

Officer Report

Application Number:	P/FUL/2023/07162
Webpage:	https://planning.dorsetcouncil.gov.uk/
Site address:	Land Adjacent Round Hill Coppice Mythe Hill Quarry Entrance Mapperton To Junction Twinways Lane Melpash
Proposal:	Retain conversion of barn to residential use
Applicant name:	Mr & Mrs A Tolkovsky
Case Officer:	Thomas Whild
Ward Member(s):	Cllr Alford

1.0 The application is being brought to committee at the request of the Service Manager for Development Management and Enforcement following a scheme of delegation consultation.

2.0 Summary of recommendation: Refuse for the reasons set out at the end of this report.

3.0 Reason for the recommendation:

- The site is located outside of any defined development boundary and is in an unsustainable location where new residential development is strictly controlled.
- Insufficient justification has been provided to demonstrate the essential need for a rural worker's dwelling.
- The building does not benefit from the allowances within policy for the conversion of rural buildings due to its age.
- The council is able to demonstrate in excess of 4 years' supply of land for housing and therefore relevant development plan policies must be given their full weight in decision making.
- There are no material considerations which justify departing from the development plan in this instance.

4.0 Key planning issues

Issue	Conclusion
Principle of development	The site is remotely located outside of a defined development boundary and would not therefore represent a sustainable form of development. Insufficient justification has been provided for an agricultural worker's dwelling on the site.

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Scale, design, impact on landscape	The changes to the building to facilitate conversion to a dwelling have not resulted in a harmful impact on the landscape or the character of the area.
Amenity	The change of use does not result in harmful impacts on amenity and the building provides an acceptable standard of amenity for residents.
Highways and access	Subject to the imposition of conditions, the proposals do not have an unacceptable impact upon the highway.
Biodiversity	The proposals would not result in an unacceptable impact on protected species or habitats.

5.0 Description of Site

- 5.1 The site is an irregularly shaped parcel of land located approximately 1km to the north east of Melplash. The site comprises part of a complex of agricultural buildings. The site occupies a relatively elevated hillside position, with land levels falling away steeply to the east and west of the site and rising to the north. Areas to the north and east, within the ownership of the applicant have been planted as woodland.
- 5.2 The building to which this application relates is a timber framed barn with a simple pitched roof with gables to the north and south elevations and timber clad walls. The building stands on concrete pads with a void beneath the ground floor. The building was constructed under agricultural permitted development rights with the intention that it be used for the processing of timber arising on the applicant's land. It has since been converted for residential use with the insertion of a mezzanine sleeping area, a kitchen and a bathroom within a portioned area. The remainder of the building forms a large full height and open plan living space.
- 5.3 There is a modern portal steel frame industrial/agricultural building located immediately to the south. This is owned by the applicant and houses the applicant's joinery workshop with an open sided space used for the processing and storage of timber.
- 5.4 Aside from the buildings housing the applicant's business there are no buildings in the immediate vicinity, the closest buildings being within Melplash to the west of the site.

6.0 Description of Development

- 6.1 The application seeks retrospective planning consent for the change of use of a timber barn to residential use. The barn was constructed under agricultural permitted development rights, following a determination by the Local Planning Authority that prior approval for the building was not required. The change of use took place in January 2020.

7.0 Relevant Planning History

WD/D/15/002248 Decision: PNA Decision Date: 28/10/2015

Erect barn

P/PAP/2023/00378 Decision: RES Decision Date: 31/07/2023

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Following a visit from enforcement officer (Ref: 23:00143) we are seeking advice. (Advice given in respect of the continued occupation of the dwelling, as well as the use of employment buildings and a shepherd's hut).

