
APPLICATION NO.	23/00266/OUTS
APPLICATION TYPE	OUTLINE APPLICATION - SOUTH
REGISTERED	01.02.2023
APPLICANT	Mr L Singh
SITE	Agricultural Barn at Bunny Lane, Bunny Lane, Sherfield English, SHERFIELD ENGLISH
PROPOSAL	Outline application for demolition of barn and construction of dwelling, residential caravan and structures (outline application - all matters reserved)
AMENDMENTS	Amended / reduced location plan – 30.08.2023
CASE OFFICER	Mr Nathan Glasgow

Background paper (Local Government Act 1972 Section 100D)

[Click here to view application](#)

1.0 INTRODUCTION

- 1.1 The application is presented to Southern Area Planning Committee as it is a departure from the local plan and has received an objection.

2.0 SITE LOCATION AND DESCRIPTION

- 2.1 The application site is located on the western side of Bunny Lane, which is a narrow lane serving a mixture of residential dwellings and agricultural land, north from the A27.

3.0 PROPOSAL

- 3.1 Outline application for demolition of barn, removal of residential caravan and ancillary structures and construction of a dwelling (outline application - all matters reserved).
- 3.2 Although the application is not seeking permission for any specific reserved matters, the submitted application form and indicative plans show a dwelling to replace the existing caravan and on-site structures.
- 3.3 Following the grant of outline planning permission, further details in relation to access, appearance, landscaping, layout and scale will be submitted for the Council's consideration. Notwithstanding this, an existing access serves the site.

4.0 HISTORY

- 4.1 **22/02855/PDQS** – Application to determine if prior approval is required for a proposed change of use of one agricultural building to a dwellinghouse (Use Class C3) and for building operations reasonably necessary for the conversion – Prior approval required and granted for the building operations to carry out the conversion works.

4.2 **22/01715/PDQS** – Application to determine if prior approval is required for a proposed change of use of an agricultural building to a dwellinghouse (Use Class C3) – Prior approval granted for conversion works alone.

4.3 **21/02220/CLES** – Certificate of lawful existing use for the use of the land for the stationing of 1 caravan for residential purposes – Certificate issued.

5.0 **CONSULTATIONS**

5.1 **Ecology** – No objection subject to condition

5.2 **Highways (HCC)** – No objection

5.3 **Natural England** – Awaiting comments

6.0 **REPRESENTATIONS** Expired 08.03.2023

6.1 **Sherfield English Parish Council** – Objection
“Consider it to be an overdevelopment of the site, and the plans are very poor”.

7.0 **POLICY**

7.1 Government Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

7.2 Test Valley Borough Revised Local Plan (2016)(RLP)

COM2: Settlement Hierarchy

E1: High Quality Development in the Borough

E2: Protect, Conserve and Enhance the Landscape Character of the Borough

E5: Biodiversity

LHW4: Amenity

T1: Managing Movement

T2: Parking Standards

7.3 Supplementary Planning Documents (SPD)

Sherfield English Village Design Statement

8.0 **PLANNING CONSIDERATIONS**

8.1 The main planning considerations are:

- Principle of development
- Impact on character and appearance of the area
- Impact on biodiversity
- Impact on neighbouring amenity
- Impact on highway safety

8.2 **Principle of development**

The site is situated in a countryside location as defined by the Test Valley Borough Revised Local Plan 2016 (RLP). Policy COM2 of the RLP only allows development in such areas where it is considered a type appropriate in a countryside location as defined by other policies within the RLP (COM2(a)) or if there is an essential need for the development to have such a location (COM2(b)).

