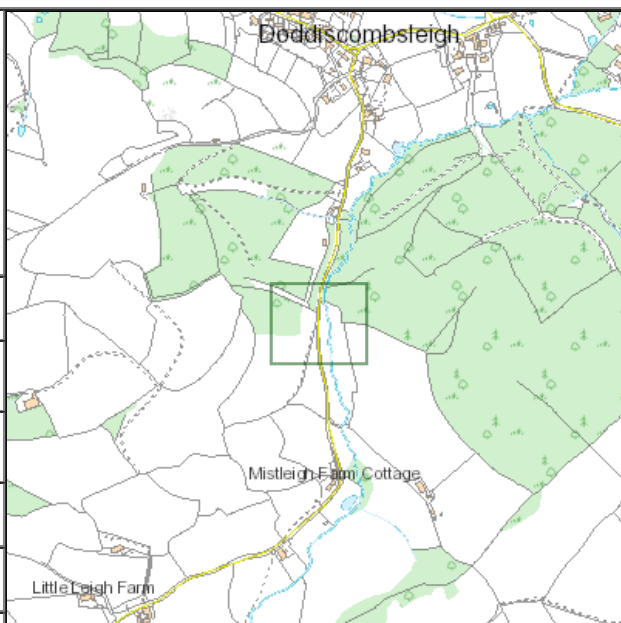


Planning Committee Report

Chairman: Cllr. Mike Haines

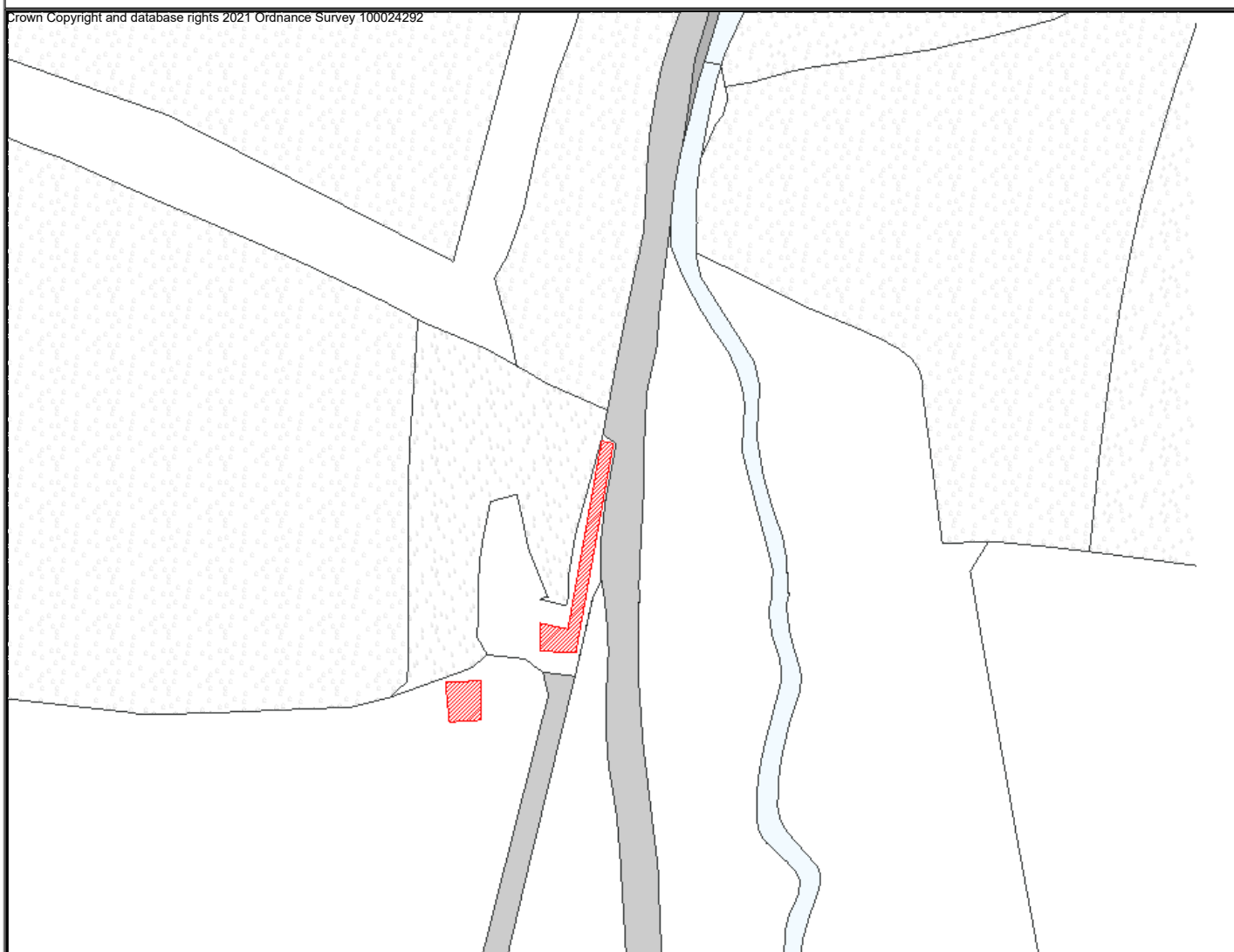
Date	21 December 2021
Case Officer	Helen Murdoch
Location	Mistleigh Copse Cabin Ashton Lane Doddyscombsleigh Devon EX6 7RF
Proposal	Retention of wooden cabin for residential use
Applicant	Mr J Howson
Ward	Teign Valley
Member(s)	Cllr Stephen Purser, Cllr Terry Tume
Reference	21/01790/FUL



