

# PLANNING COMMITTEE REPORT

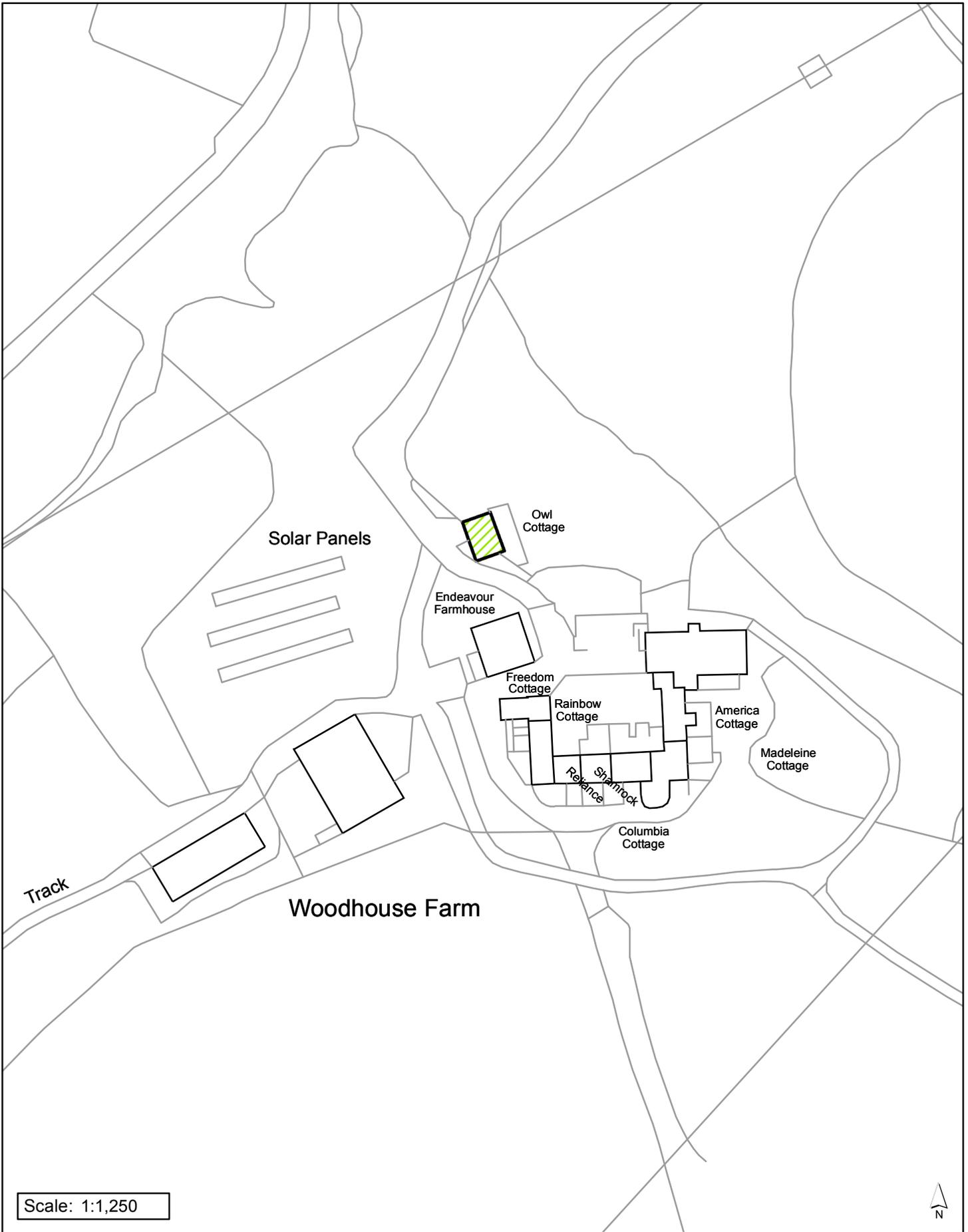
## 17 March 2020

CHAIRMAN: Cllr Mike Haines



<b>APPLICATION FOR CONSIDERATION:</b>	<b>ASHCOMBE - 20/00026/VAR - Owl Cottage, Woodhouse Farm - Removal of conditions 2 &amp; 3 on planning permission 2002/3997/26/04 (Change of use and conversion of redundant outbuilding to form additional holiday cottage on existing holiday complex) to permit occupancy of the existing dwelling on a permanent basis</b>	
<b>APPLICANT:</b>	<b>Mr Ralph Rayner</b>	
<b>CASE OFFICER</b>	<b>Claire Boobier</b>	
<b>WARD MEMBERS:</b>	<b>Cllr John Petherick Cllr Gary Taylor</b>	<b>Dawlish South West</b>
<b>VIEW PLANNING FILE:</b>	<a href="https://www.teignbridge.gov.uk/planning/forms/planning-application-details/?Type=Application&amp;Refval=20/00026/VAR&amp;MN">https://www.teignbridge.gov.uk/planning/forms/planning-application-details/?Type=Application&amp;Refval=20/00026/VAR&amp;MN</a>	