- 8.3 In this instance, the proposal is neither considered to be of a type appropriate in the countryside, nor is there considered to be an essential need for the development of open market housing in the countryside. The proposal is therefore contrary to policy COM2 and is not considered acceptable in principle. The proposals are considered to be a departure from the development plan.
- 8.4 *Fall-back Position?*
Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 require that applications for planning permission be determined in accordance with the development plan unless considerations indicate otherwise. This is echoed by the National Planning Policy Framework. In addition, the local plan is considered an up-to-date development plan which is not silent on development within the countryside and thus full weight must be given to it. However, it is considered that in this instance, there are other material considerations that must be taken into consideration in the determination of the application.
- 8.5 Prior approval has been granted and remains valid for one barn on the site to be converted into a dwelling. There is also a certificate of lawful existing use for the use of land for the stationing of 1 caravan for residential purposes, the stationing of the caravan is in addition to the prior approval permission. The proposal under consideration does not seek a net increase in the number of dwellings on the site.
- 8.6 The principle of a fall-back position was examined in an appeal (APP/C1760/W/16/3154235 – Barrow Hill Barns, Goodworth Clatford). In that case the site benefited from a notification for prior approval under Class J (now Class O) of the Town and Country Planning (General Permitted Development) Order 1995 (GPDO) for the conversion of the existing building into 5 residential units.
- 8.7 In considering the probability that the permitted scheme would be feasible and would be implemented if the appeal scheme for the replacement of the building for 5 dwellings failed at appeal the Inspector stated:
- “I have no evidence before me to doubt the appellant in respect of these matters. I therefore find that the fall-back position to convert the building into 5 dwellings is therefore more than a theoretical prospect; there is likely to be a high probability that the scheme would be constructed if the appeal proposal is dismissed.”*
- 8.8 When considering the planning balance, the Inspector recognised that the proposal would conflict with policy COM2 of the RLP, but considered the likely residential use of the site a material consideration which would justify making a decision which is not in accordance with the development plan.

“However, the appellant’s fall-back position to change the use of the existing buildings upon the site is a very real possibility. The effects of the appeal proposal would be unlikely to be discernible over and above the permitted development scheme for the reasons given. I regard the likely residential use of the site, a material consideration which would, in this case, justify making a decision which is not in accordance with the development plan.”

The appeal was allowed on this basis.

- 8.9 The site which is the subject of this application benefits from Prior Approval for the conversion of an existing building on the site into a residential unit. There is no practical reason that the conversion of the buildings could not be implemented. The site also benefits from a certificate of lawful existing use for the use of land for the stationing of 1 caravan for residential purposes. It is therefore considered that this fall-back position be given significant weight in the determination of this planning application contrary to the development plan.
- 8.10 Along with considering the likelihood of the Part O scheme being implemented, the Inspector of the Barrow Hill Barns appeal also considered it necessary to assess the impact of the proposed scheme against the permitted scheme, to ‘determine whether or not there would be any significant impacts over and above the permitted scheme’. The application under consideration is made in outline with all matters reserved and as such, a thorough assessment of the scheme as a whole cannot be made, with only the principle of the proposed development being considered and all other matters considered at a later date by way of reserved matters applications.
- 8.11 The existing site is unkempt and overgrown, with a mix of agricultural buildings / structures and caravans on site. These features do not positively contribute to the visual amenity of the area when viewed from Bunny Lane. The caravans (one of which with a certificate of lawfulness for residential use) on site are aged, while the main agricultural building, which sits along the boundary with Bunny Lane, is of no architectural merit. Many of the structures have been in situ for some time and are in a state of disrepair. However, the buildings, structures and caravan are low level and are not overly prominent from long distance views.
- 8.12 The application under consideration has a larger site area than the Class Q approval but this enlargement is considered to be minor, and the additional land is solely to the eastern boundary of the site where the existing agricultural building is located. A curtilage of the size proposed is considered to be appropriate in order to provide space for the new dwelling, adequate outdoor amenity space, parking / access and to allow it to be set away from the existing hedgerow to ensure that this landscape feature is retained. The proposal also seeks to relinquish the rights established by way of the certificate of lawful existing use (21/02220/CLES) for the use of the land for the stationing of 1 caravan for residential purposes as well as the removal of other buildings within the field in which the application site is located. The removal of the buildings, use of the land, a s106 agreement to prohibit the

implementation of the extant Class Q prior approval and relinquishing the rights established by way of the certificate of lawful existing are considered to result in a positive improvement to the character and appearance of the area. Subject to an appropriately sized and positioned dwelling and landscaped site, the proposal is considered to offer improvements to the character and appearance of the area.

