

BROADHEMBURY  
(Tale Vale)

05/1340  
(FULL)

8 July 2005

Applicant: The Willow Group

Location: Loyalty Hall, Dulford  
(Grid Ref: 305920 / 106274)

Proposal: Conversion and extension of outbuilding for educational use, demolition of existing steel framed barn and erection of single storey timber prefabricated building for associated administrative purposes.

### **Consultations**

County Highway Authority  
No objections

Environment Agency  
No objections

South West Water  
No objections

Devon County Council Education Dept  
None received

National Care Standards Commission  
No representations received

Environmental Health Officer  
No adverse comments to make

### Police

No objection. This decision has been taken with due regard to section 17 of the Crime and Disorder Act. We, as an organisation look forward to working in partnership with the applicants and feel confident that any matters arising, which are of a policing nature, can be managed appropriately. There is no evidence that the application will have a significant impact on our practices.

### **Representations**

Letters of objection on behalf of 45 individuals have been received (including legal representations) listing the following objections to the proposal:-

### Highways

- Junction with main road unsafe
- access to site inadequate for use as on single track road
- school will generate 40+ vehicle movements per day
- traffic to school will conflict with existing farm and other traffic
- use will put walkers and horse riders at risk
- on site parking provision inadequate and vehicles will park outside site and cause obstruction
- use will conflict with use of nearby footpath
- retail use of site refused previously on highway grounds

### Fear of Crime/section 17 of the Crime and Disorder Act

- site will be akin to Bradfield School which caused substantive social disorder and crime locally for many years
- the facility will be the same as one at Luppitt which currently causes nuisance and is a drain on public services
- the school will be used to educate "extreme hard case" teenagers
- each child must travel in a separate car with 3 adults to guard her
- teenagers of the type at the school will look for younger children to abuse

- girls will break into vehicles to steal guns and other property
- boy friends of girls in schools will steal cars to visit and further cars to return home
- people using the adjacent footpath will be at risk from attack
- businesses in the area will be at risk and some have indicated they will move away
- properties in area will be damaged
- girls will generate false allegations of assault
- racehorses in area will be at risk
- farm animals will be at risk
- adjacent woods will be at risk of being set on fire
- presence of girls will attract undesirable families to the area
- girls will visit nearby public house and abuse alcohol
- elderly people in area will not be safe
- girls will find other unspecified "unsatisfactory outlets" for their energies
- girls personal safety will be at risk from pheasant shoot in area

### Other Issues

- Buildings not suitable to convert and area too rural for use proposed
- Wildlife interest on site
- Devon has disproportionate number of such uses in area and is a drain on public services, particularly police; girls will not be from Devon
- Septic tank on site not adequate
- School will not be properly staffed/supervised
- Application inaccurate and legally invalid
- Application contrary to policies for rural diversification

Applicant's submissions made (including legal representation) on following points:-

- three principal staff have in excess of 60 years of experience between them
- Willows (Devon) Ltd will provide exceptionally high care for girls between 12 and 18 years who have experienced severe family breakdown and for whom other forms of care, such as fostering, have failed. In spite of their inevitable emotional and behavioural difficulties, our experience is that by providing the right environment, that instils the traditional values of honesty, respect and accountability, these girls can and do integrate successfully into society with little or no negative impact on the community.
- Proposed school will not cater for more than 12 girls
- 41 new jobs created
- office to be used for running of Groups administration, not just school or adjoining house
- children taken into care for family problems – less than 5% taken into care due to criminal activity – Willows Group (Devon) Ltd will not take children who have serious criminal records or who are sex offenders.
- Rural location acceptable for school uses
- Re-use of buildings in accord with Structure plan policies
- Operators of shoots have to act safely
- Traffic generation minimal

## **Parish Councils**

### **Dulford Parish Council**

Refused (5 rejecting, 1 in favour, 1 abstention). Contrary to the re-use of Rural Buildings Outside Rural Settlements Policy D9B, No Local Needs S4, No public transport. The Council considered the concern from local business, local residents with children were concerned over crime and disorder. The proximity of M5 and distance of Police bases. They are however aware there are local people who are in favour on social principles as part of our social obligation to the wider community.

### **Mid Devon District Council**

No observations

### **Cullompton Town Council**

The Council is extremely concerned about the proposal and the possible implications for the local community (on the following grounds):-

- there is no local need for such an establishment which will be importing problems from areas outside Devon
- there is no benefit to the local community – the proposal will have a negative impact and the potential to increase crime in the area
- the proposal will create a strain on local resources e.g. health and police
- local police resources will need to be spread more widely creating additional problems for rural communities
- Highways; the proposal will generate an increase in the number of vehicles going to and from the property
- The property is close to woods and common – regular shoots will be a safety hazard for young people and concerns from local residents about fire risk
- Human Rights issues – consider the negative effect on the quality of life for those living in the area
- Are there sufficiently qualified people living in the area to staff such a unit?

These grounds reiterated by way of letter 20<sup>th</sup> October 2005.

