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<b>APPLICATION NO.</b>	23/01071/FULLS
<b>APPLICATION TYPE</b>	FULL APPLICATION - SOUTH
<b>REGISTERED</b>	18.05.2023
<b>APPLICANT</b>	Mr and Mr Parsons
<b>SITE</b>	Friars Orchard, Rectory Hill, West Dean, SP5 1JL, <b>WEST TYTHERLEY AND FRENCHMOOR</b>
<b>PROPOSAL</b>	Demolition of barn, erection of dwelling and installation of treatment plant
<b>AMENDMENTS</b>	27 October 2023 – structural engineers letter received
<b>CASE OFFICER</b>	Kate Levey

Background paper (Local Government Act 1972 Section 100D)

[Click here to view application](#)

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## 1.0 INTRODUCTION

1.1 The application is presented to Southern Area Planning Committee because it is contrary to the provisions of an approved or draft Development Plan or other statement of approved planning policy, adverse third party representations have been received and the recommendation is for approval.

## 2.0 SITE LOCATION AND DESCRIPTION

2.1 The application site is comprised of a large agricultural barn situated to the east of Rectory Hill within the countryside area of West Tytherley and Frenchmoor Parish. The site is accessed via a track which is also a right of way – West Tytherley footpath number 12. Dean House is situated 100 metres to the south west and is listed at Grade II\*.

## 3.0 PROPOSAL

3.1 This proposal is for demolition of a barn, erection of dwelling and installation of a treatment plant

## 4.0 HISTORY

4.1 20/02712/PDQS Application to determine if prior approval is required to change use of agricultural building to 1 dwellinghouse, and for building operations reasonably necessary for the conversion. Prior approval not required 06.01.2021

4.2 21/00536/FULLS Change of use of agricultural barn to dwelling, with associated parking, landscaping and access. Permission subject to conditions and notes 28.09.2022

## 5.0 CONSULTATIONS

5.1 Ecology: no objection subject to conditions

5.2 Environmental Protection: no objection subject to conditions

5.3 HCC Highways: no objection

6.0 **REPRESENTATIONS** Expired 16.06.2023

6.1 West Tytherley and Frenchmoor Parish Council: No objection, subject to: materials used for the roof of the building complying with policy HD4 of the West Tytherley and West Dean NDP.

An "Object" response would have been submitted had the proposed roof been metal

6.2 Three representations received from the occupier of Dean House, West Dean – object (summarised below)

*Validity of the class Q permission (20/02712/PDQS)*

- At the Extraordinary General Meeting of the West Dean Parish Council on 5<sup>th</sup> June, the applicant revealed that the reason for applying to demolish and rebuild the barn was that the steels which formed the structure of the barn were not strong enough to allow conversion
- The determination of 20/02712/PDQS assumed that the structure of the barn was sufficient to enable conversion
- The full planning permission was issued despite the development being contrary to the development plan as a whole. The argument put forward was that of fall back.
- It is now clear that the barn must be demolished to build a residential unit. TVBC do not have to have regard to the principle of fall back as there is no realistic prospect of the barn being converted.
- Previous decisions on this site were based on misleading information.
- Notwithstanding what the applicant stated at the Parish Council meeting, it should be confirmed in writing that the barn can be converted into a residence without demolition and explain how the demolition and rebuilding of the barn will lead to improvements in thermal efficiency.
- The recent Andrew Waring Associates letter does not clarify whether the building can be converted
- Andrew Waring Associates should be required to confirm this particular barn could be converted in accordance with 2020 designs and the applicant should provide a written explanation for his contradictory statement at the June Parish Council meeting.
- Unless TVBC can be satisfied on these points, approval may result in legal challenge and approval of the application would be unlawful
- No report reference 10899 has been posted on the website, only report reference 10825.

*Incorrect application form*

- Certificate A has been signed. The access track from the main road is within the red edge on the proposed site plan. However, this track belongs to Dean House so certificate A is untrue and the application form is misleading.

### *Design and access statement*

- Incorrect statements within the design and access statement relating to visibility of the barn from the footpath, overlooking from the east gable end and site context.