- 8.13 As the application is made in outline, consideration of the siting, design and scale of the dwelling and any landscaping details would be a matter for a subsequent reserved matters application. However, to ensure that any subsequent dwelling is not excessive in size and does not result in harm to the character and appearance of the area maximum height and floor area parameters have been agreed with the applicant and these will be controlled by planning condition.
- 8.14 In summary it is considered that there is no practical reason that the extant Class Q prior approval could not be implemented or the existing caravan occupied and the “fall-back position” therefore weighs significantly in favour of the principle of permitting the proposed development, contrary to the provisions of the Test Valley Borough Revised Local Plan (2016). Furthermore, the extinguishing of the certificate of lawful existing use (21/02220/CLES) for the use of the land for the stationing of 1 caravan for residential purposes and removal of other buildings and structures will ensure that there is only one unit of residential accommodation on the wider field, which would offer benefits to the character and appearance of the area and justify the larger residential curtilage for the new dwelling.
- 8.15 COM12
Policy COM12 of the RLP allows for replacement dwellings in the countryside. The proposals seeks a replacement dwelling for those previously approved under Class Q, Schedule 2 of The Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO). However, the conversion approved under Class Q has not been implemented and the buildings remain/were last used for agricultural purposes and are not considered to be dwellings. Furthermore the replacement of a caravan for a permanent dwelling is not supported by Policy COM12 of the RLP.
- 8.16 **Impact on character and appearance of the area**
The application is supported by indicative sketch elevations of a dwelling. Despite the application being accompanied by an indicative elevation of a replacement dwelling, as assessed above, there is no formal consideration of the development’s impact upon the character and appearance of the area and these would be considered as part of the subsequent reserved matters application. The indicative plan accompanying the application will not be listed within the approved plans.

8.17 Taking into consideration the size of the application site and the site constraints, it is considered that in principle a dwelling could be provided that would not result in harm to the character and appearance of the area or amenities of local residents and would be unlikely to be discernible over and above the permitted development scheme. However, as the application is an Outline application with all matters reserved, it is considered necessary to recommend a condition which sets maximum parameters for the size and scale of the proposed dwelling. In reaching a conclusion on the maximum height and floor area of the proposed dwelling factors including the size and scale of the existing barn (12.8m x 6m (floor area of 85sqm inclusive of the two 'porch' projections, and 3.5m high) and the standard height of single storey dwellings, which sits between 3m and 4.5m in height (depending on the roof design). Consideration has also been given to the maximum caravan size that could be sited on the adjacent land and which would be relinquished should planning permission be granted for the proposed dwelling as well of the size of other existing buildings and structures to be removed from the wider site. Taking into consideration all of these factors it is considered acceptable to allow a slight increase on the existing height of the barn, to enable flexibility in any future design as well as to ensure that the dwelling meets current building regulation standards. A similar floor area to the existing barn is considered appropriate, with 100sqm being considered an acceptable maximum when also taking into consideration the increased size of the residential curtilage. The effects of the current proposal would be unlikely to be discernible over and above the permitted development scheme and existing lawful uses and development for the reasons given above.

8.18 **Impact on ecology**

On-site ecology

The application is supported by a Preliminary Roost Assessment (Arbtech). This assessment found that the buildings on site had negligible value for roosting bats due to an absence of suitable roost features. An active bird's nest was found to be present, and it has been advised by the applicant's ecologist that works are undertaken outside of the period of March 1st to March 31st. A condition to ensure this would not be appropriate, but a condition is recommended to ensure that development proceeds in accordance with the recommendations and enhancements of the roost assessment.

