

## PLANNING APPLICATION REPORT

**Case Officer:** David Stewart

**Parish:** Modbury **Ward:** Charterlands

**Application No:** 1505/23/FUL

**Agent/Applicant:**

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

**Applicant:**

Mr James McIntosh - South Moor Vets  
New Mills Industrial Estate  
Modbury  
PL21 0TP

**Site Address:** Land At Sx 654 517, New Mills Industrial Estate, Modbury



**Reason for sending to Committee**

Cllr Taylor has requested this matter be considered by committee on the ground that this application is not going to create undo footfall around Coppers where the footpath ends about 10 mtrs short of joining with the other footpath, it is also well lit by

streetlights, and he considers the Highway advice has incorrectly assessed the proposal.

**Development:** Provision of 3 bedroom dwelling (log cabin) to accommodate graduate vets/nurses

**Recommendation:**

Refuse

**Reasons for Refusal**

1. The proposed development is likely to generate an increase in pedestrian traffic on a highway lacking adequate footways with consequent additional danger to all users of the road contrary to policy Dev 29 of the Plymouth and South West Devon Joint Local Plan 2012 – 2033 and paragraph 110 and 111 of the National Planning Policy Framework.
2. Insufficient information has been provided to demonstrate compliance with the provisions of the Climate Emergency Planning Statement and policy DEV32 of the Plymouth and South West Devon Joint Local Plan

**Key issues for consideration:**

- Principle of Development
- Potential non-conforming use
- Business Case
- Visual Impact
- Standard of accommodation
- Compliance with Climate change policy
- Vehicle and pedestrian movement

**Financial Implications (Potential New Homes Bonus for major applications):**

As part of the Spending Review 2020, the Chancellor announced that there will be a further round of New Homes Bonus allocations under the current scheme for 2021/22. This year is the last year's allocation of New Homes Bonus (which was based on dwellings built out by October 2020). The Government has stated that they will soon be inviting views on how they can reform the New Homes Bonus scheme from 2022-23, to ensure it is focused where homes are needed most.

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**Site Description:**

The site is located in the south east corner of the New Mills Industrial Estate in Modbury bounded to the east and south by A379, to the west by South Moor Vets and to the north by other commercial premises. Immediately to the east of the Vets building is a car parking area which is screened from Church Street by a group of mature trees.

The application site embraces land situated to the west of the trees and comprising a part of the vets' car parking area. Its northern extent is formed by the boundary of the proposed Equine Veterinary Facilities unit granted in 2019 and comprising a building for stabling, examination and surgery together with a sand school for exercise and lame horse.

### **The Proposal:**

This proposal involves the importation and erection of a 3 bed unit of accommodation for trainee and newly qualified vets employed by South Moor Vets.

The unit takes the form of a single storey 'log cabin style' of building set under a Metrotile pitched roof. The elevations are clad in Hardie board and there is a timber verandah located on the east side facing the trees.

### **Consultations:**

- County Highways Authority                      Objection; pedestrian movements will be generated along a road with no footways creating a danger and that the alternative route with footways is sufficiently longer to discourage people from using it.
- Devon and Cornwall Police    There are concerns over a lone building being proposed as a dwelling within the industrial estate. As it would have limited natural surveillance from other properties especially when this is outside the business operational hours of the tenants or owners of the units within the industrial estate.      All doors that provide entry into a building, including garage doors where there is a connecting door to the dwelling, and all ground floor, basement and other easily accessible windows, including roof lights, must be shown to have been manufactured to a design that has been tested to an acceptable security standard i.e. PAS 24. They should not only tested to meet PAS 24 (2022) standard by the product manufacturer, but independent third-party certification from a UKAS accredited independent thirdparty certification authority is also in place, thus exceeding the requirements of ADQ and reducing much time and effort in establishing provenance of non SBD approved products.  
It is recommended that all easily accessible windows are fitted with window restrictors to prevent from reach in burglaries where the offender will reach in and steal anything within reach.  
It would also be beneficial to display clear signage at the practice to ensure customers and visitors know where to report to outside the business operating hours in the event of an emergency as an example, to prevent them coming to the dwelling [which during the hours of darkness could potentially increase the fear of crime for those living in the building.  
It would also be beneficial that dusk till dawn lighting is used for any external lighting on the building as opposed to PIR lighting which has the potential to increase the fear of crime with repeated activations. Research has proven that a constant level of illumination is more effective at controlling the night environment. The use of light-emitting diode (LED) light sources is recommended with a colour temperature of no more than 4000 Kelvin and ideally below. This reduces blue light content and therefore the effects on human and ecology receptors
- Town/Parish Council                      Objection  
This is an application that would normally be sympathetically viewed by the PC. There is sympathy with the objectives but the siting of a dwelling in an industrial area cannot be supported. A footpath crossing the site has already been rejected.