### *West Dean and West Tytherley Joint Neighbourhood Development Plan*

- The NDP has come into effect since the last planning application
- Policies EL3 Conservation Areas, EL8 Countryside Rights of Way and HD4 Design are relevant and the application fails to meet requirements of the NDP.

### *Screening*

If it is decided that the application should go ahead, the NPD should influence permission granted. Effective screening of the building should be implemented.

## 7.0 **POLICY**

### 7.1 Government Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Planning (Listed Buildings and Conservation Areas) Act 1990

### 7.2 Test Valley Borough Revised Local Plan (2016)(TVBRLP)

COM2: Settlement hierarchy

COM12: Replacement dwellings in the countryside

E1: High quality development in the Borough

E5: Biodiversity

E7: Water management

E9: Heritage

LE16: Re-use of buildings in the countryside

LHW4: Amenity

T1: Managing movement

T2: Parking provision

### 7.3 Neighbourhood Plan

West Dean and West Tytherley Joint Neighbourhood Development Plan

### 7.4 Supplementary Planning Document

West Dean Village Design Statement

## 8.0 **PLANNING CONSIDERATIONS**

### 8.1 The main planning considerations are:

- Principle of development
- Character and appearance of the area
- Heritage
- Biodiversity
- Neighbouring amenity
- Highways
- Parking provision
- Other matters

## 8.2 Principle of development

The application site is, for the purposes of planning policy, within the countryside. The application site is not allocated for development in the currently saved policies of the Local Plan. The principal planning policy of the TVBLP therefore is policy COM2. Planning policy COM2 seeks to restrict development outside of settlement boundaries unless identified within the specified policies.

- 8.3 The site comprises a former agricultural barn which benefits from an extant class Q prior approval for conversion to a residential dwelling, under 20/02712/PDQS. This decision was issued on 6<sup>th</sup> January 2021. Condition Q.2 (3) of class Q states that:

*'(3) Development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class Q(b), if any, must be completed within a period of 3 years starting with the prior approval date.'*

The development of the prior approval would need to be completed by 6<sup>th</sup> January 2024 to comply with condition Q.2 (3) above. Development has not commenced at the time of writing this report. Whilst there is a possibility the development may be commenced and completed within this timescale, it appears unlikely and so only limited weight is given to the extant prior approval. However, the site also benefits from an extant full planning permission for change of use of this barn to a dwelling, with associated parking, landscaping and access, under 21/00536/FULLS. That decision was issued on 28.09.2022 and to remain 'live' must be commenced within 3 years from that date.

- 8.4 Third party representations have been received stating that there is no realistic prospect of the barn being converted, as it is alleged that the steels which formed the structure of the barn are not strong enough to allow conversion. This stems from conversations which took place at a Parish Council meeting held on 5<sup>th</sup> June, and the minutes for this meeting state that:

*'Mr Simon Parsons, speaking on behalf of his son Mr Edward Parsons who now owns the site, explained that the steels in the current barn were not strong enough to support the upper storey in the building, so it is to be rebuilt in order to rectify that issue.'*

Notwithstanding what was said in the Parish Council meeting, the original class Q application 20/02712/PDQS was supported by a structural report which states that:

*'... the 'conversion can be carried out within the criteria mandated by a Class Q Application. We consider that the principle structural elements of the building are in a satisfactory, and of an adequate condition for the conversion to take place'.*

The report further states that *'no new structure is required to support the existing external envelope.'*

Based on the professional opinion outlined within the submitted structural report, the LPA were satisfied that the building was capable of conversion and paragraph 7.14 of the Officer report for 20/02712/PDQS states that:

*'advice contained within the NPPG confirms that a proposal under Class Q can only be permitted development if the existing building is capable of taking the loading associated with a residential conversion without the requirement of any additional structural elements. It is considered that the building, as confirmed in a structural survey submitted, is capable of being converted without any further works to the structure. Consequently, the proposal complies with criterion (i).'*

- 8.5 An additional letter from the structural surveyor supports this application which concludes that *'the conversion approach still remains a perfectly viable proposition for these buildings'*.

As such, given the available evidence, the LPA are satisfied that the barn is capable of conversion whereby the extant fall back position is a realistic prospect. The submitted letter also explains the benefits to be had from demolition and re-build, such as better thermal performance, air tightness and possibility for higher levels of insulation and underfloor heating without comprising headroom within the building.

