

West Hill Parish Council: Additional Consultee Comments 24/0044/FUL Potters Country Market

West Hill Parish Council further considered this application at the Council meeting on 21st May 2024. The planning application continues to cause much concern within the community and members of the public attended the meeting to voice their views.

The meeting considered the latest document made available to the public “Rebuttal Letter From Agent”: ref A2342 from Chris Wilkinson of Avalon concerning planning application 24/0044/FUL.

The Council continued to STRONGLY OBJECT and saw no reason to change their previous comments.

The Council noted mis-leading statements in the Agent’s letter (such as the number of three storey homes) and agreed the following additional comments in response to their letter:

Principle of development

Strategy 27 of the adopted East Devon Local Plan (EDLP) identifies West Hill as one of 15 villages offering “..a range of accessible services and facilities to meet many of the everyday needs of local residents”. In practice the key services that are available to the residents of West Hill are the shop and Post Office and if these are removed West Hill ceases to meet the everyday needs of local people. All current and future planning applications, particularly large developments which have been using Strategy 27 as justification, should be refused. Planning Application 23/0727/MOUT Land North of Eastfields for development of up to 30 dwellings for example is currently awaiting decision. The Committee Report presented to the Planning Committee states:-

“Brief Summary of the key positives and negatives of the site: Positivesclose to school, shop, village hall with pavement and street lights present along most of the route.”

As application 24/0044/FUL effectively closes the shop and Post Office this comment no longer applies. As previously stated, the Parish Council considers it highly unlikely that the proposed two retail units will meet the day to day needs of a village of 2,000 residents.

Other “services” available to the residents of West Hill are a Garage which is actually a repair shop and does not sell fuel, a dentist which has closed its books to new patients, (the nearest dentist actually accepting new patients is in Sidmouth and they do not accept NHS patients), a hairdresser and beauty salon which are hardly “everyday needs”, and a primary school which is oversubscribed.

Taking away the current shop with its essential Post Office would be the practical result of this planning application. This fundamental change to village facilities therefore means that West Hill cannot then be described as “sustainable”. Generating hundreds of additional daily journeys to/from the village is unacceptable and contrary to policies.

The importance of Village Shops and Post Offices is recognised in Local Plan Policy E14 which seeks to mitigate their loss as they “provide for the essential day to day convenience shopping needs of the local community. They offer important retail facilities in particular for the elderly and less mobile.”

The Emerging Local Plan classes West Hill as a Tier 4 Settlement, primarily based on the community facilities available to meet the day to day needs on the community (there are few employment opportunities in the village). Without the shop and Post Office, West Hill would no longer meet the Tier 4 criteria and sections of the Emerging Local Plan would require re-work, including housing targets.

Strategy 6 of the adopted EDLP – Development within Built-Up Area Boundaries – states “Within the boundaries development will be permitted if:

- It would be compatible with the character of the site and its surroundings and in villages with the rural character of the settlement;
- It would not involve the loss of land of local amenity importance or of recreational value.”

The proposal fails on both counts. It is not compatible with its surroundings or with the rural character of the settlement and it would lead to the loss of a vital local amenity – the shop and Post Office. The scheme proposes two flexible replacement retail spaces of a much-reduced floorspace of 91m² of “ground floor ‘flexible’ (Class E) commercial space. “Class E” is a broad classification and does not guarantee the new units will provide a supermarket offering to meet the day to day needs of the village. The harm to residents caused by the loss of this amenity cannot be overstated, particularly the elderly, persons with mobility issues or anyone without a car.

The previous planning application 18/1064/FUL which was approved is relevant but the current proposal is so substantially different from what was previously approved that comparisons with it should be accorded little weight. The previous proposal incorporated the retention of much of the existing main building and shop floorspace which is a key matter for the residents of West Hill whereas the submitted proposal is for the demolition of the building, the reduction of shop floorspace by 70%, an increase in the number of dwellings and a significant reduction in on-site parking spaces for shop customers. It cannot go without notice that the previous application received only 10 public comments including 7 objections, whereas the more radical new application has attracted 200+ objections and clearly does not have community support.

It is notable that despite seeking pre-application advice from the local planning authority, neither the applicants nor the agent attempted to engage with or consult the Parish Council or local community before submitting the current planning application. This is contrary to good practice and differs from the process followed for the previous application which, at the time, the agent admitted was helpful: “we have listened to feedback received and made amendments to the original planning proposal”. There seems to be no such listening this time around.

The pre-application response 22/0106/PREAPP advised that whilst there may be scope to provide a more efficient use of the site, it was felt that this could be better achieved through other alternative options than those presented in the current proposal. The current proposal was nevertheless submitted unchanged.

The claim that “the applicant would be willing to accommodate changes (where practicable/viable) in collaboration with the Council and other stakeholders, subject to agreement of a suitable extension of time” is not credible, given that the agent has spent 5 pages in his letter defending the current proposal with no suggestion of alternatives. There has been no public consultation or discussions with WHPC and the pre-application advice from EDDC was ignored.

Since the Parish Council Extraordinary Meeting, attended by 120 residents and the agent, and the 225 public comments on the planning portal, there has been ample time to make amendments to the proposal based on feedback from WHPC and residents, but none have been forthcoming. There does not appear to be any serious attempt on the part of the applicant or agent to find a resolution but rather they appear to want to bulldoze their application through unchanged.