8.19 Off-site ecology

Mottisfont Bats

The site is within 7.5km of the Mottisfont Bats SAC (Special Area for Conservation) which is an internationally designated site, and as such, is protected under the EU Habitats Directive, and subsequently under the Conservation of Habitats and Species Regulations 2017. As a result of research, suitable habitats (e.g. hedgerows and trees) within 7.5km of the site are considered important for foraging, commuting and roosting opportunities for this species. Any removal of trees, woodland or hedgerows should be avoided and, where it is required, appropriately mitigated to prevent an adverse impact on this internationally protected site. The proximity of the property to this protected site also increases the likelihood of bats being

present and readily utilising features within existing buildings on site. Further landscaping details are to be provided at the reserved matters stage, along with an updated ecological assessment that contends with specific landscaping details. However, at present, the principle of siting a dwelling on this site would not result in harm to the Mottisfont Bats SAC.

8.20 New Forest SPA

In line with Policy E5 and Section 11 of the NPPF, consideration should be given to potential implications on international designations. The development would result in a net increase in residential dwellings within 13.6km of the New Forest SPA. This distance defines the zone identified by recent research where new residents would be considered likely to visit the New Forest. The New Forest SPA supports a range of bird species that are vulnerable to impacts arising from increases in recreational use of the Forest that result from new housing development. While clearly one new house on its own would not result in any significant effects, it has been demonstrated through research, and agreed by Natural England (the statutory nature conservation advisors) that any new increase (even single dwellings) would have a likely significant effect on the SPA when considered in combination.

8.21 To address this issue, TVBC has adopted an interim mitigation strategy whereby a scale of developer contributions of £1,300 per new dwelling has been agreed, that would fund the delivery of a new strategic area of alternative recreational open space that would offer the same sort of recreational opportunities as those offered by the New Forest. The applicant has confirmed their intention to submit this payment once the legal agreement has been completed.

8.22 Nitrate Neutrality/Southampton and Solent SPA

The River Test and its major tributaries flow into the Solent. The Solent and Southampton Water SPA region is one of the most important for wildlife in the United Kingdom and is protected by UK and European law. There are currently high levels of nitrogen and phosphorus input into this water environment and there is evidence to suggest that this is having a detrimental impact on the biodiversity of this area. Housing and other certain types of development are currently contributing negatively towards this issue and there is evidence that further development, without mitigation, would exacerbate this impact.

8.23 The application seeks to provide a new dwelling on the site and would thus be necessary to demonstrate nitrate neutrality. The proposed dwelling would replace a caravan that has recently been issued a Certificate of existing lawful use for residential purposes. An appropriate assessment has been completed and Natural England have been consulted for confirmation that were the caravan to be removed from site and the lawful use rights extinguished that the provision of a single dwelling on site in lieu of the caravan would result in a nitrate neutral development. Subject to confirmation from Natural England, no further mitigation is considered to be necessary and the proposed development would be in accordance with policy E5 of the Test Valley Borough Revised Local Plan 2016.

8.24 Impact on neighbouring amenity

The site is bounded only by one property, Boundary House, to the south-west. Despite not being provided with specific details of the design of the proposed dwelling and its final siting, Boundary House is set centrally within its own plot, at a sufficient distance (35m) from the south-western corner of the application site. Taking into consideration the above it is considered that sufficient separation could be provided between the new dwelling and the nearest neighbour so that it would not unduly affect it in terms of overlooking, overbearing impact, overshadowing or loss of light. The proposed dwelling could also be provided with sufficient, outside, private amenity space in accordance with policy LHW4 of the RLP.

8.25 Impact on highway safety

The site has an existing vehicular access, and would be large enough to accommodate vehicle movement and parking within the site. However, as the application is made in outline with all matters reserved, no formal assessment can be made. However, there is no concern that adequate and safe access could not be provided.

8.26 Planning balance

The proposal would be contrary to the development plan in that the construction of a dwelling in the countryside would not be supported by the Test Valley Borough Revised Local Plan (2016).