- 7.1 In addition to the relevant planning application and prior approval records listed above, an enforcement notice was issued by The Council on 1 December 2023 in respect of the unauthorised use of the building as a dwelling. The notice requires the use of the building as a dwelling to cease and any paraphernalia used in connection with its use as a dwellinghouse to be removed from the land. The notice had been due to take effect on 31 December 2023 with the notice requiring compliance by 29 February 2024.
- 7.2 An appeal against that enforcement notice has been lodged. The appeal is made under grounds (A - that planning permission should be granted) and (G that the period for compliance with the notice is too short). The start date for the appeal was 15 February 2024. The Council's and appellant's statements are due by 28 March 2024 and final comments are due by 18 April 2024.

8.0 List of Constraints

Area of Outstanding Natural Beauty; Dorset

Land Outside DDBs;

Ancient Woodland: Ancient & Semi-Natural Woodland - Distance: 135.84

Ancient Woodland: HADBER/BARBRIDGE COPPICES; Ancient & Semi-Natural Woodland - Distance: 439.8

9.0 Consultations

All consultee responses can be viewed in full on the website.

Consultees

- 1. Highways** – Further to a site visit, a full assessment of the development proposal was made and no unacceptable impact on highway safety was identified. Hence, the Highway Authority has NO OBJECTION to the proposal subject to conditions in respect of the provision of turning/manoeuvring & parking, setting back of gates, and provision of visibility splays.
- 2. Dorset Waste Team** - Waste and recycling materials will have to be presented for collection on the adopted highway.
- 3. Eggardon Ward** – No Comments received.

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4. **Netherbury PC** - Councillors have viewed the application and have visited the site. Council recognises that, as a rural enterprise, the business should be supported. The site has experienced a number of thefts and councillors recognise that living on site acts as a deterrent. The business funds a project to plant and maintain woodland on the site. Councillors fully support the application.

5. **Dorset Wildlife Trust** – No comments received.

6. **Asset & Property** – No comments received.

Representations received

Total - Objections	Total - No Objections	Total - Comments
0	104	3

Petitions Objecting	Petitions Supporting
0	0
0 Signatures	0 Signatures

Summary of comments of objections:

Although there were no comments received which were in outright objection to the proposal, the following points of concern were raised in comments received:

- The building should not be allowed to rise above its current height, as this would impinge on the skyline and landscape.
- The conversion or erection of buildings such as this creates a dangerous precedent which can easily be abused and the link with the business should be a firm condition.

Summary of comments of support:

Material planning considerations

- The building is low impact and has enhanced the site.
- The presence of the applicant on site is necessary for the survival of the business which is important for the local economy.
- Biodiversity enhancement that has taken place across the land.
- The NPPF encourages planning departments to engage with applicants in positive and creative ways and asserts that unless there are significant negatives then applications should be favourably considered.

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- Sustainability benefits of reducing the needs of the applicant to travel to and from work.
- There would not be a noticeable change to the character of the site if planning permission were to be granted.
- The planting of trees needs full time upkeep.
- The house and garden areas were essentially a 'brownfield' site before their transformation.
- The residence is essential to the functional requirements of the enterprise for the same reason that a farmer lives on their farm.
- The applicants have a coherent plan for the land of which this dwelling forms a part.
- Break-ins that the applicant has experienced at the site.
- Employment opportunities provided by the applicant.

Not material planning considerations

- Skills and abilities of the applicant as a craftsman.
- Contribution that the applicant makes through countryside management, tree planting and offering apprenticeships and community engagement.
- The applicant looks after livestock and grows food which is more effective when living on the site.
- The applicant provides support to other creatives.
- The applicant holds gatherings and workshops which have been a positive influence.
- The applicant is committed to sustainable practices and environmental stewardship.
- The proposal to tie the residence of the house to the business shows the authenticity of the applicant's intentions.

10.0 Duties

10.1 s38(6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications must be in accordance with the development plan unless material circumstances indicate otherwise.

