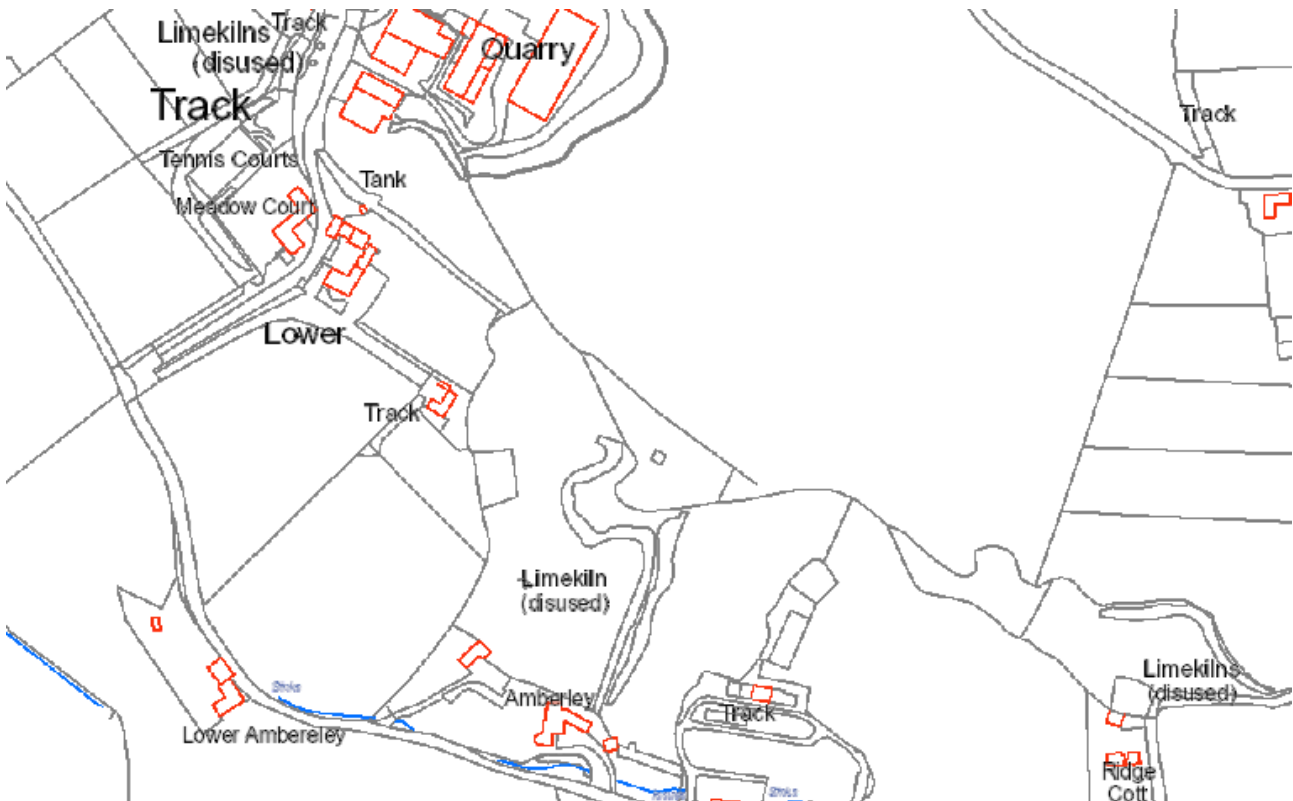


PLANNING COMMITTEE REPORT

CHAIRMAN: Cllr Linda Goodman-Bradbury



APPLICATION FOR CONSIDERATION:	CHUDLEIGH - 21/01825/FUL - Quarry Farm, Stancott - Retention and re-cladding of existing building for use as an agricultural store	
APPLICANT:	Ms A Sutherland	
CASE OFFICER	Jennifer Joule	
WARD MEMBERS:	Cllr Lorraine Evans Cllr Richard Keeling	Chudleigh
VIEW PLANNING FILE:	https://www.teignbridge.gov.uk/planning/forms/planning-application-details/?Type=Application&Refval=21/01825/FUL&MN	



1. REASON FOR REPORT

This application was called to Committee by Cllr Lorraine Evans for the following reasons:

1. Residents concern on a residential home being established.
2. Impact on the South Hams Special Area of Conservation (SAC).