[Online Details and Documents](#)

RECOMMENDATION: null

Crown Copyright and database rights 2021 Ordnance Survey 100024292



1. REASON FOR REPORT

- 1.1 Cllr Purser has asked that the application be presented to Members of the Planning Committee should officers be minded to refuse. This is due to the difficult circumstances that the applicants find themselves in.

2. RECOMMENDATION

PERMISSION BE REFUSED for the following reasons:

1. The proposals set out a scheme for the retention of a building and for its continued use as a dwelling house. The site lies within the open countryside beyond and removed from any defined settlement as set out in the Teignbridge Local Plan 2013 – 2033. In the absence of any overriding planning justification it is considered that the proposals fail to accord with policies S1A, S1 and S22 of the Teignbridge Local Plan 2013 – 2033, and the guidance set out in the National Planning Policy Framework and the National Planning Practice Guidance.
2. The site lies within a designated Landscape Connectivity Zone associated with Greater Horseshoe Bats from the South Hams SAC. In the absence of any supporting Ecological Survey work it has not been demonstrated that the proposals would not have a detrimental impact on Greater Horse Shoe Bats and/or other biodiversity within this location nor has an appropriate scheme of mitigation and net gain been set out. As such the proposals are contrary to policies S1, S22, EN8 and EN11 of the Teignbridge Local Plan 2013 – 2033 and the guidance set out in the National Planning Policy Framework and the National Planning Practice Guidance.
3. The application site lies within the open countryside in an Area of Great Landscape Value. The proposals see the domestication of an area of woodland / scrubland, through the introduction of access tracks, parking areas, a building and associated domestic paraphernalia surrounding the building to the detriment of the character and appearance of this area. The proposals do not accord with policies S1, S2 and EN2A of the Teignbridge Local Plan 2013 – 2033 which aims to conserve and enhance the qualities of such designated areas nor the guidance set out in the National Planning Policy Framework and the National Planning Practice Guidance.
4. Insufficient information has been provided to demonstrate that surface and foul water generated from the site is handled appropriately and without detriment to the wider area, this is particularly important given the topography of the site and the proximity to the Shippen Brook. As such it is contrary to policy EN4 of the Teignbridge Local Plan 2013 – 2033 and to the guidance set out in the National Planning Policy Framework and the National Planning Practice Guidance.