### **Representations:**

#### **Representations from Residents**

No comments have been received

Councillor Taylor has requested a notification of the officer's recommendation

### **Relevant Planning History**

35/2080/87/3: Erection of light industrial units, access road and parking areas	<b>Approved</b>
35/0767/03/F: Erection of new veterinary surgery	<b>Approved</b>
2655/19/FUL: Provision Of Equine Veterinary Facilities	<b>Approved</b>

### **ANALYSIS**

1. For the purposes of considering this application officers consider the site to fall within the settlement confines of Modbury.

#### *Principle of Development/Sustainability:*

2. The site is located within the town boundary close to main shopping and other facilities and within an area with a range of modes of travel. There is a bus stop close to the site entrance and the main street is within easy walking distance. Moreover Modbury, is a tier 2 settlement as defined by TTV1 and where growth to serve both the town and the surrounding rural settlements is encouraged and allocated under the JLP spatial strategy. Development in the town therefore accords with SPT1, SPT2 and TTV1 of the JLP. This is also acknowledged in TTV24 where a number of identified sites allocated both for residential and employment uses in the town.

3. The principle of both commercial and residential development within the town boundary is therefore acceptable. However there are two further matters that also need consideration in considering the principle of development. The first relates to the principle of taking up employment land for a residential purpose and the second is whether the proposed domestic use of the building is appropriate and compatible with the other uses surrounding the site.

4. On the first matter, consideration should be given to the purpose of the application and I set out below extracts from the applicant's statement.

5. South Moor Vets is a prominent local employer. It currently employs 33 vets and a further 55 support/admin staff across the 3 practices. Of the 33 vets, there are 6 new graduate vets and South Moor Vets will be employing a further 2 graduate vets to add to that number later this year. The Modbury practice is soon to be home to a specialist equine facility that gained planning approval (reference 2655/19/FUL) on 12th February 2020 for which construction has commenced and will be moving forward in the coming months.

6. South Moor Vets, and particularly their graduate vets, are struggling with the well-known South Hams issues relating to not only the cost of housing in the area but also the lack of housing. This problem has become increasingly difficult for South Moor Vets to employ graduate vets to join their practices in the area and therefore this application seeks to provide affordable shared accommodation for up to 3 graduate vets/nurses to enable them to live on-site.

7. The primary reason for the accommodation therefore arises from a business need and the accommodation is really to allow for business development and the need to be able to attract personnel to Modbury for the new equine centre. Policy DEV14 supports the provision of a flexible supply of employment land and premises to support investment and expansion of existing businesses and this proposal accords with that aim.

8. DEV14.1 also seeks to protect employment site refers to allowing a change of use of existing employment sites only where there are overriding and demonstrable economic needs to do so. However this is not a case here. The accommodation required to support the business use of the adjoining site. In the event that the accommodation is no longer required it will be conditioned firstly to allow occupation only by staff of South Moor Vets and secondly to ensure that should the residential use cease, the building becomes ancillary accommodation to the main surgery and remains so.

9. The second issue relates to the non-conforming use proposed for the accommodation. The introduction of residential accommodation on an employment site could give rise to the conflicting vehicular and pedestrian movements within the complex. However for reasons set out in a later section, officers consider that there will be no adverse impacts arising from the use of the building. The proposal therefore accords with the aims of DEV14. On the matter of noise conflicts, the adjoining land is used by the vets so there is a degree of insulation from other businesses on the estate which all have their main entrances and openings facing the main courtyard away from the location of the proposed building. The site is also screened from the road by vegetation.