Scale: 1:1,250

20/00026/VAR Owl Cottage, Woodhouse Farm, Ashcombe, EX7 0QD



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## 1. REASON FOR REPORT

Cllr Taylor has requested that the application be referred to Planning Committee if officer recommending refusal. The reason given for this request is so that Planning Committee can consider the particular circumstances regarding the need for open market residential properties in this countryside location on the Ashcombe Estate.

## 2. RECOMMENDATION

PERMISSION BE REFUSED for the following reason:

1. The removal of conditions 2 & 3 on planning permission 2002/3997/26/04 to permit occupancy of the existing property on a permanent basis would result in the creation of an unrestricted open market dwelling in designated Countryside, outside any defined settlement limit. No overriding justification has been provided in this application submission for a dwelling in this location. The proposal does not provide a dwelling for restricted occupancy for a necessary agricultural, forestry or other necessary rural workers or provide an affordable housing unit to meet local need to justify the provision of a dwelling in this location. The proposal is therefore contrary to policy S22 (Countryside) of the Teignbridge Local Plan 2013-2033 and the National Planning Policy Framework which seeks to avoid isolated homes in the Countryside (para 79).

## 3. DESCRIPTION

### Site, Background and Proposal

- 3.1 The application site is located in designated open countryside in Ashcombe and is located some distance outside of any defined settlement limit – and hence from day to day services - as set out in the Teignbridge Local Plan 2013-2033.
- 3.2 The site also lies within the designated Area of Great Landscape Value.
- 3.3 The application site comprises an existing cottage and associated curtilage which includes an area of hard standing to its frontage for parking and a small domestic garden to the rear.
- 3.4 The existing cottage is located to the north of and in close proximity to an existing group of holiday cottages which form the tourism complex known as Ashcombe Holiday Cottages.
- 3.5 Planning permission was granted for Owl Cottage, the subject of this application, to be used for holiday occupancy under consent 2002/3997/26/04 with conditions 2 and 3 of this consent limiting the use of the building to holiday occupancy to ensure the unit was not used for permanent unrestricted open market residential occupation. Prior to this, the building was an abandoned/ disused outbuilding.
- 3.6 Condition 2 of consent 2002/3997/26/04 reads:

*'The holiday unit hereby approved shall not be occupied by any person except for holiday purposes and such occupation shall not exceed 3 months in duration in any calendar year by any individual.'*

*REASON: To ensure that this unit is not used for permanent residential occupation.'*

3.7 Condition 3 of consent 2002/3997/26/04 reads:

*'Following receipt of a written request by the Council, within 28 days the owner shall produce a written statement of the names and addresses of all persons staying in the unit and the duration of their stay.'*

*REASON: To ensure that the unit is not used for permanent residential occupation.'*

3.8 This application is now made to seek the removal of condition 2 and 3 of consent 2002/3997/26/04 as set out above to enable Owl Cottage to be occupied on a permanent basis as an unrestricted open market dwelling.

3.9 The Supporting Statement submitted with the application advises that Owl Cottage, the subject of this application, has been occupied in breach of the holiday occupancy condition restrictions on a permanent basis by a family since March 2019 and that the same family have previously lived in another cottage on the Estate which they vacated when it was required for occupation by an essential Estate worker. It is set out within the submitted documentation that the application is made to seek to enable the family – who have no direct connection to the estate or explicit need to live in this countryside location - to continue to live in the property, although a grant of consent would allow the property to be sold on or rented out to alternative unrestricted open market occupiers.

#### Principle of Development

3.10 The removal of the holiday occupancy conditions attached to 2002/3997/26/04 would result in the creation of a permanent unrestricted open market dwelling in the Countryside.

3.11 As the site is located in a Countryside Location, Policy S22 is the key policy in the Teignbridge Local Plan 2013-2033 for considering the acceptability of the proposed development in this location.

3.12 Policy S22 of the Teignbridge Local Plan 2013-2033 seeks to strictly manage and limit the development that will be acceptable in the Countryside and only makes an allowance for dwellings in the Countryside where they provide affordable housing for local needs or provide dwellings for agricultural, forestry and other necessary rural workers.

3.13 The Supporting Statement submitted with the application sets out that the current occupants of the Cottage are active members of Ashcombe Village Club with Mr Burt being the manager of the Village Club and his wife volunteering with the Village Club and their two children being active members of the local young farmers association. The Supporting Statement sets out that Mr Burt works as an agricultural engineer.