2. RECOMMENDATION

The application is recommended for approval subject to the following conditions:

1. The development shall proceed in accordance with the agreed plans.
2. The hereby permitted building shall be utilised for storage purposes in conjunction with the agricultural use of the land and for no other purpose including for any other agricultural purpose.
3. Notwithstanding Section 55(2) of the Town and Country Planning Act 1990 and/or the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), no exterior lighting shall be installed on the buildings or elsewhere on the site without the express prior approval in writing of the Local Planning Authority.

3. SITE DESCRIPTION AND PROPOSAL

- 3.1 The site comprises an area of open grassed land to the north east of Chudleigh. It is accessed from the north via a track which leads through a complex of barns and a yard in a former quarry. The former quarry and adjacent land including the application site were historically in agricultural use as part of a wider agricultural holding and were purchased by the applicant following the subdivision and sale of the farm in 2018.
- 3.2 The applicant refers to the former Quarry site by two names: Stancott Farm and Quarry Farm. The application site is stated to be in agricultural use, and planning officers have witnessed agricultural activities at the former quarry site. However, there is extensive recent planning history by the applicant at that site, where both commercial and residential developments are being pursued.
- 3.3 The site is a small area of grassland which is part of a much larger field from which it is separated by a post and wire fence. The southern boundary is tree lined and marks the top of a small escarpment. Residential properties are sited at lower level to the south and west: Amberley lies approximately 150m to the south and Lower Upcott 175m to the north west.
- 3.4 It is proposed to retain a small existing building for use for agricultural storage purposes. Permission is also sought for the recladding and reroofing of the building with corrugated metal cladding coloured green. This reflects the fact that the existing structure is somewhat ramshackle in nature – it appears not to have been completed or is in need of repair.

- 3.5 Some confusion has arisen with this application as a result of the original description of development given by the applicant, which read: 'Retention of replacement shooting shed'. It appears from photographs submitted with the application that there was previously another building in a similar position at this site, which had been used for a shooting club until c. 2011. During the assessment of the application it has become apparent that the structure for which planning permission is sought is not the same one which was used for shooting purposes until 2011. That structure was open across its entire northern elevation and would have been more obviously suitable as a shelter for shooting than the current structure.
- 3.6 There is insufficient evidence about the pre-existing building or use of the site for shooting purposes to demonstrate that that use was lawful. It is also likely that it would have been abandoned, although this has not been considered further.
- 3.7 Following comments in representations, this matter was discussed with the applicant, and the description of development was amended to make clear that the proposal is actually for a building for agricultural use, which also appears to be the existing use of the land. Any shooting which may take place at the site would only be permissible if it fell within the permitted development right for the temporary change of use of land, and only then if all related requirements for permitted development are met, including the requirement for Habitats Regulations assessment of development due to the site lying within the Sustainance Zone of the South Hams Special Area of Conservation which is habitat protected due to its use by Greater Horeshoe Bats.
- 3.8 A valid request for the application to be considered by Committee was received but owing to an administrative error this request was missed and the Local Planning Authority erroneously issued a planning permission under delegated powers. That decision was subsequently quashed by the courts and the application now falls to be determined by Planning Committee.

4 ASSESSMENT AGAINST POLICY

Principle of the development

- 4.1 The applicant has advised that the building is intended to be used for agricultural purposes for the storage of agricultural machinery as well as some equipment used for clay pigeon shooting. It is not intended to be used for shooting other than for up to 56 days a year (the current permitted development right, subject to compliance with the "habitat regulations").
- 4.2 Forming a judgement on the basis of all submissions to this application, including the representations and comments from the Town Council, and subsequent discussions with the agent, it appears that this site was sometimes used by a shooting club until c. 2010/2011, but since appears to have been in agricultural use. It is worth noting that absent of any other use, the authorised use of land is for agricultural purposes. However, to benefit from agricultural permitted development rights more broadly, there is a need for the land to be used purposively for a trade or business, and not simply to be in a low level / hobby agricultural use.
- 4.3 On this basis, a change of use of the land is not proposed.

