a matter of planning judgment.

In the present case, the Applicant has said that the new proposal will represent a betterment above the existing Class Q permission, stating:

- The revised site layout has the potential to provide a more comfortable relationship between the proposed and existing dwelling; there is a degree of separation between each of the dwellings proposed that is more typical of the pattern of residential development in the rural surroundings.
- The site layout provides the opportunity for greater privacy and private amenity space that reflects the orientation of the dwellings that currently exists with the approved conversion of the barn.
- The design of the dwelling and the materials would high quality and should be reflective of and sympathetic to the rural surroundings. The rural surroundings should influence the future design. The material palette comprises predominantly brick walling and, with some stone, with a slate roof.

When considering the Mansell case the key issue is to consider is that there is the possibility that the Class Q proposal would be implemented, and where an alternative proposal would normally conflict with the development plan, insofar as it being an unsuitable location for housing, the potential to outweigh that conflict must be considered by the Local Planning Authority. It stands to reason then, that where the alternative new-build proposal offers a comprehensive package of enhancements over and above the fallback position, the development could be allowed to proceed. However, if there are no identified enhancements the development should not be allowed.

Such enhancements/betterments could include, for example, better design, be less visually intrusive in the landscape, the removal of eyesores or the improvement to the setting of a listed building. The following paragraphs will consider betterment.

Housing need:

JLP Policy SPT2.4 supports the creation of communities which *"Have a good balance of housing types and tenures to support a range of household sizes, ages and incomes to meet identified housing needs"*. Policy DEV8 of the JLP requires housing to be brought forward that would redress an imbalance within the existing housing stock. Housing market data (ONS) reveals that the parish of Highampton already has an oversupply of large (four bedroom or more) dwellings, and has a need for smaller (one/two bed) properties. The supply of three bedroom houses is similar to the average for the borough, and the proposed three-bed dwelling would therefore not have an impact on the imbalance in existing housing stock in terms of size, although there is a significant oversupply of detached properties (78% of properties in the parish are detached, compared to 44% across the borough).

With regards to housing need, the Officers do not see any betterment, as the proposal is still providing a three bedroom dwelling, rather than much needed one and two bedroom dwellings, as well as the proposal being a detached property, to which there is a significant oversupply.

Additionally, the application now proposes to use of the barn, which benefits from Class Q consent (reference 0600/20/PDM) as a domestic garage and workshop. The use of this building as part of the domestic area, which is very generously sized for a domestic outbuilding and is large enough to be converted to a dwelling in its own right) (as evidenced by its Class Q consent), would result in conflict with JLP Policy DEV8 and HNPH3 Housing Policy 3 of the Neighbourhood Plan in terms of the overall size/affordability of the resultant residential unit (not just considering the number of bedrooms) which would not make a positive contribution to local housing need, and would not result in betterment over the Class Q conversion of the barn in this regard.

Design/Landscape:

The proposed design attempts to reflect the agricultural character of the site. Whilst the proposed zinc cladding gives the building a utilitarian form, elements such as the recessed balcony, numerous Velux roof-lights, and domestic fenestration pattern are more residential in character. The off-centre ridge, and single-storey flat roof detract from the agricultural character that the building appears to be trying to replicate. The combination of domestic and utilitarian design features result in a confused, ambiguous building with no singular, identifiable character.

Paragraph 130 of the NPPF, and policy DEV20 of the JLP require development to be visually attractive and sympathetic to the local character and site surroundings. Officers are mindful that the applicants consider that they have a Class Q fall-back position to support the proposal. As stated above, for this to happen the Officers consider that there is a requirement for the proposal to demonstrate a betterment to and be in accordance with the Development Plan. Whereas the Class Q conversion had to work within the constraints of the existing building, the current proposal is for the construction of a new dwelling, which allows far more freedom to design a characterful, well-designed property, rather than the building currently proposed. The proposed dwelling would be difficult to identify as either agricultural or residential at first glance, and is not considered to constitute good design.