8.6 Replacement dwelling?

Policy COM12 provides for the erection of replacement dwellings in the countryside but as the permission for the change of use is yet to be implemented or substantially complete, the barn cannot be classified as a dwelling and therefore does not fall to be considered under COM12.

8.7 Reuse of existing building in the countryside?

Policy LE16 allows for the re-use of buildings within the countryside. However the works proposed to the building under this application are considered to go beyond what would constitute a "conversion" for the purposes of Policy LE16. This Policy is therefore not relevant in this instance.

- 8.8 As the proposed development is neither a conversion, replacement dwelling or any of the other exceptions listed in policy COM2 the development is contrary to the Local Plan as a whole.

- 8.9 That said, Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 require planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. This is echoed by the National Planning Policy Framework. It is considered that in this instance, there are other material considerations that must be taken into consideration in the determination of the application, and this is discussed in detail below.

8.10 Although the existing barn is currently not a dwelling, it has permission to become one, the applicant has indicated that were planning permission to be withheld they would seek to implement the extant planning permission (21/00536/FULLS) and undertake works in accordance with those plans. In this case it is considered that the barn has a realistic prospect of being converted into a residential unit of accommodation, whereby COM12 would then apply if the proposal was submitted once the permission was implemented and substantially complete. Furthermore, the proposal does not seek a net increase in the number of dwellings on the site and the development would result in no significant increase in the footprint of the current building.

8.11 The principle of a fallback position was examined in a recent 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.

8.12 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.”*

8.13 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.

8.14 The assessment, as outlined by the Inspector’s decision, has subsequently been followed in recent applications which were recommended for permission by Officers and subsequently approved at Southern Area Planning Committee.

- 8.15 The site currently benefits from an extant consent under Class Q of the GPDO and also an extant full planning permission for creation of a dwelling. Whilst the class Q approval should be afforded limited weight, there is no practical reason why the FULLS permission could not be implemented and the fall-back position therefore weighs significantly in favour of permitting the proposed development, despite it being contrary to the provisions of the Test Valley Borough Revised Local Plan 2016.
- 8.16 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'. In relation to this proposal, this is discussed further below.
- 8.17 **Character and appearance of the area and the setting of heritage assets**  
The site is located within the rural countryside to the east of Rectory Hill. The access to the site from Rectory Hill is a single lane track which is also a public footpath. Dean House is situated 100 metres to the south west and is listed. The existing barn is of a relatively modern construction and is of no particular architectural or historic merit.
- 8.18 The vehicular highway of Rectory Hill is situated approximately 118 metres to the west, which limits wider views of the site. The dwelling will be clearly visible from the right of way to the front (south) of the site. Views from this public right of way are partially obscured by mature trees along the east boundary of the site, save for the double gated access point, where there is a break in the vegetation. The proposed dwelling would have four bedrooms with car parking area and bin store situated to the west of the building. The scheme retains the scale of the existing barn. The increased height of the ridge (maximum ridge height 6.1 metres) is not considered to give rise to a materially different appearance compared to the existing barn and this ridge height was previously approved under 21/00536/FULLS. Third party comments regarding the visibility of the roof from the walled garden of Dean House are noted, however this is a private view and is not public.
- 8.19 Whilst the development would be clearly visible from the footpath, it is not considered to be overbearing. The general form and design of the building would still have an agricultural appearance, which would make the residential influences less obvious from the footpath. The proposed dwelling is not considered to give rise to unacceptable levels of light spill towards the footpath, given the amount of glazing proposed on the front and side gable elevations. In any case, the impact would be minimised and not be significantly apparent due to the likely lack of night time use of the path. There remains some potential for light pollution should further fenestration be installed in the roof and as such a condition restricting permitted development rights for new windows has been applied. An additional condition is recommended which restricts the ability to install external lighting without the prior approval of the Council.