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10.2 Amendments to the Clause 85 of the Countryside and Rights of Way Act 2000 (CROW) introduced via Clause 245 of the Levelling-Up and Regeneration Act (LURA) which came into force on 26 December 2023. The amendments require relevant authorities (including Local Planning Authorities) to “seek to further the purposes of conserving and enhancing the natural beauty of the area of outstanding natural beauty”

11.0 Relevant Policies

Development Plan

Adopted West Dorset and Weymouth & Portland Local Plan:

11.1 The following policies are considered to be relevant to this proposal:

- INT1 - Presumption in favour of Sustainable Development
- ENV1 - Landscape, seascape & sites of other geological interest
- ENV2 - Wildlife and habitats
- ENV10 - The landscape and townscape setting
- ENV 12 - The design and positioning of buildings
- ENV 13 - Achieving High Levels of Environmental Performance
- ENV15 - Efficient and Appropriate Use of Land
- ENV 16 - Amenity
- SUS2 - Distribution of development
- SUS3 - Adaptation and re-use of buildings outside defined development boundaries
- HOUS6 - Other residential development outside DDB’s
- COM7 - Creating a safe & efficient transport network
- COM9 - Parking provision

Neighbourhood Plans

None relevant

Material Considerations

Emerging Local Plans:

11.2 Paragraph 48 of the NPPF provides that local planning authorities may give weight to relevant policies in emerging plans according to:

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- the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant plan policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the NPPF (the closer the policies in the emerging plan are to the policies of the NPPF, the greater the weight that may be given).

11.3 **The Dorset Council Local Plan** Options Consultation took place between January and March 2021. Being at a very early stage of preparation, the relevant policies in the Draft Dorset Council Local Plan should be accorded very limited weight in decision making. However, the production of the Draft Local Plan has significant implications for the assessment of housing land supply.

11.4 The emerging Local Plan has reached Regulation 18 of the (Town and Country Planning (Local Planning) (England) Regulations 2012 stage and includes a policies map and proposed allocations towards meeting housing need. Therefore, as detailed under Paragraph 226 of the NPPF (December 2023), for decision-making purposes only, the Council is only required to identify a minimum of 4 years' worth of deliverable housing sites.

National Planning Policy Framework

11.5 The National Planning Policy Framework, at paragraph 7, confirms that the purpose of the planning system is to contribute to the achievement of sustainable development, which has three overarching principles:

- a) **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure.
- b) **a social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural wellbeing; and
- c) **an environmental objective** – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, minimising waste and pollution, and mitigating and

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adapting to climate change, including moving to a low-carbon economy.

11.6 Paragraph 11 sets out the presumption in favour of sustainable development. Development plan proposals that accord with the development plan should be approved without delay. Where the development plan is absent, silent or relevant policies are out-of-date then permission should be granted unless any adverse impacts of approval would significantly and demonstrably outweigh the benefits when assessed against the NPPF or specific policies in the NPPF indicate development should be restricted.

11.7 Other relevant NPPF sections include:

- Section 4 'Decision making': Para 38 - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available...and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
- Section 5 'Delivering a sufficient supply of homes' outlines the government's objective in respect of land supply with subsection 'Rural housing' at paragraphs 82-83 reflecting the requirement for development in rural areas.
- Section 6 'Building a strong, competitive economy', paragraphs 88 and 89 'Supporting a prosperous rural economy' promotes the sustainable growth and expansion of all types of business and enterprise in rural areas, through conversion of existing buildings, the erection of well-designed new buildings, and supports sustainable tourism and leisure developments where identified needs are not met by existing rural service centres.
- Section 11 'Making effective use of land'
- Section 12 'Achieving well designed and beautiful places' indicates that all development to be of a high quality in design, and the relationship and visual impact of it to be compatible with the surroundings. In particular, and amongst other things, Paragraphs 131 – 141 advise that:

The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development.

Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

- Section 14 'Meeting the challenges of climate change, flooding and coastal change'

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- Section 15 'Conserving and Enhancing the Natural Environment'- In Areas of Outstanding Natural Beauty (National Landscapes) great weight should be given to conserving and enhancing the landscape and scenic beauty (para 182). Decisions in Heritage Coast areas should be consistent with the special character of the area and the importance of its conservation (para 184). Paragraphs 185-188 set out how biodiversity is to be protected and encourage net gains for biodiversity.

