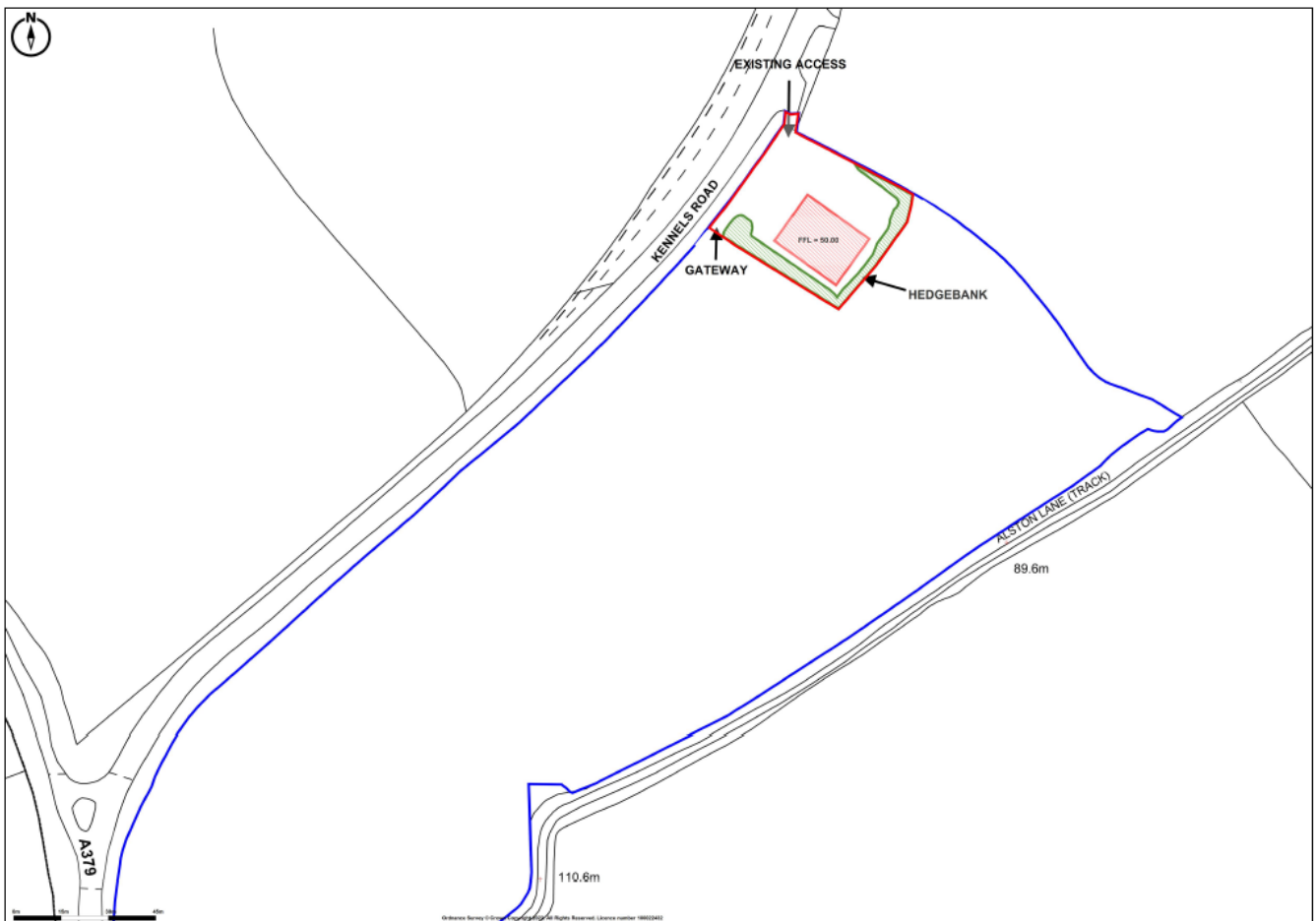


Application Site Address	Greenway Farm Kennels Road Churston Ferrers Brixham TQ5 0HJ
Proposal	Erection of general purpose agricultural building and associated works (retrospective)
Application Number	P/2022/0657
Agent	Mrs. Amanda Burden
Applicant	Mr. PA & J Vennelle
Date Application Valid	28/10/2022
Decision Due date	28/10/2022
Extension of Time Date	18/11/2022
Recommendation	<p>Approval: Subject to;</p> <p>The conditions as outlined below with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency.</p> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.</p>
Reason for Referral to Planning Committee	<p>Cllr Kennedy has called the application to committee for the following reason:</p> <p>“I have a number of concerns all relating to the government guidelines regarding permitted development rights for Agriculture and Forestry. I believe the first application failed to cover this adequately and your report makes no mention of it.</p> <p>Additionally this is contrary to both the Local Plan and Neighbourhood Plan policies.”</p> <p>Cllr Mills has called the application to committee for the following reason:</p> <p>“I have read through your officer's report and your recommendation for approval. I have serious</p>