8.20 The proposed materials include vertical dark stained timber and light coloured render. The application form states that the roof would be constructed of metal standing seam and concern from the Parish Council about this proposed roofing material is acknowledged. Policy HD4 of the West Tytherley and West Dean Neighbourhood Plan sets out a preference for grey or brown roofing materials, and that this could include thatch, clay tiles or slate. As such, a condition has been recommended which seeks to ensure that an appropriate roofing material is used, which is in line with the West Dean and West Tytherley Joint Neighbourhood Development Plan, which was made following the positive referendum on 17 March 2022.

8.21 Heritage

An important planning consideration is whether the proposed works would provide harm to the listed building or the conservation area, in terms of fabric, setting or appearance, and in accordance with Sections 66(1) and 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which places a statutory duty upon decision makers to have special regard to the desirability of preserving the heritage asset or its setting. The Framework advised that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 199 of the Framework states that when considering the impact of a proposed development on the significance of a heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater weight there should be.

8.22 As previously described Dean House is listed at Grade II\*. However it is situated approximately 100 metres to the south west of the building to be converted, and as a result the views of the two buildings together are limited. In any case the conversion works would improve the appearance of the existing agricultural building. For these reasons the development is considered to have a neutral impact on the setting of the listed building and the conservation area.

8.23 As a result it is considered that the proposed development, by virtue of its layout and design, makes a positive contribution to the character, appearance and setting of the site. In addition the proposal must be assessed against the fall-back position of the extant conversion permission. The modern barn is of no particular architectural or historic merit. The proposal is considered to respect the agricultural character of the setting and does not harm the setting of the nearby listed building or the conservation area. Overall the proposed development is considered to comply with policies E1, E2 and E9 of the TVBLP 2016. The development is also considered to comply with the West Dean and West Tytherley Joint Neighbourhood Development Plan, specifically policies EL3, EL8 and HD4.



#### 8.24 **Amenities of neighbouring properties**

The application site is situated in a relatively isolated location on the east edge of the village of West Tytherley. The nearest neighbouring dwelling is Lime Tree Cottage which is situated approximately 32 metres south west of the barn, on the opposite side of the footpath. Given the distance from the neighbouring property, the boundary treatment and intervening features it is not considered that the proposed conversion will result in any significant detrimental increase in overshadowing or have any significant overbearing impact. Third party comments about overlooking are acknowledged, however this proposal seeks one velux rooflight on the front (south) elevation which would serve a service zone and void in the roofspace. These are areas where the occupants are unlikely to spend significant amounts of time. Additionally, four windows are proposed at ground floor level which would serve the stairs, utility and kitchen. The primary outlook from these windows would be across the front boundary treatment and the footpath. It is not considered that the proposed conversion would have any significant detrimental impact on the amenities of the neighbouring properties. The proposal complies with policy LHW4.

8.25 The Environmental Protection Officer consulted has advised that a condition is added to this recommendation such that no work relating to the construction of the development shall take place before the hours of 07.30 nor after 18.00 on Mondays to Fridays; before the hours of 08.00 nor after 13.00 on Saturdays; and at all on Sundays and Public Holidays. However as this is an application for a single dwelling it is not anticipated that the development works would be for a protracted period and due to the scale of the works proposed, it is not considered that this condition is necessary or reasonable in this instance.

#### 8.26 **Ecology**

##### Protected Species

This application is supported by a Bat and Barn Owl Survey (David Leach Ecology, August 2020). The submitted ecology report confirms that the existing barn is of negligible potential to roosting bats and no evidence of barn owls or nesting birds were found within the barn. The areas surrounding the barn also appear to be areas of existing hardstanding. The application site is within the Mottisfont Bats SAC. With respect to Mottisfont Bats SAC and the LPA's engagement with the Conservation of Habitats and Species Regulations 2018 that provides the legal protection for this, potential impacts on the SAC have been considered during the consideration of the application and a habitats regulation assessment has been undertaken. The application site is not within the SAC. The SAC is confined to the extensive woodland / Ancient Woodland near Mottisfont. Therefore, it is clear that the development will not directly affect the SAC habitats themselves, nor directly affect any bat roosts within the SAC. The affected area of the site is agricultural land, and the area of the proposed building is of limited value as a foraging resource for bats in general as it does not provide a high-quality environment for supporting an abundance of suitable invertebrate prey. No woodland loss is required for these works. The HRA completed concludes that the proposals will not have any likely significant effect on the SAC.