3.14 The Supporting Statement does not set out that the dwelling would provide affordable housing for an identified local need and Mr Burt's occupation would not result in the dwelling providing for agricultural, forestry or other necessary rural workers. Whilst, Mr Burt's occupation is as an agricultural engineer the nature of this job is that employment is not necessarily in the local area and therefore he

would not qualify as an agricultural worker to satisfy policy S22. There would therefore be an in principle objection to an open market dwelling being created in this area through the proposed change of use of the Cottage that the removal of the holiday occupancy conditions would create.

3.15 This stance on limiting the types of dwellings that would be acceptable in the Countryside is also contained within the National Planning Policy Framework (NPPF) where para 79 sets out that development of isolated homes in the countryside should be avoided unless one or more of the following circumstances apply:

- a) There is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
- b) The development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- c) The development would re-use redundant or disused buildings and enhance its immediate setting;
- d) The development would involve the subdivision of an existing residential dwelling; or
- e) The design is of exceptional quality, in that it:

-is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and

-would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

3.16 Criteria a) of para 79 of the NPPF mirrors the criteria set out in policy S22 for a dwelling to be acceptable only where it is demonstrated that there is an essential need for a rural worker. For the reason set out in paragraph 3.14 above the proposal would not accord with this criteria.

3.17 The site is not considered a heritage asset, nor does the development involve the subdivision of an existing residential dwelling or alteration to the design of the Cottage and therefore criteria (b), (d) and (e) would not be applicable to the proposed development.

3.18 The Supporting Statement sets out that the applicant's agent believes that criteria (c) of para 79 of the NPPF would apply to this development; However, criteria (c) supports the re-use of redundant or disused buildings. No evidence has been provided with this submission to demonstrate that the use of the Cottage as a holiday let was redundant prior to Mr and Mrs Burt and their family moving in to the Cottage in March 2019 and therefore Officers do not concur that criteria (c) applies to this site.

3.19 Officers therefore conclude that the exception criteria set out in para 79 to support a dwelling in the Countryside are not met in this case. The principle of the proposal is

therefore considered to be contrary to both Local Policy (S22 of the Teignbridge Local Plan 2013-2033) and National Policy (Para 79 of the NPPF).

- 3.20 The applicants' agent has provided an Appeal Decision for a similar case in East Devon which he suggests offers scope to support this application. In the Appeal Case (which is available to view on the Planning File) an application was made to remove a holiday occupancy restriction condition on former barns at Appledore Farm, Colyton to enable them to be used as permanent dwellings. This application was refused against a similar policy in the East Devon Local Plan to policy S22 in the Teignbridge Local Plan which also seeks to avoid isolated homes in the Countryside unless there is a proven agricultural need. In this case, the Inspector refers to para 79 of the NPPF and whilst he acknowledges the proposal was not for the reuse of a redundant building and para 79 did not therefore offer support for the proposal; He then goes on to conclude that the proposal accords with the general thrust of para 79 of the NPPF. Whilst, this appeal decision is noted this relates to one decision at another Authority and cases must be determined on a case by case basis. Having reviewed the Appeal Decision provided there appears to be a level of contradiction in the Inspectors thought process in the decision in terms of how he has applied para 79 of the NPPF in this particular case.

- 3.21 Officer assessment is that the application before Planning Committee for Owl Cottage is unacceptable and does not meet the criteria of para 79 of the NPPF or, importantly, of Policy S22 of our Adopted, up to date Local Plan. The submission of this Appeal Decision does not alter that assessment.

#### Impact on Visual Amenity and Area of Great Landscape Value

- 3.22 The application does not propose any alterations to the exterior of the building or to its curtilage and therefore the proposed removal of holiday occupancy conditions which would effectively result in the change of use of the building to a dwelling does not raise visual amenity concerns and would have a negligible impact on the designated Area of Great Landscape.

#### Impact on Residential Amenity

- 3.23 The u-shaped group of Cottages to the south and detached former Farmhouse called Endeavour Farmhouse are let as holiday cottages/farmhouse as part of the tourism complex known as Ashcombe Holiday Cottages.
- 3.24 It is not considered that the change of use of Owl Cottage from a holiday let to a dwelling would have any adverse impact on the amenity of the holiday occupants of the adjacent cottages/farmhouse to justify a refusal of planning consent on this ground particularly given that no external alterations are proposed as part of this application and the Cottage could be occupied currently for holiday use all year round (albeit restricted to only being able to be occupied by an individual for no more than 3 months in any calendar year).

#### Highway Safety and Impact on Travel Patterns

- 3.25 The access to Owl Cottage would not be altered in this application and it is considered that the access road and parking on site would be sufficient to serve the Cottage were the proposal to be used for permanent residential occupancy as opposed to holiday use.