	<p>concerns about this application and do agree that the BCG forum has made some valid points. I also believe that, as there has been substantial relevant representation made by residents objecting to this application that it should be presented to the planning committee.”</p>
<p>Planning Case Officer</p>	<p>Verity Clark</p>



Site Details

The site, Greenway Farm, Kennels Road, Churston Ferrers, Brixham is an agricultural field. As the proposal is retrospective the field includes an agricultural building which is the subject of this application located on a levelled yard area. Beyond the yard the site levels drop to the field which slopes from south west to north east.

The site benefits from an existing access in the northern corner of the site onto the A379 Kennels Road via a layby.

The site is designated as countryside under Policy C1 of the Local Plan and is within the South Hams Special Area of Conservation sustenance zone for greater horseshoe bats. The site is also adjacent to the Kennels Road other site of wildlife importance and the South Devon AONB is located approximately 90m to the south east of the site and at a greater distance to the south west.

Description of Development

The application seeks retrospective permission for the erection of a general purpose agricultural building to store straw and crops.

The proposed building measures 18m x 24m metres with an eaves height of 7m and a ridge height of 9m. The building features a grey fibre cement roof with concrete panels to 1.5m height and dark grey box profile sheeting above. The building features a sliding door opening on the north west elevation.

Relevant Planning Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise:

Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")
- The Adopted Brixham Peninsula Neighbourhood Plan 2012-2030

Material Considerations

- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)
- Published standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report.

Summary Of Consultation Responses

Highways:

Standing advice applies.

Drainage:

As the development is located in Flood Zone 1 and the developer is proposing to discharge his surface water drainage using soakaways, please use the recently agreed standing advice for this planning application.

DCC Ecology:Response dated 30/9/2022:

Further information required - It is understood that this is a retrospective application for the erection of the agricultural barn. However, given the location of the barn within a sustenance zone for Greater Horseshoe bats associated with the South Hams SAC, the consultant ecologist needs to provide clarification on the impacts the erection of the barn may have had on this site. Clarification is required as to whether the grassland in which the barn has been erected was suitable in supporting foraging greater horseshoe bats.

Response dated 24/10/2022 following the submission of further information:

Ok, subject to conditions.

Natural England:

No objection. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Broadsands Churston and Galmpton Neighbourhood Forum:

The Broadsands, Churston and Galmpton Neighbourhood Forum believe that this application breaches the Government guidelines regarding permitted development rights for Agriculture and Forestry. Namely it is too close to the road, has been built on the skyline and has not been assimilated into the landscape. For these reasons the development should not be permitted to remain.

Summary Of Representations

Publication type: Neighbour notification letters/site notice.

At the time of writing 22 letters of objection and 8 letters of support have been received (these are available to read in full online). Issues raised:

Objection:

- Undeveloped field with no other nearby buildings
- Blocks view
- Impacts views from John Musgrave Heritage Trail
- Impact on AONB
- Barn is on skyline
- Landscape impacts
- Potential for other development
- Sets precedent
- Easily converted to a dwelling
- Urban sprawl
- Height
- Could be sited in a more appropriate location
- Sited away from other farm buildings
- Proximity to the road
- Located at highest point of field
- Imposing and dominant
- Not essential to the operation of the farm
- Highway safety
- Wildlife
- Materials
- Houses in Alston Lane adversely affected
- Not in keeping
- Size
- Colour of materials
- Tree planting required
- Good road access
- Suitable distance from residential housing

Support:

- Help and improve the farm
- Appropriate addition to farming business
- Barn required to meet standards
- Farm provides employment
- Siting keeps modern farming vehicle off roads
- Will blend into landscape
- Previous consent
- In keeping with farming surroundings