- 8.27 No objection is raised by the Council's Ecologist on ecology grounds. The proposal is not considered to give rise to any adverse impacts on existing habitat or on-site ecology, and the proposal is in accordance with Policy E5.
- 8.28 Solent and Southampton Water SPA – Solent Neutrality  
There is existing evidence of high levels of nitrogen and phosphorus in the water environment across the Solent, with evidence of eutrophication at some designated sites. An Integrated Water Management Study for South Hampshire was commissioned by the Partnership for Urban South Hampshire (PUSH) Authorities to examine the delivery of development growth in relation to legislative and government policy requirements for designated sites and wider biodiversity. This work has identified that there is uncertainty regarding whether any new housing development does not contribute to net increases in nutrients entering these designated sites.
- 8.29 As such, the advice from Natural England is that the applicants for development proposals resulting in a net increase in dwellings are required to submit the nitrogen budget for the development to demonstrate no likely significant effect on the European designated sites due to the increase in waste water from the new housing.
- 8.30 In this instance, a nutrient budget calculation was undertaken identifying that the proposed scheme, in the absence of any mitigation generated, would result in a total additional nitrate output of 0.29 kg / TN /year. In order to mitigate the additional nitrate output generated by the proposed development, the applicant has agreed to take an area of 0.1 hectares of mixed arable agricultural land on site out of agricultural production. The farm is classified as mixed arable farming and is run as one holding CPH45/230/0002 which included a dairy, then a beef suckler herd and ten years ago a sheep flock with beef grazing. The field which contains the nitrate mitigation management plan has had arable rotation including linseed which was planted for harvest in 2021. Google maps currently shows that the land is in agricultural use and the case officer has had sight of a Countryside Stewardship Agreement document covering the period 01/01/2019 to 31/12/2023. The evidence suggests that the land has been in arable use and for the basis of this assessment they are adopting a precautionary land use and nitrogen figure and classifying the land as mixed arable. It is therefore accepted on a precautionary basis that this represents an accurate classification. To secure the future use of the land in perpetuity a unilateral undertaking will be completed preventing the use of the land for agricultural production. The Officer recommendation reflects the requirement for this agreement prior to permission being granted.
- 8.31 Subject to such an agreement being completed, it is considered that the proposal would achieve nutrient neutrality as required by the guidance contained within Natural England's 'Advice on achieving nutrient neutrality for new development in the Solent region'. Therefore, it can be concluded that there will be no adverse effect on the integrity of the designated site with respect to nutrient neutrality. The proposals are therefore considered to comply with policy E5 of the RLP.

8.32 **New Forest SPA**

The development will result in a net increase in residential dwellings within 15km 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 that any net increase (even single or small numbers of dwellings) would have a likely significant effect on the SPA when considered in combination with other plans and projects.

8.33 To address this issue, Test Valley Borough Council has adopted a strategy whereby a scale of developer contributions has been agreed that would fund the delivery of measures to address these issues. With respect to the New Forest, a new strategic area of alternative recreational open space is being delivered that would offer the same sort of recreational opportunities as those offered by the New Forest.

8.34 Therefore it is considered necessary and reasonable to secure the appropriate contributions. The applicant made the required contributions by direct payment on 23<sup>rd</sup> June 2021, during the course of the previous application 21/00536/FULLS.

8.35 **Water management**

The 2016 Local Plan includes a requirement in policy E7 to achieve a water consumption standard of no more than 100 litres per person today. This reflects the requirements of part G2 of the 2015 Building Regulations. In the event that planning permission was to be recommended a condition would be applied in order to address this. Subject to such a condition the proposal would comply with policy E7.

8.36 **Highways and parking provision**

The Highways Officer has raised no objection to the proposed development, commenting that the proposal provides sufficient space for safe and efficient manoeuvring of vehicles. As such the proposed development would not have a materially detrimental impact upon the safety and efficiency of the public highway network.