Housing land supply

Whether EDDC needs to demonstrate a 5 year housing land supply or a 4 year supply and how this affects any presumption in favour of sustainable development in planning decisions is a matter for EDDC to establish. In any case, the Court of Appeal determined in *Barwood v East Staffordshire Borough Council* that “The ‘presumption in favour of sustainable development’ is not irrebuttable. Thus, in a case where a proposal for the development of housing is in conflict with a local plan whose policies for the supply of housing are out of date, the decision-maker is left to judge, in the particular circumstances of the case in hand, how much weight should be given to that conflict. The absence of a five-year supply of housing land will not necessarily be conclusive in favour of the grant of planning permission. This is not a matter of law. It is a matter of planning judgment...”

Moreover, in the case cited by the Agent - *Mansell v Tonbridge and Malling Borough Council* - the Court of Appeal Judgement states “The courts must keep in mind that the function of planning decision-making has been assigned by Parliament, not to judges, but – at local level – to elected councillors with the benefit of advice given to them by planning officers, most of whom are professional planners, and – on appeal – to the Secretary of State and his inspectors.”

The fallback position suggested by the Agent where Permitted Development rights could be used to change the use of some of the Class E floor space to residential is not supported, as they suggest, by *Mansell v Tonbridge and Malling Borough Council* which actually addressed the issue of Class Q Permitted Development of an agricultural building in the countryside. Furthermore, since this would result in the loss of a vital facility from the village, it is contrary to Strategy 32 of the adopted East Devon Local Plan and policy NP17 of the Neighbourhood Plan and should be firmly resisted. A more credible fallback position would surely be the approved planning application 18/1064/FUL?

Alleged under-utilisation of the site

The Agent states that currently Morrisons is “the only remaining vendor and only utilising 50% of the space available to the vendor under the terms of their current Lease (and with the other units having been vacant for prolonged periods of time) there is clearly an over-provision of parking for a shop of this size and an under-utilisation of the wider site in its current format”. This gives the impression that the retail space in its current form is not financially viable. In fact, there were plans to put a cafe in some of the space, an idea which residents supported and which could be revisited. Morrisons have indicated their willingness to consider ideas for making better use of their space based on community feedback.

The building has suffered from a lack of investment for years, so it is unsurprising that some units remain vacant. Under McColls management, the shop trade declined over time as it became obvious that the company was not committed to making it work and customers noted a marked reduction in the quality of the products. There was no fresh food and some stock was close to or sometimes beyond its shelf life. Morrisons however appear to be committed to the convenience store business model and have assured Councillors that this is the case in West Hill. There is certainly now a better range of products, including fresh produce, and more competitive pricing. Comments from residents of West Hill show that the changes introduced by Morrisons have improved the offer and service in the shop and the improvements are much appreciated.

The matter of the lease terms between Morrisons and the landowner arising from the acquisition of McColls is not a material planning consideration. It is unfortunate that the landowner appears to have agreed lease terms with Morrisons which they now claim are disadvantageous to them but a contract willingly entered into by two parties is not a matter for consideration by the Planning Committee.

Design and layout

Concerns about design and layout have still not been addressed and are contrary to policy NP26 of the Neighbourhood Plan which states

“New development will maintain the low density pattern of development in West Hill and should reflect built density and layout of the surroundings”.

The majority (4 out of 6) of the town houses are three-storey not two-storey as the Agent claims and are out of character with the village. There is insufficient separation between Plot 2 and Plot 3, thus giving the impression that Plots 1-4 fronting onto West Hill Road are in fact a terrace, rather than pairs of semis. The corner of Beech Park and West Hill Road would be unacceptably dominated by the three-storey commercial unit and flats above. The majority of dwellings in the village, certainly those surrounding the proposal site, are detached, with large, private plots, whereas the proposal presents three sets of semi-detached dwellings. Plot 6 is unacceptably close to Calluna and The Oaks, harming their amenity. The amenity of neighbours opposite on West Hill Road and in Beech Park would also be harmed due to the height, massing and scale of the proposal.

The site sits at the heart of West Hill and there is an opportunity to create an attractive, environmentally friendly public space. This proposal does not do that. The space allocated to greenery between Plot 4 and the retail unit does not adequately compensate for the loss of open space caused by the additional buildings. It will be a dark and unpleasant place to sit, due to the overshadowing from the buildings. It is interesting that the site plan also shows planting on what is currently the verge next to the shop and the green space on the corner of Beech Park. These areas are not part of the site and are in fact public land. There will be a net loss of biodiversity, contrary to the Agent's claim, due to the removal of trees and hedging to make way for the buildings. Domestic gardens do not make up for the loss of natural habitat, and in any case, there is nothing to prevent future owners from paving over their entire garden should they so wish. Boundary treatments should be hedgebanks rather than fences which appear to be shown on the site plan. Neighbourhood Plan NP26 states "Where new boundaries are required (including frontages), these should consist of Devon banks or hedges incorporating native species, rather than metal or close-boarded fences or brick walls.").

In conclusion, the adverse impacts of the proposal significantly and demonstrably outweigh the benefits and approval for this application as it stands should be refused.

In his final paragraph Mr Wilkinson says "We look forward to working together to reach a positive resolution for this application which would deliver much-needed new homes whilst retaining an element of commercial space, in a demonstrably sustainable location." We welcome and share this aspiration and should Mr Wilkinson submit a revised proposal, we in turn look forward to a scheme that will meet the commercial needs of the developer whilst providing for the genuine needs of the West Hill community with regard to the shop and Post Office to retain the sustainability of West Hill.

West Hill Parish Council