AND

5. Authority to take relevant enforcement action in relation to the use of the building be granted.

3. DESCRIPTION

The Site

- 3.1 The applicant owns a modest area of land some 4.5 hectares in size (approximate). The land comprises a mix of woodland and scrub land/grass land. The majority of the site but not the area where the cabin is located falls within an Unconfirmed Wildlife Site known as Doddiscombsleigh Hill. The site and wider area is within the Teign Valley and Slopes landscape Character Area and is part of a designated Area of Great Landscape Value. The site falls within a Bat Landscape Connectivity Zone associated with the South Hams SAC for Greater Horseshoe Bats. The site is accessed via a narrow track leading off of Ashton Lane. Parking is provided within the site. The site lies approximately 0.6 Km to the south of the village of Doddiscombsleigh. The site is set on a graded site sloping down from west to east.

The Proposal

- 3.2 This application seeks permission for the retention of a building, known as “The Cabin” which was completed on site in March 2020 and for its continued use as a single dwelling. The building is a timber clad structure of simple form providing very modest living accommodation – for reference purposes, it is significantly below the Nationally Described Space Standard suggestion of 50 sqm for a 2 person flat or 58 sq m for a 2 person house. Surface water drainage is taken to a sustainable drainage system and foul water is treated by a septic tank. No details of either have been provided so as to assess suitability or effectiveness. There is a solar panel to provide a 12v lighting system. Whilst the applicant’s parents have been residing in this building and seek permission for its continued use as a dwelling, the building itself does not meet any of the required building regulations for residential buildings. In particular Devon Building Control Partnership have highlighted that the building breaches Building Regulation requirements relating to Part A (Structure), Part B (Fire), Part C (Resistance to Moisture), Part H (Drainage) and Part L (Thermal Insulation). Policy S1 requires that development proposals should ensure that the health, safety and amenity of future occupiers are duly taken account of.

Principle of the Development / Sustainability

- 3.3 The application site lies in the open countryside beyond and not adjoining any defined settlements. Doddiscombsleigh is the nearest settlement some 0.6Km to the north of the site. There is no safe walking access route leading directly to Doddiscombsleigh. Residents would need to walk along Ashton Lane. Doddiscombsleigh is defined as a village in policy S21 as being an appropriate location for limited development which meets its social and economic needs and protects its rural character. Policy S22 makes provision for a number of limited circumstances when a dwelling in such a location may be acceptable, the application does not make a case that any of these circumstances apply. As such the scheme as set out presents a scheme for a dwelling in the open countryside in an unsustainable location contrary to Local Plan policy.

Impact upon the character and visual amenity of the area

- 3.4 The existing building is small, just 6m x 5.6m and comprises two ground floor rooms with a mezzanine above. As such the building itself has limited visual impact as it is largely screened from the wider area by trees and due to the topography. The application itself does not set out a clear defined domestic curtilage. However, it is

inevitable that domestic paraphernalia will spread beyond the building, and it is already doing so. This spread of domestic activities such as washing lines, outside seating, plant pots etc are not in-keeping with the character of the area and would be unwelcome additions within this rural setting contrary to policies S2 and EN2A of the Local Plan. The formation of tracks, parking areas and the clearance of the site for the setting of the cabin have all had a detrimental impact on the character of the site. Given the sensitivities of this designated Area of Great Landscape Value it is not considered that such an intrusion into the site would accord with policy EN2A of the Local Plan.