Paragraph 134 of the NPPF states that '*(d)development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design*'. The proposal is not considered to represent good design, and therefore conflicts with both local and national policies in this regard.

In terms of landscape impact, although the site is not within any special areas of designation, it is within a rural countryside location. Although there was a building on the site of the proposed dwelling until it was recently demolished, this was clearly an agricultural structure, whereas the proposed building is more ambiguous in form, as detailed above. It would not appear to be an agricultural building, typical of those found within the rural landscape, nor would it appear to be a traditional countryside dwelling. The impact of the additional built form would therefore have an adverse impact on the rural setting of the site.

The harm to the surrounding landscape would be exacerbated by the large residential curtilage proposed for the dwelling; the introduction of such a large residential garden area, and potential for garden furniture, play equipment, washing lines, and other domestic paraphernalia across such a wide area of land would harm the existing rural, agricultural character of the site and surrounding landscape. The light impact, resulting from the substantial glazing proposed to

both ground floor and first floor to the south elevation also has the potential to adversely impact on the rural character of the surrounding landscape.

With regards to design and the impact on the landscape, Officers do not consider betterment would be achieved, as the design is unclear with regards to it looking like a house or an agricultural building. In relation to the landscape impact, the residential curtilage of the Class Q conversion is strictly controlled by the limitations of the legislation, and so the significant increase in domestic garden space resulting from the current proposal would have a more harmful impact on the local landscape character than the prior approval.

Consequently, the proposal is considered to have a design out of character with its context that would have a harmful impact on place shaping and the rural character of the site, contrary to policies DEV10, DEV20 and DEV23 of the JLP.

Neighbour Amenity:

As previously mentioned, the adjacent barn benefits from a prior approval to be converted to a residential dwelling under Class Q. This has not yet been implemented, and so the building remains an agricultural building.

However, it should be noted that the applicant has now included the Class Q agricultural building within the redline site local plan and has shown that the building would be converted into a double garage ancillary to the proposed dwelling. This would remove concerns that a continued agricultural operations could result in unacceptable noise and smells for future occupants of the proposed dwelling, however the fact remains that this building has consent to be converted to a residential dwelling in its own right and it would be physically possible for this to occur and for the dwelling proposed under the current application to be constructed. In that instance the neighbour relationship between the two properties by reason of their physical proximity and orientation of windows would be entirely unacceptable. Whilst Officers have considered the use of a planning condition to resolve this issue, the enforceability of such a condition is a concern and having regard to Planning Practice Guidance it is considered a legal agreement to prevent the implementation of the Class Q consent would be necessary in this instance. No formal agreement has been submitted as part of the application, and the application must be determined as presented (and as detailed elsewhere in this report there are a number of other policy conflicts hence Officers did not actively seek to resolve this issue prior to determination). On this basis conflict with JLP Policy DEV1 remains a recommended reason for refusal.

Highways/Access:

The site benefits from an existing access which could accommodate residential vehicle movements and the proposal includes sufficient parking space. The proposal therefore raises no highways concerns.

Drainage:

The Council's Drainage Specialists have previously reviewed the proposal, and had no objection to the development, subject to recommended conditions. The drainage proposal remains as the previous application. Therefore the use of conditions would make the development acceptable with respect to drainage matters in the event of an approval.

Low Carbon:

West Devon Borough Council has declared a climate emergency, and policy DEV32 of the JLP describes the aims of the Plan Area to have the 2005 levels of carbon emissions by 2034.

Development proposals should therefore identify opportunities to minimise the use of natural resources in the development, reusing or recycling materials in construction, and making the best use of existing buildings and infrastructure.

Whilst the applicant has submitted a Standard Assessment Procedure (SAP) Calculation to show how the proposal dwelling meets Building Regulations Part L, it has not been demonstrated how the construction of a new dwelling would be more efficient in terms of reducing carbon as compared to converting the barn. Although rainwater harvesting is referenced within the submitted information, no details have been provided to explain how the proposal helps to meet the aims of DEV32.