Other material considerations

All of Dorset:

- Dorset AONB Landscape Character Assessment
- Dorset AONB Management Plan 2019-2024
- Dorset Council Interim Guidance and Position Statement Appendix B: Adopted Local Plan policies and objectives relating to climate change, renewable energy, and sustainable design and construction. December 2023.

Supplementary Planning Documents/Guidance For West Dorset Area:

- WDDC Design & Sustainable Development Planning Guidelines (2009)
- Landscape Character Assessment February 2009 (West Dorset)

12.0 Human rights

- Article 6 - Right to a fair trial.
- Article 8 - Right to respect for private and family life and home.
- The first protocol of Article 1 Protection of property.

12.1 This recommendation is based on adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

13.0 Public Sector Equalities Duty

13.1 As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have "due regard" to this duty. There are 3 main aims:-

- Removing or minimising disadvantages suffered by people due to their protected characteristics
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people

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- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

13.2 Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove or minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the Public Sector Equalities Duty. This application has not raised any matters of relevance under the public sector equalities duty.

14.0 Financial benefits

What	Amount / value
Material Considerations	
None	
Non Material Considerations	
CIL contributions	Not confirmed

15.0 Environmental Implications

15.1 There are CO2 emissions associated with the occupation of the building and the day to day use of the site. While the applicant works on the site, the isolated nature of the site means that there would still be a significant reliance on private car transport to access services and shops as well as for others to visit the site.

16.0 Planning Assessment

Principle of development

16.1 The site is located in the open countryside, outside of any defined development boundary. The nearest settlement with a defined development boundary is Beaminster, approximately 3km north of the site. Policy SUS2 of the Local Plan indicates that, outside of defined development boundaries, development will be strictly controlled, having regard to the need for the protection of the countryside and environmental constraints. The policy sets out that development within rural areas will be restricted to certain specified forms of development. The only forms of residential development which are allowed under policy SUS2 are affordable housing; rural workers housing and open market housing through the re-use of existing rural buildings.

16.2 The emerging Local Plan has reached Regulation 18 of the (Town and Country Planning (Local Planning) (England) Regulations 2012 stage and includes a policies map and proposed allocations towards meeting housing need. Therefore, as detailed under Paragraph 226 of the NPPF (December 2023), for decision-making purposes only, the Council is only required to identify a minimum of 4 years' worth of deliverable housing sites. The most recent statement of housing land supply for the local plan area for the period to April 2023 was published in November 2023 and confirms a housing supply of 5.28 years. Therefore, relevant policies for the supply of housing are considered up to date and may be afforded their full weight in decision making.

16.3 In respect of proposals for the re-use of existing rural buildings Policy SUS3 states that this will be permitted where the existing building is of permanent and substantial

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construction, makes a positive contribution to local character and would not need to be substantially rebuilt or extended; and their proposed form, bulk and design will make a positive contribution to the local character. The policy goes on to state that this will be supported where the proposed use is for essential rural workers dwellings, or open market housing where the building adjoins a defined development boundary or is within a settlement of 200+ population, with a requirement that the building was present in 2011.