Biodiversity

- 3.5 The site lies within a Landscape Connectivity Zone associated with the South Hams SAC for Greater Horseshoe Bats. The introduction of a residential use within this woodland area is considered unfavourable and could give rise to detrimental impacts on the local ecology and biodiversity of the area through loss of habitat, light and noise pollution. The application has not been supported by any form of Ecological Survey work to help better understand the potential impacts of such a scheme and how, if at all they could be mitigated. No scheme showing a net gain has been provided either. As such the proposals do not accord with policies EN8 and EN11.
- 3.6 The site lies within 10Km of the Exe Estuary SPA and Ramsar site and will increase recreation impacts on these interest features. As such it is concluded that there would be Likely Significant Effects 'alone' and/or 'in-combination' on features associated with the Exe Estuary SPA and Ramsar Site SAC, in the absence of mitigation. An appropriate payment has been made through the Joint Approach to fund appropriate mitigation this was made following the completion of an Appropriate Assessment.

Access

- 3.7 Access to the site is via an access gate and associated track. Whilst the access point is not formally laid out, given the quiet nature of the road it is considered acceptable. It is understood that there are concerns regarding the number of vehicles already using a difficult network of roads which are narrow and in places have poor alignment. It is not considered that a single dwelling would generate a significant level of additional vehicular trips such that it would have a detrimental impact on highway safety in this area. The applicant or family could attend the site on a daily basis in order to manage and maintain it.

3.8 Drainage

The application sets out that surface water is handled via a sustainable surface water drainage system and foul water is taken to a septic tank. No details of either system have been provided to demonstrate that they are adequate and fit for purpose. Given the topography of the site and the proximity to Shippen Brook it is considered that the drainage schemes for both surface and foul water need to be assessed fully. The application has provided insufficient information to assess this matter.

Circumstances of the Applicant and Enforcement Action

- 3.9 The applicant's parents have found themselves in an unfortunate situation. They were asked to move out of their rental accommodation where they had resided for some 25 years in Dunchideock. This coincided with a difficult time for Mr & Mrs Howson who after a period have found themselves residing at "The Cabin" and now seek to regularise this. It is understood that they are not in a position to purchase a property nor have the funding for long term rental. Our Housing Services Team have confirmed that emergency housing was provided but their homelessness application was closed when they surrendered the accommodation and indicated that they were going to live with family in Exeter and seek social housing. As such it is an unfortunately set of circumstances which have led to the applicant's parents being homeless and deciding to move into "The Cabin". However, the Local Plan does not make provision for personal circumstances such as these. The Ward Member has enquired as to whether a personal consent might be granted in light of the fact that there are difficult circumstances which have led to this situation recognising that an unfettered consent for a dwelling in this location would be contrary to Local Plan policy.
- 3.10 Unless the permission otherwise sets out, planning permission runs with the land and it is rarely desirable to provide otherwise. However, there may be occasions where it is proposed exceptionally to grant permission for use of a building or land for some purpose which would not normally be allowed at that site, simply because there are strong compassionate or other personal grounds for doing so. The Circular goes on to set out that such a personal condition will "scarcely ever be justified in the case of a permission for the erection of a permanent building."
- 3.11 Although the width and length of the building do not exceed that set out in the definition of a mobile home the nature of the building does not suggest that it could be moved in two halves. As such it is not a mobile home/caravan.
- 3.12 Whilst the circumstances of the applicant's parents are unfortunate it is not considered that a substantive case has been made to justify a personal consent nor has it been demonstrated that all other options, including working with the Housing Services Team further have been fully explored. The building regulations failures identified above support the clear position that this is not an appropriate place for anyone to be living at this time. Furthermore, the CIL liability (that would fall immediately to be due as the proposal is retrospective) generated by the development being approved may actually render the applicant's circumstances more rather than less difficult.
- 3.13 As such it is recommended that permission be refused and necessary enforcement steps taken against the use of the building for residential purposes – its retention in support of managing the land may be appropriate and will be considered further. In light of the difficult circumstances we would of course consider affording the applicants a longer timeframe to comply with any enforcement action to ensure that they do not find themselves without accommodation.