*Design/Landscape:*

10. In terms of its design, the proposed building is a typical lodge type, single storey building with a verandah facing the roadside boundary. The lodge is clad using a Hardie board system with a timber weatherboard appearance and is set under a shallow pitched roof. The colour of the cladding and the roof material are not identified and a condition requiring these details would be required if there was a recommendation to approve the scheme. The building will stand 4m in height to the ridge and is of a typical domestic single storey scale. In design terms it is utilitarian but not unacceptable in this location and accords with DEV20.

11. The proposed siting of the building is on land situated between the existing car park area for the vets and the tree cover running around the boundary of the site facing Church Street. A post and rail fence identifies the overall site boundary beyond which is some further screening vegetation before the land drops to the edge of the highway. The screening is by no means total and the outline of the building will be seen from the road.

12. A part of the verandah lies almost on the site boundary with the building itself about 2m back at its southern end but at the northern end will be about 12m back from the boundary. That section lying closest to the road is at a point where conifer screening beyond the site boundary will largely hide it from view. Elsewhere the vegetation will allow glimpses through the trees to the building. However, given its modest scale and set back, it is not considered to raise townscape issues. In any event there is sufficient land to allow understorey planting to mitigate any adverse visual impacts.

13. It is noted that the site abuts the boundary of the AONB which follows the road alignment past the site to the south. I do not consider that there is any impact on the character of the AONB or its setting. Officers therefore believe that the proposal accords with DEV20 and DEV25 of the JLP.

*Neighbour Amenity:*

14. There are no residential near neighbours. However the issue of the amenity of the occupiers needs to be taken into consideration. The proposed development accords with national space standards for residential accommodation. There is limited external space provided by the verandah and immediate adjacent remaining grassed area. This does not

accord with the recommended space standards set out in the JLP SPD. This states that for a detached dwelling an area of 100m<sup>2</sup> is required. The development does not therefore accord with DEV10. However there are some mitigating factors. The purpose of the accommodation is to attract staff and the accommodation is ancillary to the main practice. The building could therefore only be used for other veterinary purposes in the event that the accommodation is not required for residential accommodation for its staff. The site adjoins the rural area where there are a range of semi natural and natural green spaces available for enjoyment and the town has a range of facilities for the occupiers. Given the specific purpose of the accommodation, officers consider that in this case the failure to meet amenity space standards is not a ground of refusal.

#### *Highways/Access:*

15. The introduction of residential accommodation on an employment site could give rise to the conflicting vehicular and pedestrian movements within the complex. However, officers consider that there will be no adverse impacts arising from the use of the building. In terms of pedestrian movements they will be from the proposed building to the main surgery building, within an area used solely in connection with the veterinary business and not with the other uses of the estate. There will be no other normal peak hour residential traffic movements generated as the staff will live on site. Any other movements to and from clients sites are journeys that are of a business nature occurring during the day. Thus abnormal movements arising from the development would be out of normal working hours

16. The County Highway authority has recommended refusal of this application. They consider that comments made in respect of application 0384/23/OPA whereby an objection was raised in respect of residential development proposed directly to the west also apply to this site. The site is currently poorly connected for pedestrians to the public amenities in the town and that concerns were apparent that certain users of the site, may at times choose to take the shorter distanced desire line, following the A379 at Palm Cross, which has no footways or verges, is un-lit, it has two sharp bends, it is restricted in width to 5.5m and has restricted forward visibility for drivers due to the presence high hedges and walls flanking the carriageway.

17. Two HGVs passing, a car and HGV passing and a car and a car passing, is deemed to be a regular occurrence on the A379 road, which carries around 6800 two way vehicle movements per day in the neutral months. It is expected this figure would be closer to 10,000 in the summer holiday season. Pedestrians walking in the road have no space to do so and even with two cars travelling in either direction there is insufficient space to accommodate a pedestrian safely and there is serious risk of strikes or rear end shunt type accidents. There is no scope to implement a footway without reliance on third party land, which leads to serious concerns raised by the Highway Authority, that should the application be approved, the Highway Authority may be left with the financial burden of addressing the issue in the future. Any approval of the planning application is likely to lead to public concerns and potentially worse, injury accidents and this would likely leave the Highway Authority with the obligation to resolve the matter.