- 4.4 The description of development has therefore been amended from 'Retention of replacement shooting shed' to 'Retention and re-cladding of existing building for use as an agricultural store'. The application has since been subject to publicity on the basis of the revised description.
- 4.5 Policy S22 sets out that development in the open countryside will be strictly managed and limited to uses which are necessary to meet the aim of attractive, accessible and biodiverse landscapes, sustainable settlements and a resilient rural economy. Agricultural development is noted as acceptable under point b) of the policy, but only if the broader aim of S22 is met, as well as points f), g), h), i) of S22 and the wider policies of the Local Plan.
- 4.6 The applicant has advised that the building is necessary for the purposes of agriculture, specifically *'The building is currently being used to store two sit on mowers and various tools for the farm as it is conveniently placed at the other end of the land parcel from the main farm buildings.'* The applicant is therefore considered to have provided justification for the building and its agricultural use. It is also considered that the proposed building is of a small scale and that there was previously a building on this site of a similar scale. The proposal is therefore considered to be consistent with the aims of Policy S22 to ensure a resilient rural economy, and for development to be strictly managed. The further matters raised at points f), g), h) and i) are addressed within the following sections of this report.
- 4.7 No assessment of the acceptability of the use of this land for shooting has taken place. For example, there has been no assessment of the environmental health/biodiversity/transport and highways impact(s) of a shooting use. A condition is therefore recommended to be applied that the building may only be used for agricultural purposes. This condition is not intended to prejudice the building and land's permitted development rights for a temporary change of use.
- 4.8 Shooting would not be permitted by this planning permission and if the applicant wishes to undertake any temporary change of use to do this would be subject to the full requirements of the General Permitted Development Order, including any requirements of The Conservation of Habitats and Species Regulations 2017 as relevant. This is because in areas such as this, the GPDO grants planning permission only subject to the requirements of the *Habitat Regulations* being met.
- 4.9 The Committee call-in request has raised concern that this building could be converted to a dwelling at a future date. There are permitted development rights to convert agricultural buildings to residential dwellings, and whilst for existing buildings the test is whether they were in use for such purposes in 2013, the GPDO does allow for these rights to accrue over a ten year period in the case of a site which was brought into use after 20th March 2013.
- 4.10 Members should be aware that the burden of evidence of agricultural activity to meet the permitted development right is different to that needed for a planning permission. As such, it is not the case that the applicant could simply wait ten years after the granting of this planning permission before converting the building to a dwelling; they would need to evidence that the building has been used for agricultural purposes for a trade or business before the building could be converted.
- 4.11 In pointing out that 'Conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity'

(Paragraph: 017 Reference ID: 21a-017-20190723), the government is essentially advising against the removal of 'permitted development rights' such as that which this building could benefit from in more than 10 years' time. Having considered this issue, officers are not convinced that such a condition would be reasonable and as such do not recommend that it be attached.

- 4.12 It is therefore possible that the applicant could change the use of the building to residential in more than ten years' time, but only if they can demonstrate that all requirements of the GPDO are met (as is the case will all such conversions undertaken under GPDO Part 3 Class Q).

Impact upon the character and visual amenity of the area/open countryside

- 4.1 The site lies within the Under Great Haldon Landscape Character Area which is noted for its rich patchwork of irregular fields of small to medium size bounded by mature hedgerows and lanes, as well as historically designed landscapes, woodland, disused quarries/escarpments (such as the one on which this site sits) and the use of limestone as a building material.
- 4.2 The proposal is for a small, agricultural building with a typical agricultural appearance of green corrugated metal. The proposal does not make use of materials specifically noted within the Landscape Character Assessment as characteristic of the area, yet it proposes a visually unobtrusive and suitable agricultural style of materials which are common and acceptable generally in rural areas. Furthermore, the proposal is sited in a visually unobtrusive location, replaces a building previously on this site, and is difficult to observe from public vantage points.
- 4.3 Taking together the proposed appearance, visibility and evidence of a building of some sort on this site, the proposal is not considered to harm the landscape characteristics of the area, and to accord with Policy S22 as well as EN2A.