- Existing farm conservation work
- Landscaping around barn
- Difference in location to that approved will not make any difference

Relevant Planning History

P/2018/1221 Provision of agricultural storage building. Prior approval not required
28/01/2019

Planning Officer Assessment

Key Issues/Material Considerations

The key issues to consider in relation to this application are:

1. Principle of development
2. Impact on the character and appearance of the streetscene and surrounding area
3. Impact on residential amenity
4. Transport Issues
5. Ecology
6. Flooding and drainage

1. Principle of development

The proposal is for the erection of a general purpose agricultural building. The site is designated as countryside under Policy C1 Countryside and the Rural Economy of the Local Plan. Policy C1 states that outside settlement boundaries development required for agriculture would be permitted, provided that the rural and landscape character, wildlife habitats, green corridors and historic features are not adversely affected and necessary mitigation measures are carried out to minimise any harm to the environment. Policy C1 goes on to state that development in the countryside should not have adverse effect on the integrity of the South Hams SAC or other important habitats.

Policy E3 Settlement Gaps of the Neighbourhood Plan states that within the settlement gaps development proposals must meet the criteria set out in Policy C1 of the Torbay Local Plan. No development that visually and or actually closes the gaps between these urban areas will be supported.

The site is located in the Neighbourhood Plan settlement gaps E3 2 and 5. The proposal for an agricultural building is considered acceptable in principle in a countryside location and therefore complies with Policy C1 of the Local Plan and E3 of the Neighbourhood Plan. This is on the consideration of principle; other material planning considerations will be detailed later in the report.

The planning statement submitted in support of the application states that the applicant's farm 620 acres (250.9 hectares) which form the basis of a beef and arable farming enterprise. The barn will be utilised to store straw and occasionally crops from the land at Higher Greenway Farm. Justification for an approved barn of the same size and scale but slightly different location submitted via P/2018/1221 states that "the proposed building is essential to the continued successful operation of the farming enterprise and will provide much needed straw storage on the applicant's arable land. The building will provide easy access for machinery coming in and out of the site and will provide a suitable access for any articulated vehicles that may collect straw and/or grains from the site." This justification for the proposal is considered reasonable and the extent of agricultural land is considered to justify the need for storage buildings within the agricultural unit. The proposal would be complimentary to the existing viable operations on the site and are therefore considered to justify a countryside location.

A condition is recommended to ensure the building is used for the agricultural purposes applied for only. This condition is required as the development is only recommended for approval on the basis of the agricultural need.

2. Impact on the character and appearance of the streetscene and surrounding area

Paragraph 126 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 134 states that 'development that is not well designed should be refused, especially where it fails to reflect local design and government guidance on design'. Policy DE1 Design of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy BH5 of the Brixham Peninsula Neighbourhood Plan states that all new development should demonstrate good quality design and respect the character and appearance of the surrounding area and Policy E3 of the Neighbourhood Plan states

that no development that visually and or actually closes the gaps between urban areas identified as settlement gaps will be supported.

The proposal follows prior notification application P/2018/1221 which the Local Planning Authority issued a decision of prior approval not required for the formation of an agricultural storage building. This prior notification was submitted via Part 6 Class A of the GPDO 2015 (as amended). This granted consent in 2019 for the formation of a 18m x 24m agricultural building with a total height of 9m. The officer report concluded that the proposal fell within the permitted development rights and was necessary for the purposes of agriculture. No further consideration was given to the siting, design and external appearance of the development as can be considered via the prior approval process, however the decision notice stated that “No further details are required as it is considered that the development would not detrimentally impact on the character and appearance of the open countryside or its visual amenity. The development can be carried out in accordance with the submitted details.” Full details of the siting and elevation plans were submitted with this notification and were subsequently approved. A condition was added requiring that the proposed landscaping scheme detailed was undertaken in the interests of visual amenity and in accordance with Policy DE1 of the Torbay Local Plan.

The planning statement submitted in support of this application states:

Agricultural buildings are permitted under Permitted Development Rights providing that they are sited more than 25m from a classified road. While the permission for the barn was offered providing that the barn would be erected 25m from Kennels Road, the Applicant mistook the legislation for 20m, and consequently, the barn is sited just 23.85m from the Council Highway. Subsequently, this Application seeks permission to regularise the siting of the barn just 1.15m to the west of the location approved under the Prior Approval reference P/2018/1221. The yard area and Hedgebanks have been implemented in accordance with the approved plans.