- 16.4 In this case the building is of permanent and substantial construction and it is considered that the building makes a positive contribution to the overall character of the vicinity, given that it is constructed from timber, and despite being less than 10 years old does not have an overly functional appearance. Paragraph 83 of the National Planning Policy Framework indicates that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. The site is in an isolated location away from established rural communities. This isolation, together with the fact that it was constructed after 2011 means that the site does not meet the criteria for the acceptability of a new open market dwelling under policy SUS3. Paragraph 84c of the National Planning Policy Framework identifies the reuse of redundant and disused buildings as a circumstance in which the creation of isolated dwellings may be supported. In this case however it has not been shown that the building met the criteria of being redundant or disused prior to being converted to a dwelling. Furthermore, it should be noted that as the site is located within the Dorset National Landscape (AONB), the building would not have benefitted from permitted development rights which exist for the conversion of agricultural buildings to dwellings, which exist in other areas.
- 16.5 Part of the justification that the applicant has put forward for the change of use is the requirement for an essential need for a rural workers' dwelling. Policy HOUS6 (Other residential development outside defined development boundaries) allows for new housing for rural workers, provided that it can be demonstrated that there is an essential need for a worker to live at or near their place of work. This is also reflected in paragraph 84a of the National Planning Policy Framework which lists the essential need for a rural worker as an exception to the principle that planning policies and decisions should avoid the development of isolated homes in the countryside. Paragraph 5.7.1 of the supporting text for the policy indicates that in considering proposals for rural workers' dwellings the Council will need to establish that the accommodation is essential to the functional requirements of the business, and that it will be necessary to establish that the business is financially sustainable in the long term.
- 16.6 The applicant argues that there is a need to live on site to provide security following a number of break-ins to the workshop on the site and due to the needs for the ongoing management of the woodland which has been created and which it is intended will provide timber for the joinery business. While policies SUS2, SUS3 and HOUS6 allows for dwellings for rural workers, they do require that the need for such a worker is fully demonstrated and that it be in service of an established rural enterprise.

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- 16.7 In spite of the arguments which have been advanced that there is an essential need for a dwelling to support the business this has not been supported by a full assessment of that need with regard to the financial sustainability of the business or the extent of activities which would justify a worker to live on site. Ordinarily, justification for a rural worker's dwelling would need to be accompanied by an appraisal of the business to demonstrate that the enterprise is of a sufficient scale that it supports at least one full time worker and secondly to consider the nature of the enterprise and the extent to which a rural worker's dwelling is justified by the specific needs of that business.
- 16.8 In this case the enterprise is understood from the applicant's descriptions to have essentially two elements. These are the woodworking business located in the buildings to the south of the application site and secondly the forestry activities within the wider land holding. While the desire to live on site to provide additional security to the woodworking business is understandable, that business is not one for which a rural location such as this is essential. The applicant has indicated that the business previously operated from the St Michael's trading estate in Bridport and the activities carried out within the buildings are entirely consistent with the range of uses which would be encountered on an industrial estate which might in turn provide added security.
- 16.9 While it is accepted that forestry is an activity which inherently requires a rural location, it is a relatively low-intensity activity, particularly compared to an activity such as dairy farming where the need for an on site rural worker is more immediately evident. In this instance no information has been provided to justify that this element of the enterprise is of a sufficient scale and with an essential need that justify a permanent rural worker's dwelling. In the absence of suitably detailed justification having regard to the extent of the rural enterprise it is therefore concluded that the proposal does not comprise sustainable development and is contrary to policies INT1, SUS2, SUS3 and HOUS6 of the West Dorset Weymouth and Portland Local Plan 2015.

Scale, design and impact on landscape

- 16.10 The overall building envelope is largely the same as has previously been approved through the prior approval procedure. The conversion of the building to residential use has resulted in the infilling of the southern end of the barn which had originally been designed to be open sided, and some changes to fenestration to provide a large picture window on the eastern elevation of the building and to provide domestic scale windows in other elevations and a front door in the western elevation. The picture windows are also set behind barn-style doors which reduce the extent of glazing visible.
- 16.11 These changes have added a level of domesticity to the building when compared to the original prior approval submission, although the pattern of openings still reflects the building's originally intended purpose. The external materials are simple timber cladding which has been left to weather naturally, and a profiled metal roof. The building therefore retains the appearance of a relatively modest rural structure whose impact upon the landscape and local character has not worsened as a result of the change of use. Therefore, it is concluded that the change of use does not result in a harmful impact upon the landscape and special character of the Dorset National

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Landscape, and which is appropriate in its design and character. The proposals are therefore concluded to comply with policies ENV1, ENV10 and ENV12 of the West Dorset Weymouth and Portland Local Plan in this regard.