8.27 The proposed development does not comply with Policy COM2 of the local plan due to its countryside location, while the development would also be contrary to Policy COM12 of the local plan, as the extant Class Q Prior Approval has not been implemented, but more importantly substantially complete.

8.28 Notwithstanding the above, there are material planning considerations that must be taken into account when determining this application and these must be weighed against the conflict with the development plan. It has been highlighted that many of these considerations cannot be formally assessed due to the nature of the application, being outline with all matters reserved. The basis of the application is the principle of utilising the fall-back position from the extant Class Q prior approval and being satisfied that in granting the outline application that an acceptable reserved matters scheme could be submitted to ensure compliance with the requirements of the development plan and national planning policies.

8.29 The report details the fall-back position of the applicant, who has demonstrated that the residential conversion of the building under the Class Q application is more than a theoretical prospect. The fall-back position that the building can be redeveloped under extant permissions is a consideration that weighs significantly in favour of the proposal now submitted.

8.30 In addition to this, the proposal will see the removal of other existing features within the site that is owned by the applicant, as well as extinguishing the rights established by application 21/02220/CLES. By virtue of these factors it is considered that the proposal could provide a dwelling of greater quality (to be considered under a future reserved matters application) and a site that has less visual impact and result in less visual harm than could be the position had the Class Q application were to be undertaken and the caravan continues to be lawfully occupied for residential purposes. The Council is currently in excess of the minimum requirement of its 5 year housing land supply and a single unit is not considered to be substantial enough to merit outright support to the housing provision. It is nonetheless a small benefit when assessed in the planning balance.

8.31 Despite not being an essential form of development located within the countryside, the planning balance weighs in favour of the proposed development.

9.0 **CONCLUSION**

9.1 The proposed development is a departure from the Test Valley Borough Revised Local Plan (2016) in that it is contrary to policy COM2. However, the conversion of the building on the site has prior approval and is clearly more than a theoretical prospect. The likely residential use of the site is a significant factor in determining this application and weighs significantly in favour of granting permission. Considering this, coupled with the proposals not resulting in any adverse impacts on the character and appearance of the surrounding area, amenity, highways or ecology, permission is recommended subject to conditions, contrary to the provisions of the Development Plan.

10.0 **RECOMMENDATION**

- **Delegate to Head of Planning and Building for:**
- **Completion of satisfactory consultation with Natural England with respect to the impact of the development on European sites (together with any appropriate conditions/and or Obligations as required), and**
- **The completion of a legal agreement to secure:**
 - **New Forest SPA contribution; and**
 - **Extinguish the rights established by application 21/02220/CLES – Certificate of lawful existing use for the use of the land for the stationing of 1 caravan for residential purposes.**

then **PERMISSION** subject to:

1. **Applications for the approval of all the reserved matters referred to herein shall be made within a period of three years from the date of this permission. The development to which the permission relates shall be begun not later than whichever is the later of the following dates:**
 - i) **five years from the date of this permission: or**
 - ii) **two years from the final approval of the said reserved matters, or, in the case of approval on different dates, the final approval of the last such matter to be approved.**

Reason: To comply with the provision of S.92 of the Town & Country Planning Act 1990.

- 2. Approval of the details of the layout, scale and appearance of the building, the means of access thereto and the landscaping of the site (herein after called "the reserved matters") shall be obtained from the Local Planning Authority in writing before the development is commenced.**

Reason: To comply with the Town and Country Planning (General Management Procedure) (England) Order 2015 (or any order revoking and re-enacting that Order).

- 3. Development shall proceed in accordance with the measures set out in Section 4 of the Land at Bunny Lane, Sherfield English, Romsey SO51 6FQ Preliminary Roost Assessment (Arbtech). Thereafter, mitigation and enhancement features shall be permanently maintained and retained in accordance with the approved details.**

Reason: To ensure the favourable conservation status of bats in accordance with Policy E5 of the Test Valley Borough Revised Local Plan (2016).