As the building which has been constructed is not in accordance with the plans approved via P/2018/1221 the applicant seeks retrospective planning permission for the formation of the agricultural barn. The footprint, size, scale and design are all identical to that previously approved, apart from the fibre cement roof is now noted as ‘grey’ rather than ‘anthracite grey’. The only difference in the development is the siting of the building. As the siting is closer than 25m from the metalled highway, the siting as built would not constitute permitted development given it conflicts with A.1(h) of Part 6, Class A of the GPDO 2015 (as amended).

The siting is noted by the agent as 1.15m to the west of the location previously approved. When measuring comparable plans from the previously approved

application and the current application, the siting of the building appears to be approximately 2.54m closer to Kennels Road at the western tip of the building.

The previous approval and officer consideration in 2019 under the current policy of the Local Plan and Neighbourhood Plan that the siting, design and external appearance of the agricultural building in the location were acceptable are a material planning consideration in the determination of this current application.

The planning officer has visited the site and the surrounding area and would agree with representation received that the site is within a prominent location particularly visible when travelling along Kennels Road and the building is not located in close proximity to any other buildings or structures. A level of screening is provided by the hedgebank running adjacent to the road and the proposal seeks to reinforce landscape screening with hedgebanks along the south west and east of the building.

It is considered that the siting of the proposed building is not significantly different to the proposal which was previously approved. It is considered that the closer siting to the road does not materially alter the impact the building has on the landscape character and views which can be achieved at close range along Kennels Road and at longer range, nor do they result in greater impact on the nearby South Devon AONB than that previously approved and is therefore considered to have an acceptable impact on the setting of the AONB. The proposal is not considered to result in the closure of gaps between urban areas. The additional landscaping around the building will help to assimilate the building into the landscape which is recommended to be secured by condition.

Whilst the footprint of the building is typical of an agricultural building of this use, the height is somewhat large, however the size and scale were previously found to be acceptable.

On the basis of the previous approval on the site and the consideration on the differences the current application puts forward, namely the closer siting to the road, it is considered that the current proposal is no more harmful to the landscape character and appearance than what was previously approved. As the planning history is a material planning consideration, and issues of siting, design and visual appearance could be considered under the prior notification procedure via the current local and neighbourhood planning policy, refusal of the current application on the basis of the alteration in siting is not considered to be justified.

As such, on balance, and on the above basis, the size, scale and visual appearance of the proposed agricultural building is considered to be acceptable and in accordance with Policy DE1 of the Local Plan and Policies BH5 and E3 of the Brixham Peninsula Neighbourhood Plan and the guidance contained within the NPPF.

3. Impact on residential amenity

Policy DE3 Development Amenity of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity.

The site is within the countryside located a significant distance away from unrelated uses. Given the agricultural building is sited on agricultural land, is intended for storage purposes and the separation distance of the proposed building to the nearest unrelated residential properties, the proposal is considered to have an acceptable impact on neighbour amenity. As such, the proposal would not lead to any materially harmful impact on residential amenity by way of loss of light, loss of outlook, loss of privacy, noise, odour or overbearing impact.

The proposal therefore complies with Policy DE3 of the Local Plan.

4. Transport issues

Policy TA2 Development Access of the Local Plan states that all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy BH8 of the Brixham Peninsula Neighbourhood Plan states that all new development should comply with the relevant adopted standards.

As the building would serve an existing use on the site which has an existing access, it is considered that any additional vehicular movements associated with the proposed use (if any) would have a negligible impact upon the surrounding highway network. No highway safety concerns are therefore raised.

The proposal therefore complies with Policy TA2 of the Local Plan and Policy BH8 of the Brixham Peninsula Neighbourhood Plan.

5. Ecology

Policy NC1 Biodiversity and Geodiversity of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Policy E8 of the Brixham Peninsula Neighbourhood Plan states that internationally important sites and species will be protected. Development affecting internationally protected site and species will only be approved where it can be demonstrated there is no likely significant effect, either alone or in combination with other plans or projects and regard has been given to the NPPF and conforms to Policy NC1 of the Local Plan

A bat and protected species survey has been submitted in support of the application which confirms that no bats nor active bird nests were identified in association with the barn. It is possible that bird nest site(s) could be established within or upon the building during any future bird nesting season(s). It is recommended that one bat roosting provision is provided on site as a compensation and enhancement measure for bat species, a new native hedgerow on the south west and south east of the barn is planted and that lighting will need to avoid illuminating any retained boundary hedge banks and trees, any created habitats and any areas beyond the site. It is recommended that bird nesting provisions are provided on site as a compensation measure for bird species, including one bird nesting box and that one bee brick/box is installed to provide biodiversity net gain.

