

PLANNING APPLICATION REPORT

Case Officer: Charlotte Howrihane

Parish: Diptford **Ward:** South Brent

Application No: 2156/22/FUL

Agent:

Mrs Amanda Burden - Luscombe Maye
59 Fore Street
Totnes
TQ9 5NJ

Applicant:

Mr S Fearon
C/O Agent
TQ9 5NJ

Site Address: Higher Farleigh Meadow, Diptford, TQ9 7JW



Development: Application to regularise and retain agricultural storage building (Retrospective)

Reason application is at committee: Cllrs Pannell and Smerdon have called the application to committee due to concerns over the scale and massing of the building. Following an internal review the Officer recommendation is now for refusal, and it is considered the application should still be heard by the Committee given conflicting advice being given to the Applicant/Agent.

Recommendation: Refusal

Reason for refusal:

1. It has not been demonstrated to the satisfaction of the Local Planning Authority that the proposed building is reasonably required to support the essential needs of agriculture, contrary to Policy TTV26 and DEV15 of the Plymouth & South West Devon Joint Local Plan (2014- 2034)

Key issues for consideration:

Principle of development, design, landscape impact, residential amenity, highways

Site Description:

The site is an area of agricultural land of approximately 1 acre, purchased by the applicant in 2019. It is within the open countryside, approximately 1.1km north-west of Moreleigh, but is not within any special areas of designation.

The Proposal:

The applicant has built the building in question, and this is therefore a retrospective application to regularise it. The development is an agricultural storage building for tools and equipment to allow the applicant to manage the smallholding.

The building is a mono-pitched, wooden design, sited on an existing levelled area. It measures 12m x 5m with a ridge height of 3m. It is open-fronted to the southern side, and there is an existing access from the highway.

Consultations:

- County Highways Authority- No highways implication
- Parish Council- Object: *'There is no proven agricultural need for this barn and the Parish Council object to this application being passed'* **Officer note- the applicant submitted a Design & Access Statement justifying the need for the building but this was not published on the website and would not have been available to the Parish Council when considering the application. This has since been published online.**

Representations:

Three letters of support have been received. These comments can be seen in full on the Council website, and can be summarised as follows:

- The barn is in keeping with the surrounding area
- The site is well-maintained
- The barn has no adverse impact on nearby properties
- The building is hidden from public view

Relevant Planning History

None

ANALYSIS

1.0. Principle of Development/Sustainability:

- 1.1. There is no fall-back for an agricultural building to be constructed on the holding under permitted development rights (as laid out within Schedule 2, Part 6 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as the holding (0.4 hectares) is not presently large enough (minimum

required is 5 hectares). The principle of a building to serve the holding therefore falls to be considered against adopted planning policies and the NPPF.

- 1.2. The site is the open countryside. Policy TTV1 permits development in the countryside only where it can be demonstrated to support the principles of sustainable development and sustainable communities (Policies SPT1 and SPT2) included as provided for in Policies TTV26 and TTV27. Policy TTV26 of the JLP relates to development in the countryside. The aim of the policy, as articulated in the first line, is to protect the role and character of the countryside. The policy is divided into two different sets of policy requirement; the first applies to development proposals considered to be in isolated countryside locations. The second aspect of the policy is applied to all development proposals that are considered to be in a countryside location. Therefore, in order to determine whether to assess the proposals under TTV26 (1) or TTV26, Officers must conclude whether or not the site is considered to be isolated.
- 1.3. 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.
- 1.4. Applying this to the facts of this particular application the judgment is that whilst the proposal represents development in the countryside, there are nearby buildings which leads Officers to conclude that it is not isolated development. It therefore does not meet the criteria to be assessed under policy TTV26(1), but TTV26(2) is applicable in this instance.
- 1.5. TTV26(2) establishes that development proposals should, where appropriate:
 - i. Protect and improve public rights of way and bridleways.*
N/A to this site. No PRoW or Bridleways run through or adjacent to the site.
 - ii. Re-use traditional buildings that are structurally sound enough for renovation without significant enhancement or alteration.*
N/A to this site, there are no traditional buildings within the site.
 - iii. Be complementary to and not prejudice any viable agricultural operations on a farm and other existing viable uses.*
For the reasons set out in the Design & Access Statement, the building is required for the storage of agricultural machinery and tools which will enable to applicant to manage the land and would therefore not prejudice any agricultural operations.
 - iv. Respond to a proven agricultural, forestry and other occupational need that requires a countryside location.* The overall size of the agricultural holding is fairly modest, and so Officers need to be satisfied that there is a proven need for the building. The Statement submitted with the application explains that the applicant plans to use the site for grazing goats, keeping chickens and ducks, and siting beehives. The statement details that the building would provide undercover storage for agricultural machinery and tools, and hay/fodder for the animals.