4. POLICY DOCUMENTS

Teignbridge Local Plan 2013-2033

S1A (Presumption in favour of Sustainable Development)

S1 (Sustainable Development Criteria)
S2 (Quality Development)
S21 (Villages)
S21A (Settlement Limits)
S7 (Carbon Emission Targets)
EN2A (Landscape Protection and Enhancement)
EN3 (Carbon Reduction Plans)
EN4 (Flood Risk)
EN8 (Biodiversity Protection and Enhancement)
EN10 (European Wildlife Sites)
EN11 (Legally Protected and Priority Species)

National Planning Policy Framework

National Planning Practice Guidance

5. CONSULTTEES

Full text is available on the file

Natural England

This development falls within the 'zone of influence' for the Exe Estuary SPA, as set out in the Local Plan and the South East Devon European Sites Mitigation Strategy (SEDEMS). It is anticipated that new housing development in this area is 'likely to have a significant effect' , when considered either alone or in combination, upon the interest features of the SAC/SPA due to the risk of increased recreational pressure caused by that development.

In line with the SEDEMS and the Joint Approach of Exeter City Council, Teignbridge District Council and East Devon District Council, we advise that mitigation will be required to prevent such harmful effects from occurring as a result of this development. Permission should not be granted until such time as the implementation of these measures has been secured. ...

6. REPRESENTATIONS

Full text is available on the file

6.1. Two letters of objection have been received raising the following planning related concerns:

- This retrospective approach could set a precedent for others the planning system is there to protect the countryside from such development.
- Built outside the settlement limit
- Built in rural land within an AGLV
- Have Building Regs been complied with?
- There have been a lot of excavation works to create the access and site for the cabin, which will have compacted the ground.

- Extra load on the already poor infrastructure, the roads are narrow with poor alignment.
- If approved it should be restricted to the applicants only
- There is regularly a generator running on site as the PV panel is not sufficient. This is noisy. If permitted its use should be restricted.
- What will happen in the future when family no longer have a need for it?
- Biodiversity implications no scheme showing a net gain has been provided.
- Concerns re loss of trees and damage to existing trees in close proximity to the Cabin
- Concerns regarding waste/ refuse
- Concerns regarding foul surface water, the site is close to the Shippen Brook watercourse

7. TOWN / PARISH COUNCIL'S COMMENTS

Doddiscombsleigh Parish Council discussed the 21/01790/FUL Mistleigh Copse Cabin planning application and decided to object to the proposal for the following reasons.

- The Parish Council is concerned about the principle of building first and applying for permission later. It is very likely that if permission were granted, it would create a negative precedent and similar cases would follow. This practice would have a detrimental effect on the landscape in an Area of Great Landscape Value, in close proximity to the National Park.
- The development happened on green land, outside of the village, in a forested area without previous consultation and in an uncontrolled way. The Parish Council would like to stop uncontrolled development and the erosion of the landscape.
- Impact on infrastructure. The property is accessed from a very narrow road and the development has a cumulative impact on traffic.
- Noise and impact on the environment. Although there is a solar panel installed which provides some of the energy that the property needs, it is not enough and a generator is frequently in operation as well. The noise has an impact on neighbours and on the environment.
- There are questions whether the drainage solution is adequate at this location.

8. COMMUNITY INFRASTRUCTURE LEVY

- The proposed gross internal area is 28.33 m². The existing gross internal area in lawful use for a continuous period of at least six months within the three years immediately preceeding this grant of planning permission is zero. The CIL liability for this development is £7,894.46. This is based on 28.33 net m² at £200 per m² 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. CARBON/ CLIMATE IMPACT

- 10.1 It is considered likely that the overall carbon/climate impact of this proposal will be low due to the small scale nature of the proposal. The scheme incorporates a solar panel and the building is of timber frame construction. The proposals are retrospective giving limited opportunity to incorporate carbon reducing technologies and techniques.

11. 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