Highway safety and transport impact

- 4.9 When initially submitted the application form made reference to 60 car parking spaces at the site. The applicant advises that this was a mistake. The applicant has revised the application form at the request of the Case Officer so that no parking is included, on the basis that parking cannot be justified for an agricultural storage building, and as no plan of the parking area was provided. There is not considered to be any impact on travel patterns arising from this proposal, and the development is therefore considered to accord with the requirements of Policy S22 in this regard.
- 4.10 Some agricultural permitted development rights may exist for further works in principle but these are unlikely to apply in this instance and may require further prior approvals or applications. Reliance on any permitted development rights in this location is subject to the Habitat Regulations Assessment process.

Impact on ecology/biodiversity

- 4.11 The Biodiversity Officer does not have concerns with the building itself but has raised concerns with the possible scale of the proposal (led by the reference to the

60 car parking spaces), the use of conditions to control the scale of the shooting use, and the installation of additional lighting on the building.

- 4.12 With these measures addressed through the above recommended conditions and the amended application form, which made clear no parking was associated with this development, there are no biodiversity concerns with this application. Policy S22 point g) and l) are therefore considered to be met. Please note that therefore there are no concerns with impact upon the South Hams Bat SAC.
- 4.13 The applicant should note that any development on the site which falls within the permitted development rights of the GPDO, but does not require planning permission, is subject to the Habitat Regulations Assessment process. The applicant could only benefit from planning permission granted through the GPDO if it had satisfied the regulations. This would usually require a 'Regulation 77' application to be made to the LPA, as part of which the potential for 'likely significant effects' on the European site would be assessed.

Impact on residential amenity of surrounding properties

- 4.13 The proposal is set out to be an agricultural use of the land with any additional uses incidental to the agricultural use. The applicant is free to make use of permitted development rights for, say, clay pigeon shooting, and other uses, if they choose to do so, and the LPA is not able to control this as it is governed by separate legislation (although as described above it is likely to be necessary to satisfy biodiversity uses to ensure that there would be no likely significant effects on the South Hams Special Area of Conservation). The LPA is not able to comment on the health and safety implications or legality of shooting uses – that is a matter for the applicant. There are not therefore considered to be any residential amenity concerns arising from this proposal.

Conclusion

- 4.15 The LPA has no concerns with this proposal on the basis that the building will be in agricultural use for storage purposes and will have a suitable, agricultural appearance.

5 POLICY DOCUMENTS

Teignbridge Local Plan 2013-2033

S1A Presumption in favour of Sustainable Development

S1 Sustainable Development Criteria

S2 Quality Development

S9 Sustainable Transport

S10 Transport Networks

S22 Countryside

EN2A Landscape Protection and Enhancement

EN8 Biodiversity Protection and Enhancement

EN9 Important Habitats and Features

EN10 European Wildlife Sites

EN11 Legally Protected and Priority Species

Chudleigh Neighbourhood Plan

National Planning Policy Framework

National Planning Practice Guidance

6 CONSULTEEES

Devon County Minerals

- 6.1. The application site lies within a Mineral Safeguarding Area for the limestone resource, with Policy M2 of the Devon Minerals Plan seeking to safeguard such resources from sterilisation or constraint by new development.
- 6.2. In this case, the retention of the small building is unlikely to constrain the mineral resource to any increased extent, and Devon County Council therefore has no objection in its role of mineral planning authority.

