

**REPLACEMENT OF STORAGE BUILDING AND PROVISION OF OFFICE WITHIN
AT LIME TREE FARM, BISHOPS LYDEARD**

Grid Reference: 316757.129454

Full Planning Permission

RECOMMENDATION AND REASON(S)

Recommended Decision: Conditional Approval

The proposed building will replace an existing building on the same site, of the same footprint and to the same ridge height and by virtue of the design and materials, is not considered to result in any harm to the appearance of the landscape or increased impact on the amenities of neighbouring properties. Whilst the site lies within Flood Zone 3, being a replacement building of the same footprint and location within the site, it is not considered to result in an increased risk of flooding beyond that of the current situation. As such, the proposal is in accordance with policy 5 (Landscape Character) of the Somerset and Exmoor National Park Joint Structure Plan Review and policies S1 (General Requirements), S2 (Design) and EN12 (Landscape Character Areas) of the Taunton Deane Local Plan.

RECOMMENDED CONDITION(S) (if applicable)

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: In accordance with the provisions of Section 91 Town and Country Planning Act 1990 (as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

(A4) DrNo 6578.10.9 Sections as proposed
(A4) DrNo 6578.10.8 Roof plan as proposed and existing
(A2) DrNo 6578.0912 Block plan
(A3) DrNo 6578.10.6 Elevations as existing
(A3) DrNo 6578.0914 Site plan
(A3) DrNo 6578.10.10 Location plan
(A3) DrNo 6578.0911 Elevations and floor plans

Reason: For the avoidance of doubt and in the interests of proper planning.

3. The applicant shall undertake all of the recommendations made in Greena

Ecological Consultancy's Protected Species report dated August 2010 and provide mitigation for birds in accordance with the report. The works shall be implemented in accordance with the approved details and timing of the works, unless otherwise approved in writing by the Local Planning Authority and the development shall not be occupied until the scheme for the maintenance and provision of the new bird boxes and related accesses have been fully implemented. Thereafter the resting places and agreed accesses shall be permanently maintained.

Reason: To protect breeding birds and their habitats from damage bearing in mind these species are protected by law.

4. The development shall be carried out in strict accordance with the approved Flood Risk Assessment (prepared by DG Engineering Consultancy and dated October 2010) and the following measures:
 - Finished floor levels of the building shall be set no lower than 51.90m AOD; and
 - Details of a "water exclusion strategy" in line with Section 10e are to be submitted to the LPA.

Reason: To reduce the risk of flooding to the development and it's users in accordance with PPS25.

5. The building hereby permitted shall be used for the storage of building materials and equipment and agricultural materials and equipment only and for no other purpose .

Reason: To prevent changes to uses that the Local Planning Authority would consider unacceptable in this location, as set out in Taunton Deane Local Plan policies S1 and S2.

Notes for compliance

1. Note to applicant at request of Nature Conservation Officer:
It should be noted that the protection afforded to species under UK and EU legislation is irrespective of the planning system and the developer should ensure that any activity they undertake on the application site (regardless of the need for planning consent) must comply with the appropriate wildlife legislation.
2. The applicant should be aware that no retail sales from the site are permitted by this application.

PROPOSAL

Lime Tree Farm is situated on the east side of Bishops Lydeard, at the end of Lydeard Mead. The site is a well established builders yard, with trees along the northern boundary, open fields to the south and west and a river abutting the site to the south. A certificate of lawfulness for the existing use of land for agriculture and storage of builder's materials (including plant) was granted in 1996. A further application for a certificate of lawfulness to extend the site to the west was refused in February 2005 and again in August 2005.

The site falls within Flood Zone 3 (High Risk Area), just outside of the Conservation Area and the defined limit to development for Bishops Lydeard crosses the site. Planning permission was refused for residential development on the site in October 2002 (ref: 06/00/0027) and this was dismissed at appeal in June 2003. A further application for 7 dwellings was subsequently refused in September 2004 (ref: 06/04/0025)

The site is currently occupied by an open fronted corrugated sheet building. This application seeks permission to replace this storage building with a new storage building, occupying the same site, footprint and to the same ridge level. This would be part brick/part cream coloured box profile building, with roller shutter doors and a grey box profile roof. Part of the building would be split into two storeys with an ancillary office at first floor level. It is stated that the new building is required for increased security.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

SCC - TRANSPORT DEVELOPMENT GROUP - On the basis that the proposal is a like for like replacement and there is no increase in traffic, a highway objection maybe considered unreasonable.

BISHOPS LYDEARD & COTHELSTONE PARISH COUNCIL -
Comments awaited at the time of writing the report. Comments will be updated on the late representations document.