Amenity

- 16.12 Given the site's isolated location without any immediate neighbours other than the business, which is owned and run by the applicant, the change of use does not result in any harmful impacts upon amenity by way of overlooking, overbearing or noise and disturbance. The building provides a relatively generous internal area and external amenity space and it is therefore considered that the proposal provides an appropriate level of amenity for residents. The proposal is therefore considered to comply with policies ENV12 and ENV16 of the West Dorset Weymouth and Portland Local Plan 2015, in this regard.

Highways and access

- 16.13 The site is accessed from an established access point off of the eastern side of Mapperton Lane, which has historically served the commercial buildings on the site. The proposal has been reviewed by the Highways Authority who have confirmed that, subject to appropriate conditions requiring the provision and retention of turning and parking space, setting back of access gates and provision and retention of visibility splays, the proposals do not result in a harmful impact upon the highway. The proposals therefore comply with policy COM7 and COM9 of the West Dorset Weymouth and Portland Local Plan 2015.

Biodiversity

- 16.14 The application is accompanied by a completed biodiversity checklist which confirms that the proposal does not impact on any habitats which would trigger the requirement for an ecological appraisal to be provided and that the buildings are of a nature which do not trigger the requirement for an ecological appraisal or biodiversity plan. In view of this it can be concluded that the proposal is unlikely to result in harmful impacts on protected species and habitats and that the proposal complies with policy ENV2 of the West Dorset Weymouth and Portland Local Plan 2015.

17.0 Conclusion

- 17.1 The site is remotely located in the open countryside outside of any Defined Development Boundary and is therefore in a location where new housing is not normally supported. Although the applicant has sought to justify the change of use in respect of the need to support the businesses which operate from the site, insufficient justification has been provided to demonstrate that there is an essential need for a worker to reside on the site, given that a significant portion of the use is a business use for which a rural location is not considered to be essential. The proposal is therefore considered to be contrary to policies INT1, SUS2, SUS3 and HOUS6 of the West Dorset Weymouth and Portland Local Plan 2015 and the NPPF (2023).

18.0 Recommendation

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Recommendation: Refuse for the following reason:

1. Having regard to the site's remote location in the open countryside outside of any defined development boundary and separate from the nearest settlement, the site is not a sustainable location for residential development, with the occupant(s) of the dwelling reliant on a car to access services and facilities. The justification provided in respect of the need for a rural worker's dwelling in this location is not sufficient as it has not been shown that there is an essential need for a worker to live at or near the site, that the rural enterprise of forestry is of sufficient scale to justify a full-time worker and that the business is financially sustainable. While the woodworking business on the site is not a use for which a rural location is essential. Therefore, the proposal is contrary to policies INT1, SUS2, SUS3 and HOUS6 of the adopted West Dorset Weymouth and Portland Local Plan 2015 and Paragraphs 83 and 84 of the National Planning Policy Framework (December 2023).

Informative Notes:

1. The plans that were considered by the Council in making this decision are:

23/150/01 Location and block plans

JH 11/23 Elevations, floor and roof plans

2. National Planning Policy Framework

In accordance with paragraph 38 of the NPPF the council, as local planning authority, takes a positive approach to development proposals and is focused on providing sustainable development. The council works with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service, and –
- as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this case:

-The applicant was advised that the proposal did not accord with the development plan and that there were no material planning considerations to outweigh these concerns.

-The applicant and council have worked together to minimise the reasons for refusal.

3. If planning permission is subsequently granted for this development at appeal, it will be subject to the Community Infrastructure Levy (CIL) introduced by the Town and Country Planning Act 2008. A CIL liability notice will then be issued by the Council that requires a financial payment, full details of which will be explained in the notice.