TDC Biodiversity Officer

- 6.3. Noting the concerns of objectors, if it is a replacement building of a pre-existing structure, I don't believe there would be significant SAC bat concerns, alone or in combination, arising from this kind of planning proposal, subject to certain regulation of activities and clarifications.
- 6.4. These would be:
 - 6.4.a Clarification on vehicle parking for 60 cars: if it is to be parking for 60, or other large number of, vehicles, and not a mistake for 6 vehicles, please let me know, as this would come with potential impacts and HRA implications
 - 6.4.b Whether there is to be any associated change of use of the land, such as would need planning consent or a formal notification to TDC. On the information that the number and duration of shooting activities would be below a certain amount, and for private use, not commercially or part of a club, it presumably wouldn't require planning consent; and if these activities were proposed to be increased beyond this threshold or made commercial, or entail more vehicle parking provision, this would then trigger need for planning consent and would be assessed at that time. To have some security over this, for the present application there could be suitable conditions regulating defined times and type of use, with no additional use without the written approval of TDC
 - 6.4.c An important factor would be lighting regulation of lighting and external lighting, as per the standard condition draft wording copied below. I don't know if it is possible to regulate building internal lighting; if there is any doubt on that, we might stipulate, as necessary / appropriate, for example, no shooting after dusk or before dawn during the bat active season (which might be taken to be March-November)

CONDITION

Prior to the installation of any external lighting on the outside of the building or elsewhere on the site full details including design, siting and illumination-type shall be submitted to

the Local Planning Authority for approval. Only lighting that has been approved in writing by the Local Planning Authority shall be installed.

REASON: - To safeguard foraging paths for legally protected bats, including bats from the South Hams Special Area of Conservation.

7 REPRESENTATIONS

16 representations have been submitted (two in comment and 14 objections) raising the following (summarised) points:

- Doubting genuine need for building
- Already a proliferation of sheds in the countryside around Chudleigh
- No shooting has taken place on the site recently – a shooting club was previously operating from the site but it ceased ten years ago. Since then the land ownership has been divided in to three parcels, raising safety questions over the extent of land which can be used
- New shelter was erected in 2019 and has recently been extended
- The proximity of residential dwellings brings in to question the legality of clay pigeon shooting on this site
- There is reference in the application to parking for 60 cars, which indicates the applicant intends to run a commercial enterprise from the site
- The appearance of the new building is inappropriate in this location
- Disruption to bats
- Light pollution
- Unsuitability of the local roads for additional traffic
- Concern with the felling of trees at the site
- Concerns with the level of Council resource being directed to applications at this site

8 TOWN / PARISH COUNCIL'S COMMENTS

8.1 This is an application where there are different versions regarding what has occurred in the recent past. What is not in dispute is that a previous landowner allowed a clay pigeon shooting club to use his land for their activities. They were allowed to construct a basic shed, the predecessor of the current structure, to which a lean-to was later added. The Shooting club ceased their activities circa 2010 and, thereafter, removed the shed but leaving the lean-to in place. This is where the stories diverge.

8.2 The applicant claims that the previous shed was destroyed by a storm and the current structure was constructed circa 2020. What is not in dispute is that the current structure is not covered by any planning consent. On the balance of probabilities (a local resident claims to have the dismantled shed on their property) it seems highly likely that the original shed was removed some time ago. If that is the case then the current structure cannot be claimed as any sort of replacement for the shooting club's shed. It, rather, a new structure in open countryside, albeit of rather haphazard construction. That being the case, Town Councillors wish to object and believe that the application should be refused.

8.3 Councillors are also concerned that the application is distinctly vague regarding future use of the shed. He was just as vague when attending our Planning

Committee meeting. Councillors feel that this is a wholly unnecessary structure in open countryside and that it should be removed.

8.4 Councillors also noted that the application includes provision for 60 car parking spaces. When questioned at our committee the applicant claims that this is probably a mistake. If you are minded to approve this application then that issue needs to be settled before any decision is made.

9 COMMUNITY INFRASTRUCTURE LEVY

The CIL liability for this development is Nil as the CIL rate for this type of development is Nil and therefore no CIL is payable.

10 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.

11 CARBON/CLIMATE IMPACT

As a very small scale proposal, the carbon/climate impact of the proposal is considered to be very low – as an agricultural building its operation will involve very limited energy / water usage. It is in part constructed from timber and the embodied energy will be relatively low.

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