DCC Ecology have noted that the development site lies within the South Hams SAC sustenance zone for Greater Horseshoe Bats. They have confirmed that the proposed development will not lead to the loss, damage, or disturbance to potential greater horseshoe bat commuting routes or foraging habitat. Nor will it lead to the loss damage or disturbance to a pinch point or an existing mitigation feature. In line with the South Hams SAC Habitats Regulations Assessment Guidance document (DCC et al.,2019), the proposals are not deemed likely to cause a likely significant effect on the South Hams SAC. A detailed HRA is not deemed to be required. They have recommended that planning conditions should be added requiring details of any proposed lighting, in addition to a condition requiring adherence to the ecology report and net gain measures and these are therefore recommended.

With the addition of the recommended conditions the proposal is considered to comply with Policy NC1 of the Local Plan and Policy E8 of the Brixham Peninsula Neighbourhood Plan.

6. Flooding and drainage

Policy ER1 Flood Risk of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere.

The site is located within the Critical Drainage Area and is accompanied by a Flood Risk Assessment and the planning statement notes that surface water is disposed of via a soakaway. Given the nature of the proposal and the use of a soakaway the proposal is considered acceptable having regard to the adopted Standing Advice, and the proposal is therefore considered to be in accordance with Policy ER1 of the Local Plan.

Human Rights and Equalities Issues

Human Rights Act: The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Local Finance Considerations

S106/CIL

S106:

Not applicable.

CIL:

The CIL liability for this development is Nil.

EIA/HRA

EIA:

Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

Planning Balance

This report gives consideration to the key planning issues, the merits of the proposal, development plan policies and matters raised in the objections received. It is concluded that no significant adverse impacts will arise from this development when considered against that approved via P/2018/1221. As such it is concluded that the planning balance is in favour of supporting this proposal.

Conclusions and Reasons for Decision

The proposal is considered acceptable, having regard to the previous approval and the Local Plan, the Brixham Neighbourhood Plan and all other material considerations.

Officer Recommendation

Approval: Subject to;

The conditions as outlined below with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency.

The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

Conditions

1. Ecology

The recommendations given in the 'Bat & Protected Species Survey' dated 19th July 2022, shall be followed, including the installation of one bat roosting provision and one bird nesting box. The bat and bird boxes shall be installed within 2 months of the date of determination of this application and shall be retained and maintained for the lifetime of the development

Reason: To safeguard protected and/or priority species, and to ensure biodiversity net gain in accordance with Policy NC1 of the Local Plan and Policy E8 of the Brixham Peninsula Neighbourhood Plan.

2. Lighting

No external lighting shall be provided within the site unless full details including their design, siting and levels/type of illumination have been submitted to and approved in writing by the Local Planning Authority. The external lighting shall thereafter be installed and retained in full accordance with the approved details.

Reason: To safeguard legally protected species, including safeguarding foraging paths for legally protected bats, and in the interests of biodiversity in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030.

3. Landscaping

All proposed planting and planting specification as detailed within plan reference 'P-2022-0657-1- (Site Layout Plan)' and within the Design and Access Statement section 'Biodiversity Enhancement and Landscaping' shall be planted and completed in full in the next planting season following the determination date of this application. The landscaping scheme shall thereafter be maintained for a period of 5 years. In the event of failure of any trees/plants, planted in accordance with the approved scheme, to become established and to prosper for a period of five years from the date of the completion of implementation of that scheme, such trees/plants shall be replaced in the next planting season. The planting shall be maintained in accordance with the approved details.

Reason: To secure a landscape scheme that will complement the development in the interests of visual amenity, in accordance with Policies C1 and C4 of the Torbay Local Plan 2012-2030.

4. Agricultural use only

The building hereby approved shall be used solely for agricultural purposes in association with the agricultural use of the land and if no longer required for agricultural purposes shall be removed from the site.

Reason: In the interests of appropriate uses within the countryside area in accordance with Policy C1 of the Torbay Local Plan 2012-2030.