- 4. The development hereby approved shall be designed and built to meet Regulation 36 2 (b) requirement of 110 litres/person/day water efficiency set out in part G2 of Building Regulations 2015.**

Reason: In the interests of improving water usage efficiency in accordance with policy E7 of the Test Valley Borough Revised Local Plan 2016.

- 5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order), no building, structure, walls or fences of any kind shall be erected without the prior written consent of the Local Planning Authority.**

Reason: In order that the Local Planning Authority can exercise control in the locality in the interest of the local amenities in accordance with Test Valley Borough Revised Local Plan (2016) Policy COM2.

- 6. Prior to the first occupation of the dwelling hereby permitted, the existing buildings / structures within the applicants ownership, as shown within the application site (red edge) and the adjacent land (blue edge), shall cease to be used for any purpose and removed, with the resultant materials cleared from the site in accordance with details to be submitted and approved in writing with the Local Planning Authority.**

Reason: The site lies in an area where new dwelling units are not normally permitted in accordance with Test Valley Borough Revised Local Plan (2016) Policy COM2.

- 7. No dwelling that is subject to a Reserved Matters approval, shall exceed 4.5m in height (measured from existing ground level) or have a footprint larger than 100sqm measured externally.**

Reason: In the interests of proper planning when considering the principle of development relates to a Class Q conversion, and in the interest of the amenities of the countryside setting in accordance with Test Valley Borough Revised Local Plan (2016) Policies COM2, E1 and E2.

- 8. Any reserved Matters application shall be accompanied by a scheme for the protection of trees, particularly in relation to those within the eastern boundary of the application site fronting Bunny Lane. Such a scheme shall include a plan showing the location and specification of tree protective barriers in relation to existing trees and the proposed dwelling.**

Note: The protective barriers shall be as specified at Chapter 6.2 and detailed in figure 2 of B.S.5837:2012.

Reason: To ensure the enhancement of the development by the retention of existing trees and natural features during the construction phase in accordance with Test Valley Borough Revised Local Plan (2016) policy E2.

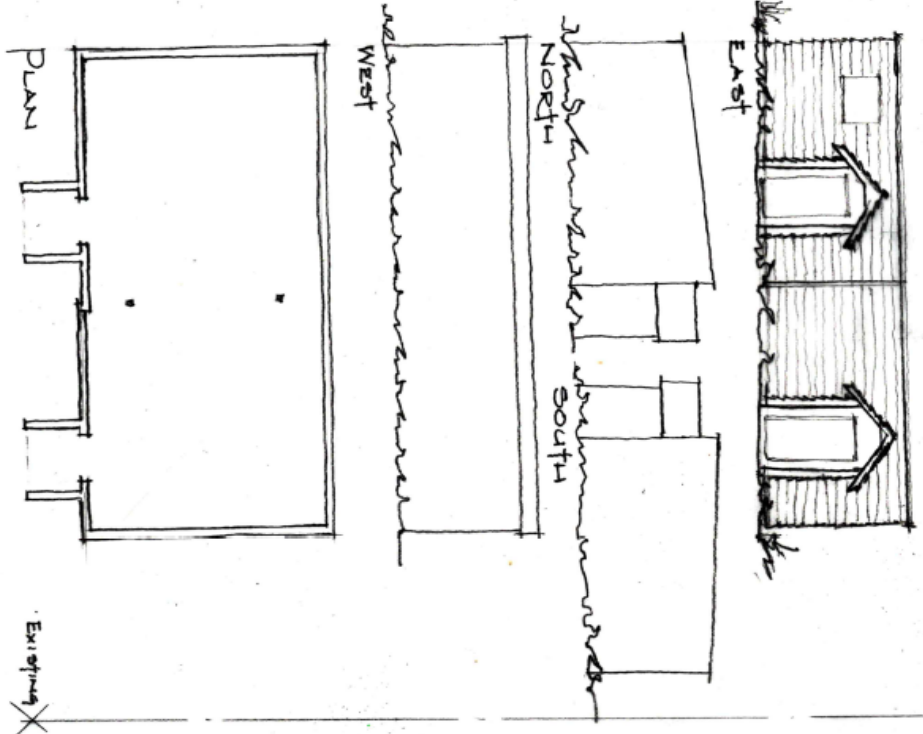
- 9. Any reserved Matters application shall be accompanied by a plan showing existing and proposed ground levels as well as plans clearly identifying both finished floor levels of the proposed dwelling.**

Reason: In the interests of proper planning when considering the principle of development relates to a Class Q conversion, and in the interest of the amenities of the countryside setting in accordance with Test Valley Borough Revised Local Plan (2016) Policies COM2, E1 and E2.