Officers note that the justification presented sets out the applicants intentions as how the land might be used in future with no assurances or guarantees that what is

proposed will come to fruition, or when. Officers are mindful that the holding owned by the applicants is relatively small (0.4 hectares). It is therefore unlikely that a significant investment would be made in expensive machinery to manage such a small area of land, instead of employing agricultural contractors as and when such equipment is required. The statement already notes that a local farmer cuts the grass currently. It is also noted that the design/layout of the building provides limited internal space which would be secure from the elements, which raises questions about its effectiveness for protecting machinery as is suggested within the submitted statement. Based on the information provided Officers are not satisfied proven need for the building has been provided.

v. Avoid the use of Best and Most Versatile Agricultural Land.
N/A, the building is sited on an area of hardstanding.

- 1.6. Policy DEV15 (Supporting the rural economy) includes the following provision: *“Business start-ups, home working, small scale employment and the development and expansion of small business in residential and rural areas will generally be supported, subject to an assessment that demonstrates no residual adverse impacts on neighbouring uses and the environment.”* It also states: *“Development will be supported which meets the essential needs of agriculture or forestry interests.”*
- 1.7. The supporting information submitted with the application only details the intentions of the applicant, with no evidence of a current proven need for the development. The agricultural justification for the building is not considered to sufficiently demonstrate a proven need for the development in the countryside, and the proposal therefore conflicts with policies DEV15 and TTV26.

2.0. Design/Landscape:

- 2.1. The building is of a functional external design, as would be expected of an agricultural building. It is a timber clad building, which is appropriate for the rural setting and function of the building, and the scale and design would result in minimal visual impact on the local landscape. It is largely obscured from close views by the Devon hedge that borders the site and the highway. Notwithstanding the above comments regarding the agricultural need for the building, the appearance of the building does not of itself raise any substantive design issues.
- 2.2. Given the rural location of the site, should permission be granted, it would be considered necessary to impose a condition prohibiting external lighting on the building, as this would create additional levels of light which may harm the setting of the site and its surroundings.
- 2.3. Subject to the recommended conditions, the design of the building is considered acceptable, and it is not considered to harm the wider rural landscape. The development therefore complies with policies DEV20 and DEV23 of the JLP.

3.0. Neighbour Amenity:

- 3.1. The site is some distance from any residences, and therefore raises no concerns with regard to residential amenity. Three local residents have written in support of the application, stating that it does not impact on their properties.

4.0. Highways/Access:

4.1. The proposal utilises an existing access and therefore raises no issues with regard to highways matters.

5.0. Summary:

5.1. The application does not provide sufficient justification to explain why a building of the scale proposed is required for such a small area of land. It is noted that the justification is largely based on intentions of the applicant, rather than current needs, and the proposed therefore conflicts with policies relating to agricultural development, namely policies DEV15(6) and TTV26.

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

TTV26 Development in the Countryside

DEV1 Protecting health and amenity

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

DEV15 Supporting the rural economy

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

Neighbourhood Plan: Not within a neighbourhood plan area

Other material considerations include the policies of the National Planning Policy Framework (NPPF) and guidance in 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.