Other matters:

The Parish Council supports the proposal subject to two conditions- that the existing barn loses its Class Q permission and a legal covenant is in place to prevent its future development. No legal agreement is in place to remove the existing Class Q consent.

The Planning Balance:

The site does not benefit from a Class Q fall-back from the reasons discussed, and so the proposal would constitute a new, unrestricted dwelling in the countryside, contrary to both local and national planning policies. The application submission does not include a mechanism to remove the right for the existing Class Q consent to be implemented. Officers consider the proposal is unacceptable in principle. Additionally the proposed development is not considered to constitute good design, would harm the rural character of the local landscape and does not respond positively to the objectives of JLP Policy DEV8. Insufficient information to demonstrate how the proposal complies with JLP Policy DEV32 has been provided.

Officers consider the application submission does not address the reasons for refusal of the previous application 3874/21/FUL. Whilst further information could have been sought prior to determination to seek to address some of the above issues, Officers consider there are fundamental policy conflicts in particular with respect to the design of the new dwelling (which has not been amended from that previously refused) which could not be addressed with the submission of additional information. The application is therefore recommended for refusal.

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

Planning Policy

Relevant policy framework

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. For the purposes of decision making, as of March 26th 2019, the Plymouth & South West Devon Joint Local Plan 2014 - 2034 is now part of the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts of South Hams and West Devon within Dartmoor National Park).

On 26 March 2019 of the Plymouth & South West Devon Joint Local Plan was adopted by all three of the component authorities. Following adoption, the three authorities jointly notified the Ministry of Housing, Communities and Local Government (MHCLG)* of their choice to monitor the Housing Requirement at the whole plan level. This is for the purposes of the Housing Delivery Test (HDT) and the 5 Year Housing Land Supply assessment. A letter from MHCLG to the Authorities was received on 13 May 2019 confirming the change.

On 13th January 2021 MHCLG published the HDT 2020 measurement. This confirmed the Plymouth, South Hams and West Devon's joint HDT measurement as 144% and the consequences are "None".

Therefore a 5% buffer is applied for the purposes of calculating a 5 year land supply at a whole plan level. When applying the 5% buffer, the combined authorities can demonstrate a 5-year land supply of 5.8 years at end March 2021 (the 2021 Monitoring Point). This is set out in the Plymouth, South Hams & West Devon Local Planning Authorities' Housing Position Statement 2021 (published 12th November 2021).

[*now known as Department for Levelling Up, Housing and Communities]

The relevant development plan policies are set out below:

The Plymouth & South West Devon Joint Local Plan was adopted by South Hams District Council on March 21st 2019 and West Devon Borough Council on March 26th 2019.

SPT1 Delivering sustainable development

SPT2 Sustainable linked neighbourhoods and sustainable rural communities

SPT3 Provision for new homes

TTV1 Prioritising growth through a hierarchy of sustainable settlements

TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area

TTV26 Development in the Countryside

TTV29 Residential extensions and replacement dwellings in the countryside

DEV1 Protecting health and amenity

DEV2 Air, water, soil, noise, land and light

DEV10 Delivering high quality housing

DEV20 Place shaping and the quality of the built environment

DEV23 Landscape character

DEV26 Protecting and enhancing biodiversity and geological conservation

DEV28 Trees, woodlands and hedgerows

DEV29 Specific provisions relating to transport

DEV32 Delivering low carbon development

DEV35 Managing flood risk and Water Quality Impacts

Highampton Neighbourhood Plan 2014 – 2034

HNPH2 Housing Policy 2

HNPH3 Housing Policy 3

HNPH3 Housing Policy 5

HNPH3 Housing Policy 6

HNPEN1 Environment Policy 1

Other material considerations include the policies of the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG).

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.