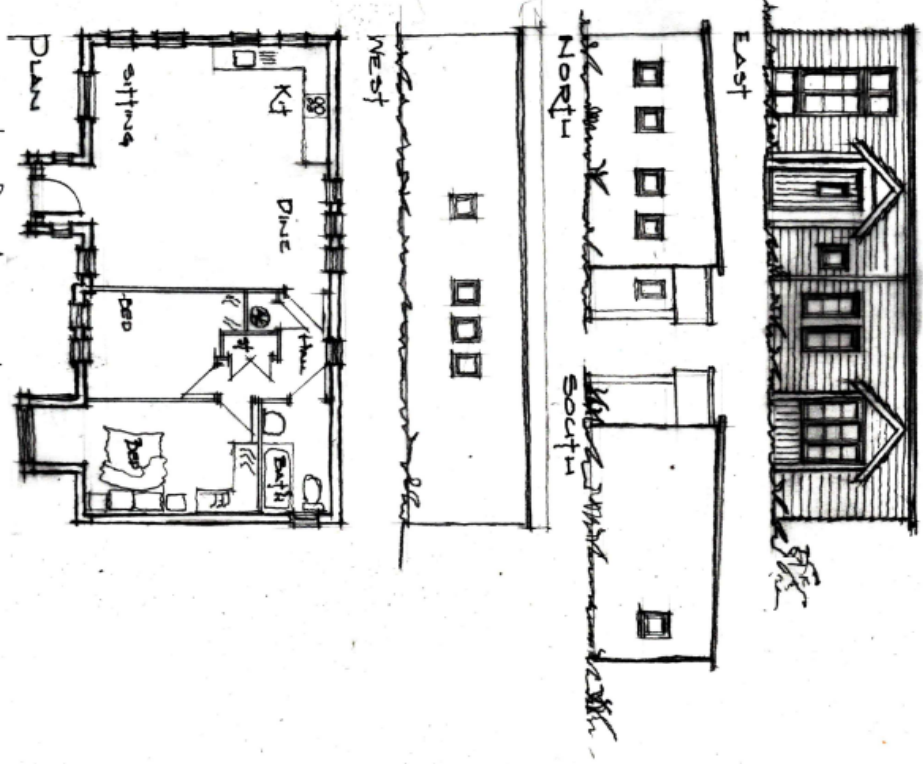
Note to applicant:

- 1. In reaching this decision Test Valley Borough Council (TVBC) has had regard to the National Planning Policy Framework and takes a positive and proactive approach to development proposals focused on solutions. TVBC work with applicants and their agents in a positive and proactive manner offering a pre-application advice service and updating applicants/agents of issues that may arise in dealing with the application and where possible suggesting solutions.**
-

APPENDIX A – 22/02855/PDQS
 LOCATION PLAN
 ELEVATIONS



22/02855/PDQS - ELEVATIONS



JON DALE ARCHITECT LTD
 Jon Dale RIBA, 12, Greenwood View, Eastleigh, Hampshire, SO50 4NF Tel: 07789 525126 Email: jondalearchitect@gmail.com
 Project Title
LAND off DUNNIN LANE
 Scale 1:1000 A3 Date 04/12 Drawn Checked Job No. 379/5/1 Drawing No. 379/5/105
 Plans & Elevations of Existing Buildings & Proposed Construction

22/02855/PDQS - LOCATION PLAN



21/02220/CLES - LOCATION PLAN