- 3.26 Whilst, the travel patterns for a permanent use would be different to those one would expect of a holiday use which would be likely to result in less frequent peak time vehicle movements it is not considered that the potential increase in vehicle movements that the use of the Cottage on a permanent basis could create would result in severe harm to the local road network to justify refusal on highway safety or increased traffic generation grounds. A permanent residential dwelling typically generates approximately 6-8 vehicle movements per day – taking post, deliveries, work, school and other journeys into account. A holiday unit would likely be less than this level of trips per day.

#### Ecology Considerations

- 3.27 The application site is within 10km of the Exe Estuary SPA and Dawlish Warren SAC and is therefore subject to the requirements of the 2017 Conservation of Habitat and Species Regulations. More information about these regulations as they apply in this area can be found here <https://www.teignbridge.gov.uk/planning/biodiversity/exe-estuarydawlish-warren-habitat-mitigation/> .
- 3.28 In the absence of bespoke mitigation, the Habitat Mitigation Regulations contribution usually required per new residential dwelling in this area is £853 to offset in-combination recreation impacts on the SPA and/or SAC. However, in this case Owl Cottage already has a lawful use as a self-catering holiday unit, for which the Habitat Regulations contribution is £444.
- 3.29 Therefore, in this case the Council Biodiversity Officer advises a Habitat Mitigation Contribution of £409 (£853-£444 = £409) should be secured to offset in-combination recreation impact on the SPA and/or SAC.
- 3.30 To mitigate against impacts of the development on these habitats the applicant has elected to make an upfront Habitat Mitigation Contribution of £409.
- 3.31 With this in place, the LPA, as Competent Authority, is able to conclude that there will be no likely effect on the integrity of the European site(s) such that this does not constitute any reason for refusal of the development.

#### Summary and Conclusions

- 3.32 The removal of conditions 2 & 3 on planning permission 2002/3997/26/04 to permit occupancy of the existing property on a permanent basis would result in the change of use of the building to permit an unrestricted open market dwelling in designated Countryside, outside any defined settlement limit.
- 3.33 No overriding justification has been provided in this application submission for a dwelling in this location.
- 3.34 The proposal does not provide a dwelling for an agricultural, forestry or other necessary rural workers or provide an affordable housing unit to meet local need to justify the provision of a dwelling in this location. The proposal is therefore contrary to policy S22 (Countryside) of the Teignbridge Local Plan 2013-2033 and the National Planning Policy Framework which seeks to avoid isolated homes in the Countryside (para 79).

3.35 Refusal is recommended for the reason set out above.

#### 4. **POLICY DOCUMENTS**

Teignbridge District Council Local Plan 2013-2033

S1A Presumption in favour of Sustainable Development

S1 Sustainable Development Criteria

S2 Quality Development

S22 Countryside

EN2A Landscape Protection and Enhancement

EN8 Biodiversity Protection and Enhancement

EN9 Important Habitats and Features

EN11 Legally Protected and Priority Species

National Planning Policy Framework

National Planning Practice Guidance

#### 5. **CONSULTEES**

Teignbridge District Council Biodiversity Officer:

A Habitat Regulations contribution of £409 is required.

The site lies within 10km of the Exe Estuary SPA and Dawlish Warren SAC. As such a financial contribution towards mitigating in-combination recreation impacts on these European wildlife sites is required.

The standard Habitat Regulations contribution for a new residential dwelling in this area is £853. However, the building already has a use as a self-catering holiday unit, for which the Habitat Regulations contribution is £444.

Therefore, if permission is granted for use as a permanent residence, the contribution due will be £853 - £444 = **£409**. This amount should be secured by up-front payment or Unilateral Undertaking.

**Case Officer Note:** This payment was requested and an upfront payment of £409 was received by Teignbridge District Council on 14 February 2020.

#### 6. **REPRESENTATIONS**

No representations have been received.

#### 7. **TOWN / PARISH COUNCIL'S COMMENTS**

Consulted however no comment has been received at the time of preparing this report.

#### 8. **COMMUNITY INFRASTRUCTURE LEVY**

The proposed gross internal area is 104.27. The existing gross internal area in lawful use for a continuous period of at least six months within the three years

immediately preceding this grant of planning permission is 104.27. The CIL liability for this development is £0. This is based on 0 net m<sup>2</sup> at £200 per m<sup>2</sup> and includes an adjustment for inflation in line with the BCIS since the introduction of CIL.

## **9. ENVIRONMENTAL IMPACT ASSESSMENT**

Due to its scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA Development.

## **10. HUMAN RIGHTS ACT**

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

## **Business Manager – Strategic Place**