8.37 The proposal is for a four bedroom house and as such three parking spaces are required to comply with the parking standards. The proposed site layout plan shows two cars plus a third parking space, and given the size of the parking area it is reasonable to conclude that three cars could easily use the parking area efficiently. Subject to a condition to ensure the proposed parking is retained, the proposed development is considered to have no significant adverse impact on highways or pedestrian safety and complies with policies T1 and T2.

**8.38 Other matters**

Application form

A third party comment has been received which states that the access track from the main road is within the red edge on the proposed site plan and certificate A has been signed. The representation received states that the track belongs to Dean House and therefore certificate A is incorrect. As originally submitted, certificate A was signed on the application form. However, certificate B has since been signed with notice served to Lime Tree Cottage, Dean House and Park Cottage on 15<sup>th</sup> May 2023.

**8.39 Planning reports**

The third party representation received which states that there is no report reference 10899 on the website, only report reference 10825, is acknowledged. Report reference 10825 supported the previous class Q application. The case Officer has not had sight of any report reference 10899.

**8.40 Request for additional information**

Third party correspondence states that Andrew Waring Associates should be required to confirm this particular barn could be converted in accordance with 2020 designs and the applicant should provide a written explanation for his contradictory statement at the June Parish Council meeting. However, the structural report accompanying the class Q application and the subsequent letter from Andrew Waring Associates are considered to provide sufficient evidence that the barn could be converted. No further information on this matter is considered necessary in this instance.

**8.41 Planning Balance**

The development would be contrary to the development plan in that the proposals would result in a new residential dwelling on a site designated as countryside in the Test Valley Borough Revised Local Plan 2016 (RLP). Policy COM12 and Policy LE16 are not relevant to the current proposal as whilst an extant permission exists it has not yet been commenced or completed. As a result the proposal for a new dwelling in the countryside is contrary to policy COM2 of the RLP.

8.42 Notwithstanding the above, there are other 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.

8.43 The report details the fall-back position of the applicant and it has been demonstrated that the conversion of the existing barn to a dwelling is a realistic prospect and thus a fall-back position. The fall-back position that the building can be converted to a residential dwelling is a consideration that weighs significantly in favour of the proposals now submitted.

8.44 In any case, the conversion works would improve the appearance of the existing agricultural building and the replacement of the existing structure would result in a scheme of better design. It would also reduce light spill due to the reduction in the number of rooflights on the front elevation. There are also social benefits to the future occupiers, in that the roof height is increased, making the internal accommodation at first floor level more useable. It is secured by condition that landscaping details are submitted for approval, and so the scheme provides scope to improve the appearance of the site as a whole. Furthermore, the proposal would have no additional adverse impacts over and above the extant permission. These aspects weigh in favour of the development.

8.45 To the extent that it is necessary to find that it breaches certain development plan policies, it might be contrary to the development plan as a whole; under s.38(6), however, the benefits and compliance with the NPPF provide the material considerations that indicate that permission should be granted in any event. On balance, the public interest is best met by resolving to approve the application.

## 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, there is an extant and implementable planning permission in place to convert the building on site to a residential dwelling. 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 proposal not resulting in any adverse impacts on the character and appearance of the surrounding area, heritage, amenity, highways or ecology, permission is recommended subject to conditions.

## 10.0 RECOMMENDATION

**Delegate to Head of Planning & 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 as required), and the completion of a legal agreement to secure;**

- **Removal of nitrate mitigation land from agricultural production**
- **Future management of the nitrate mitigation land**

**Then PERMISSION subject to:**

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

**Reason: To comply with the provision of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.**

2. **The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers**

**0202-02-02-004 E, 0202-02-02-005, 0202-02-02-001 D, 02-02-02-002a, 0202-02-02-003a, 0202-02-02-005, 202-02-03-001a B, 0202-02-04-001 D, 0202-02-05-001 D, 0202-02-05-002 C**

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

- 3. No development shall take place above DPC level of the development hereby permitted until samples and details of the materials to be used in the construction of all external surfaces hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The roof material shall be either be thatch, clay tiles or slate. Development shall be carried out in accordance with the approved details.**