HERITAGE AND LANDSCAPE OFFICER - *Comments awaited at the time of writing the report. Comments will be updated on the late representations document.*

NATURE CONSERVATION & RESERVES OFFICERS - The application is for demolition of a corrugated metal agricultural storage building and the replacement with a new building at Lime tree Farm, Bishops Lydeard.

The existing building is situated near to a stream and sheltered meadow offering good foraging habitat for bats and nesting birds. Greena Ecological consultancy carried out a protected species survey, including a day and dusk emergence survey, in August 2010. Findings of the survey are as follows:

Bats - The surveyor found eight scattered droppings from a pipistrelle bat during the day survey. No bats were seen to emerge from the surveyed building although the surveyor concluded that pipistrelles and long eared bats were flying in the yard. I support the surveyor's conclusion that, as the building is of low potential for roosting bats due to materials used in its construction and its partly open nature, then it is probably used as an occasional feeding site.

Birds - The surveyor found eight pigeon nests and noted two wrens carrying nesting material in the building. I agree that demolition of the building should take place outside of the bird-nesting season and that the development should offer some biodiversity gain in the form of the provision of bird boxes. In accordance with PPS9, suggests condition.

ENVIRONMENT AGENCY - The application site lies in Flood Zone 3b according to TDBC's Strategic Flood Risk Assessment (SFRA). "Less vulnerable" development (i.e. storage and offices) is not permitted in Flood Zone 3b as per PPS25 Table D3. We advised the applicant that this is the case in a pre-application letter dated 03 March 2010 and are disappointed to see that this issue has not been addressed within the FRA.

When considering the application submitted, it is clear that the proposals will not increase the footprint or vulnerability of the buildings on site. The development will also create a betterment of the existing situation because a second storey safe haven will be provided. PPS25 Practice Guide advises that existing buildings should not be classed as Flood Zone 3b because they cannot form land where water must be stored or conveyed during a flood. Therefore, provided that the LPA are happy to accept the building footprint as Flood Zone 3a, we would have no objections to the principle of development at this location. The re-designation of the site to Flood Zone 3a can only be confirmed by TDBC because you are the custodians of the SFRA. Suggests condition.

Representations

One letter received stating no planning related objections.

Seven letters of objection received on the grounds of:

- Incorrect information submitted in Flood Risk Assessment, out-dated consultation paper used, which has been since replaced and sequential test answered incorrectly; site has flooded four or five times not three as mentioned; site is within functional floodplain where water has to flow or be stored in times of flood. According to the Flood Risk Vulnerability and Flood Zone Compatibility Table, development should not be permitted. In June 2007 site and properties in Lydeard Mead flooded and photographs show force of water was enough to move concrete slabs, depth of flooding not likely to be shallow and slow speed as indicated in Flood Risk Assessment. Appeal decision in 2005 stated 'it is common ground that the appeal site is at high risk of flooding'. Applicant has existing retail and office space within 500m of the site and as such should fail the sequential test. Proposal will reduce size of flood plain by size of building and any additional hard surface required for access and parking, increasing risk of flooding to residents of Lydeard Mead.
- Concern regarding building offices, which are likely to need tarmac parking spaces – change of use from B8 to B1.
- Applicant's intention has always been to build residential development on the land.
- Use of site is being spread into protected lawns areas.
- Waste is being stored on site, forbidden by the certificate for the use of the land.
- Increase in traffic movements by 50% from 20 to 30 movements per day. Cars park along Lydeard Mead resulting in danger to highway safety, which will be exacerbated by increased traffic movement.
- There are often a greater number of vehicles present on site than indicated in the application form.
- Protected species survey states replacement building will be same size, shape and height and planning permission is not required. Objectors consider

this is incorrect and invalidates findings of the report.

- As bat activity identified, a European Protection Species (EPS) Licence is required, concerns that criteria for a EPS licence may not be met and requirements concerning protected species may not be adhered to.
- Applicant has already been granted permission to demolish existing premises on Church Street, used as offices and hardware retail shop, concerns that applicant may wish to relocate retail shop to Lime Tree Farm site in future.
- Any development on this area of functional floodplain is highly contentious and should not be allowed.
- Request application is heard by the Planning Committee, making reference to previous evidence provided over the last 8 years.

One letter of objection went on to say: 'A replacement storage building, I can accept....This patch of land should not be developed beyond what is allowed now.' It is therefore queried whether one of the above letters of objection should be treated as such, as there appears to be some confusion as to the proposal.