18. The Highway Authority is correct that although the southern part of the road abutting the site has a footpath that continues around the bend for about 16m (but diminishing in width) there is a section of road running north and east of about 60m – 70m in length with no footway until you reach Lavenoc Way. There is another route that pedestrians could take that utilises a route via Church Lane and Benedict Way. This is about 160m longer and Devon HA considers it to be too long to encourage walkers to use. It is for this reason that they recommend refusal.

There is a 'drove' link to the north of the site that passes to the north of Modbury Osteopathic Clinic and it would be possible to cross in front of the clinic and enter the north east corner of the site to avoid this problem altogether. However it would require the approval of the landowner to achieve a safe footway link to the Industrial estate and therefore has to be discounted from consideration here as there is currently no prospect of achieving the link.

19. In consequence the proposal fails to meet DEV29 requirements.

### *Ecology*

20. The existing range of habitats offered by the site are limited in extent to offering a suitable vegetation habitat to hedgehogs and their presence on site should be assumed. The overgrown site represents favourable dormouse habitat but as it is not directly connected with suitably large areas where dormouse breeding populations can be found it is *not a favourable* location for this species. Similarly, the site includes a favourable habitat for slowworms and it would be prudent to assume their presence and mitigate accordingly.

21. The proposed development would therefore result in a minor loss of biodiversity through the loss of a small area of scrubby habitat. Mitigation is included in the proposal which involves the establishment of a new Devon hedge-bank along the north side of the Log Cabin. This and the installation of 3 x tree mounted bat boxes as recommended that would ensure the proposed development achieves a net-gain in biodiversity. To this officers would include bird boxes and hedgehog hibernacula to ensure the maximum benefit is made of the site.

### *Climate Change*

22. Policy DEV32 of the JLP explains that the need to deliver a low carbon future for the plan area should be considered in the design and implementation of all developments. In particular, the policy requires that developments should be considered in relation to the energy hierarchy and identify opportunities to minimise the use of natural resources in the development over its lifetime, such as water, minerals and consumable products, by reuse or recycling of materials in construction, and by making best use of existing buildings and infrastructure. This approach is complemented by the NPPF which indicates that local planning authorities should usually expect new development to comply with any development plan policies on local requirements for decentralised energy supply. In general, this could include for a single dwelling, as a matter of principle, to incorporate such matters as PV panels or heat pumps.

23. Commentary within the adopted SPD with regards to policy DEV32 requires the provision of a supporting energy statement for all major applications. This is not a major application and therefore does not require the submission of details. However the Council does require a Climate Change Compliance form to accompany all applications and one has been submitted by the applicant.

24. In addition to the policy the Council adopted a Climate Emergency Planning Statement in November 2022. This set out a number of aims and policies that will be given additional consideration and increased emphasis which are summarised briefly below:

- CES01: To deliver development that contributes less to and mitigates the impacts of climate change and adapts to its current and future effects through a range of measures: This scheme does seek to meet a number of the criteria set out in the policy. Most importantly it

does reduce the carbon impacts over the approved scheme through measures incorporating renewable energy sources.

- M1 – Onsite renewable energy generation. For major and minor planning applications, adopted JLP policy DEV32.5 will apply in order to secure an equivalent 20% carbon saving through onsite renewable energy generation: No detailed evidence to confirm whether a 20% saving is achieved through the proposed measures. The only way to calculate the saving in this case is at the detailed working drawing stage to calculate the energy consumption of the approved development and compare it with the proposed energy consumption with the renewable sources of power in place. As there are no measures required on the previous approval officers consider that the saving will be more than 20% but that a condition requiring a detailed calculation of the Target Emissions Rate based on the renewable sources of power to be installed would be appropriate.
- M2 – Energy storage: Details of this can be controlled in an overall condition requiring detailed of the solar panels and ASHP or water based Heat Pump
- M3 – Low and zero carbon space and water heating systems: Confirmed
- M4 – Resilient and low carbon building materials: Confirmed in part although concrete foundations and retaining structures will be required. These are already present on the approved scheme
- M5- Not relevant
- M6 – Electric Vehicle Charging Points: Confirmed
- M7 – Active and Sustainable Travel: Comment has been made on the sustainability of the location and the use albeit there are potential concerns of the highway authority