**Reason: To ensure the development has a satisfactory external appearance in the interest of visual amenities in accordance with Test Valley Borough Revised Local Plan (2016) Policy E1 and policy HD4 of the West Tytherley and West Dean Neighbourhood Development Plan.**
- 4. No development shall take place above DPC level of the development hereby permitted until full details of hard and soft landscape works have been submitted and approved. Hard landscape details shall include: means of enclosure and hard surfacing materials. Soft landscape works shall include: planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities.**

**The landscape works shall be carried out in accordance with the implementation programme and in accordance with the management plan.**

**Reason: To improve the appearance of the site and enhance the character of the development in the interest of visual amenity and contribute to the character of the local area in accordance with Test Valley Borough Revised Local Plan (2016) Policy E1 and E2.**
- 5. No development shall take place above DPC level of the development hereby permitted until a schedule of landscape management and maintenance for a minimum period of 5 years has been submitted to and approved in writing by the Local Planning Authority. The landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas and an implementation programme, shall be submitted to and approved in writing by the Local Planning Authority. The approved management plan shall be carried out in accordance with the implementation programme.**

**Reason: To ensure the provision of amenity afforded by proper maintenance of existing and new landscape features as an improvement of the appearance of the site and to enhance the character of the development in the interest of visual amenity and contribute to the character of the local area in accordance with Test Valley Borough Revised Local Plan (2016) Policy E1 and E2.**
- 6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows, dormer windows or roof lights [other than those expressly authorised by this permission] shall be installed or constructed in/on the dwelling hereby permitted.**

**Reason: In order that the Local Planning Authority can exercise control in the locality in the interest of residential amenities in accordance with Test Valley Borough Revised Local Plan (2016) Policy LHW4.**

- 7. The development shall not be occupied until space has been laid out and provided for the parking and manoeuvring of vehicles in accordance with plan number 0202-02-02 004E. This space shall thereafter be reserved for such purposes at all times.**

**Reason: In the interests of highway safety in accordance with Test Valley Borough Revised Local Plan (2016) Policy T1.**

- 8. In the event that contamination (that was not previously identified) is found at any time during construction works, the presence of such contamination shall be reported in writing to the Local Planning Authority without delay and development shall be suspended on the affected part of the site until a remediation scheme for dealing with that contamination has been approved by the Local Planning Authority. The approved remediation scheme shall be implemented and, if requested, a verification report, for the purpose of certifying adherence to the approved remediation scheme, shall be submitted to the Local Planning Authority prior to the site being brought in to use.**

**Reason: To ensure a safe living/working environment in accordance with Test Valley Borough Revised Local Plan 2016 policy E8.**

- 9. Development shall proceed in accordance with mitigation and enhancement measures outlined within Section 5.3 'Recommendations' of the Friars Orchard, West Dean, Salisbury, Wiltshire, Bat and Barn Owl Survey (David Leach Ecology Ltd., August 2020). Biodiversity enhancement measures shall be retained and maintained in perpetuity.**

**Reason: To enhance biodiversity in accordance with NPPF and the Natural Environment and Rural Communities Act 2006 and with Policy E5 of the Test Valley Revised Local Plan (2016).**

- 10. 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.**

- 11. No external lighting shall be installed unless in accordance with details that have been submitted to and approved in writing by the local planning authority. The details shall include plans and details sufficient to show the location, type, specification, luminance and angle of illumination of all lights/luminaires and a light spread diagram. All lighting shall be implemented in accordance with approved details and retained and maintained as such in perpetuity.**

**Reason: In the interest of visual amenities in accordance with Test Valley Borough Revised Local Plan (2016) Policy E1, and additionally to ensure the favourable conservation status of bats in accordance with Policy E5 of the Test Valley Revised Local Plan 2016.**

12. **Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates, walls or other means of enclosure shall be erected within the curtilage of the dwelling house forward of any wall of the dwelling house which fronts onto the public footpath.**

**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) Policies E1 and E2.**

**Notes 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.**
  2. **No builders or contractor's vehicles, machinery, equipment, materials, scaffolding or anything associated with the works should be left on or near the footpath so as to obstruct, hinder or provide a hazard to users.**
  3. **Nothing connected with the development or its future use should have an adverse effect on the right of way, which must remain available for public use at all times in perpetuity.**
  4. **All vehicles would be accessing the site via a public footpath and should give way to public users at all times.**
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