PLANNING POLICIES

EN12 - TDBCLP - Landscape Character Areas,
F1 - TTCAAP - Developments within the Floodplain,
EN8 - TDBCLP - Trees in and around Settlements,
S4 - TDBCLP - Rural Centres,
EN28 - TDBCLP - Development and Flood Risk,
S1 - TDBCLP - General Requirements,
S2 - TDBCLP - Design,
S&ENPP5 - S&ENP - Landscape Character,
PPS25 - Development and Flood Risk,

DETERMINING ISSUES AND CONSIDERATIONS

Objectors have referred to the contentious nature of the site and comment that no further development should be allowed. The applications and appeals in the past referred to residential development on the site. As the site lies within Flood Zone 3 (High Risk Area) and outside of the defined limits to development, the Local Planning Authority remains of the opinion that residential development on the site is unacceptable. However this is an application to solely replace the existing storage building for use in association with the established use of the site and as such, is assessed against different planning policies.

The proposed building will replace an existing corrugated sheet building, on the same site and will be of the same footprint and ridge height. The principle of a building of these dimensions in this location is therefore already established. Whilst the eaves will be higher, resulting in a shallower pitch, this is not considered to be an unacceptable design. The design is typical of a commercial storage building and the use of red brick, cream box profile sheeting and grey box profile sheeting will reflect the red brick, cream render and slate evident on nearby dwellings. As such, the proposal is not considered to result in any increased harm to the appearance of the surrounding landscape.

Being of the same dimensions and on the same footprint, there will be no increased impact upon the amenities of neighbouring properties. Whilst office windows will be

present at first floor level, due to their orientation, these will not result in direct overlooking of any neighbouring properties.

It is accepted that the site falls within Flood Zone 3 (High Risk Area) and could therefore be liable to flooding. The Environment Agency have commented that the proposal would in fact create a betterment of the existing situation as a second storey safe haven will be provided, which is not currently provided in the existing situation. As PPS25 Practice Guide considers that existing buildings should not be classed as Flood Zone 3b (Functional Floodplain), because they cannot form land where water must be stored or conveyed during a flood, the actual footprint of the building should be Flood Zone 3a (High Risk). On this basis, the Environment Agency raise no objection to the principle of development in this location. Similarly, by virtue of the similarities of the replacement building to that already present on the site, the alleged inaccuracies in the Flood Risk Assessment are not considered to result in difficulties in making a decision on this application. Furthermore a great deal of flooding concerns raised by neighbours are not deemed directly relevant to a proposal for a replacement building, of the same dimensions, on the same footprint.

Objectors also suggest that the protected species survey is invalid as it states the replacement building is of the same size, height and shape. A protected species report however, concentrates on whether the loss of a building will result in harm to the habitats of any protected species. Where a replacement building is proposed and where relevant, suggestions may be made for substituting any lost habitats. It is not considered that the comments the objectors refer to, invalidate the findings in any way.

The Protected Species Survey has been fully evaluated by the Council's Nature Conservation Officer, as a specialist in this field. Her consultation response (full details above) stated that the surveyor's conclusion and recommendation were supported and a condition and note to the applicant was suggested to ensure that adequate provision is made for the protected species

Concerns have been raised regarding the increase in traffic movements. It is important to note that this is an established builders yard with a certificate of lawfulness, where traffic movements could be increased at any time, without any change to the existing building. The application relates solely to a replacement building of the same footprint, it does not relate to an extension of the building or to the site itself. Limited weight can therefore be given to the concerns raised regarding increased traffic movements. Even if the County Highways Authority had raised an objection, it would not have been considered reasonable in this instance as the application refers solely to a replacement building.

Members should be aware that there appears to be some confusion as some objections refer to the change of use of the site to offices. Whilst an ancillary office is proposed, this is for use in association with the established use of the site as a builders yard. There is no proposal to change the use of the site to office use. One letter of objection went on to say: 'A replacement storage building, I can accept....This patch of land should not be developed beyond what is allowed now.' It is important to note that a replacement storage building is exactly what is proposed, it is not proposed to erect any more than a replacement storage building covering the same footprint.

Members are advised to bear in mind that the Builders Yard is already present, has

been for many years and has a certificate of lawfulness. Several of the objections raised by local residents, refer to the use of the builders yard and are not entirely relevant to the proposal now in front of us. For example, aspects of the concerns regarding flooding, level of vehicles currently on the site, increase in vehicle movement and waste being stored on the site are not matters that can be attributed significant weight when assessing whether or not the proposal for a replacement building, of the same ridge height, footprint and covering the same ground is acceptable in planning terms.

The proposal is therefore considered to be acceptable and it is recommended that planning permission is granted.

In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1988.

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