25. This application is accompanied by a DEV32 compliance statement which states that the building will incorporate Solar panels. It is not intended that the property would be installed with at least one electric vehicle charging points immediately. Whilst this goes some way to meeting the policy by incorporating renewable energy, it does not confirm that there will be a 20% reduction in energy saving. This can only be demonstrated by the provision of calculations of the Target Emissions Rate. Without this calculation, officers cannot confirm whether additional measures may be required to meet the target set out in policy M1. The proposal therefore does not fully meet the requirements of DEV32.

26. Officers are of the view that given the permanence of the building the proposal should endeavour to meet the terms of policies in the climate emergency planning statement which would also require the provision of SAP calculations to demonstrate a 20% reduction in carbon emissions and the provision of EV charging points within the car park for the Vets residing in the unit. Full details have not been provided and it is not clear whether the scheme is policy compliant, contrary to the provisions of DEV32 and the Climate Emergency Planning Statement.

### *Conclusions*

27. The accordance of the proposal with sustainability and business development objectives as set out in SPT1, SPT2, TTV1 and DEV14 carry significant weight supported by paragraph 81 of the NPPF which states “Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.”. The support that the proposal gives to the rural economy and community over a wide area must also not be underestimated. Officers are of the view that significant weight must be attached to these matters.

28. At the same time it is recognised that developments must meet all of the policies of the development plan to be acceptable and in this respect the scheme conflicts with DEV29. It must also be acknowledged that the response of the Council’s statutory consultee on

Highway matters lodges an objection to the development that should also carry significant weight in terms of the safety of pedestrians.

29. The degree of weight given to this item really depends on the views of the decision maker to the likelihood of the number of pedestrian movements along Church Street significantly increasing or whether pedestrians would be likely to use the longer but safer route into the town centre.

30. Officers consider that this case is finely balanced but that that they must give substantial weight to the advice of its highway consultee and further limited additional weight on the lack of sufficient information on carbon emissions which outweighs the acknowledged benefits of the scheme.

***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 14<sup>th</sup> January 2022 the Department for Levelling Up, Housing and Communities published the HDT 2021 measurement. This confirmed the Plymouth, South Hams and West Devon's joint HDT measurement as 128% 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 5.97 years at end of March 2022 (the 2022 Monitoring Point). This is set out in the Plymouth, South Hams & West Devon Local Planning Authorities' Housing Position Statement 2022 (published 19th December 2022).

[\*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  
SPT4 Provision for employment floorspace  
SPT9 Strategic principles for transport planning and strategy  
TTV1 Prioritising growth through a hierarchy of sustainable settlements  
TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area  
TTV24 Site allocations in the Smaller Towns and Key Villages  
DEV1 Protecting health and amenity  
DEV2 Air, water, soil, noise, land and light  
DEV8 Meeting local housing need in the Thriving Towns and Villages Policy Area  
DEV14 Maintaining a flexible mix of employment sites  
DEV15 Supporting the rural economy  
DEV20 Place shaping and the quality of the built environment  
DEV25 Nationally protected landscapes  
DEV26 Protecting and enhancing biodiversity and geological conservation  
DEV28 Trees, woodlands and hedgerows  
DEV29 Specific provisions relating to transport  
DEV32 Delivering low carbon development

### **Modbury Neighbourhood Plan**

Other material considerations include the policies of the National Planning Policy Framework (NPPF) and guidance in Planning Practice Guidance (PPG). Additionally, the following planning documents are also material considerations in the determination of the application:

**Plymouth and South West Devon Joint Local Plan SPD**  
**South Hams Climate Emergency Planning Statement .**

### **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.