### **Kentisbeare Parish Council recommend refusal on following grounds:-**

- outside defined settlement limits and contrary to policies in Structure and Local plans
- no local need and will not benefit local people
- No Transport Plan has been submitted and evident traffic plans will be in excess of those anticipated by applicant. There is not enough parking shown on the site, which will lead to parking on the highway along a narrow country lane
- Buildings not adequate for proposed use and inadequate sewerage drainage
- The council believes that a planning application by a local business for this site was turned down
- There is also concern that the application site is alongside a wood, with a public right of way through it. A licensed shoot regularly shoots in this wood. There are also concerns about fire risk in the wood and nearby common.

- It was felt that the proposed staffing levels are inadequate. It was also noted that it could be difficult to fill these posts should the application succeed. It was also felt that this application should be refused under s17 of the Crime and Disorder Act. Should permission be granted the resources of the Police would be stretched.
- The Council are concerned about the effect there would be on neighbours if this application was approved

#### Ward Member

No representations received

#### Location

The proposal relates to a group of redundant agricultural/storage buildings adjacent to a dwelling known as Loyalty Hall. This property consists of a house and gardens, the buildings and three agricultural fields. The site lies in the open countryside, approximately 1 km outside Dulford and 3 Km south east of Cullompton. The A373 runs to the north and west of the site and the site is reached approximately 800m from the main road down a single vehicle width track. Although a public road the lane only serves Loyalty Hall, a scrap yard and a few farms; the lane is not well maintained but is very lightly trafficked, there being better alternative routes in the vicinity.

Adjacent to the eastern boundary is an access to agricultural land (not owned by the applicants) over which it is believed the applicants have a right of way for at least agricultural purposes. Vehicular access to the school will not be via this lane, but will use the existing access to the house. Adjacent to this lane is a coniferous wood, within which runs a public footpath. At the end of the footpath, some 200m distant, is a public house.

The house is somewhat isolated, although there is one other dwelling approximately 750m distant near the junction with the main road.

The proposal is to convert an existing single storey agricultural building into classrooms, and to extend this building to connect with a barn nearby. The exterior of the existing barn remains unaltered. Secondly, an agricultural barn will be removed and a single storey office measuring 11m by 5.6m, be built in its place.

#### Planning Policy

##### Devon Structure Plan 2001 – 2016

- ST1 Sustainable Development.
- ST3 Self Sufficiency of Devon Communities
- TR2 Coordination of Land Use/Travel
- TR5 Hierarchy of Modes and Transport Assessment

##### East Devon Local Plan 1995 – 2011

- S4 Countryside Protection
- D1 Design and Local Distinctiveness
- D9B Reuse of Rural Buildings outside Settlements
- EN9 Wildlife Habitats and Features
- EN10 Protected Species
- E5 Rural diversification

- TA1 Accessibility of New Development
- PPS1 Delivering Sustainable Development
- PPS 7 Sustainable Development in Rural Areas

### **Planning Background**

The application relates to the re-use of an existing group of redundant buildings, albeit one is being removed and replaced with a small office building and one is being extended. The adjoining house is to be used as a small care home for up to four girls aged typically between 12 and 16 (although a girl who is settled in the house will be allowed to live there until the age of 18, if she so wishes). Care is provided by a team of seven people, two of whom are on duty for 24 hour periods, the aim being to create as near a family relationship between the girls living in the house and the responsible carers as possible. A manager oversees the running of the house and the care being provided.

In the late 1980s the definition of what legally constituted a dwelling in planning law was changed to encompass a small care home where care was provided by staff and those being cared for formed a single household. This enabled many people living in care homes to be cared for “in the community”, examples being the elderly with mental health problems, or people suffering from Downs Syndrome. More controversially, it also enabled small homes for children who had been taken into care to be created and allow children with problems to live in small groups rather than larger institutions. Such homes are perceived as being more effective in assisting children with emotional and/or behavioural problems overcome their difficulties and to give them the best chance of becoming good citizens, and have become established best practise. As they are now well resourced, a “cottage industry” has been created, with some commercial organisations (such as the Sedgemoor Group) owning and running hundreds of such properties across the country. The arrival of a facility for emotional or personal problems, often causes fear and trepidation amongst prospective neighbours who see it as an entirely different use to their domestic and residential activities and a threat to the enjoyment of their own home and/or detrimental to the value of their principal capital asset. Not all children become model citizens and some of these care homes have given rise to problems for residents when one or more of the people living in them have acted in an anti-social manner, which clearly heightens concerns and has led to close scrutiny of the legal framework which allows these homes to be created without planning consent; there is now a substantive body of reported cases and appeal decisions, not all of it consistent.

An application for a Certificate of Lawful Use was applied for earlier in the year to confirm that the use of Loyalty Hall as a Care Home for four children fell within the legal definition of a dwelling house, or was not legally different from such a use in planning law. East Devon District Council has accepted this to be the correct interpretation of the law and issued a Certificate accordingly.

It is the intention of the Willows (Devon) Ltd to purchase four houses and create four small care homes housing up to 12 – 16 children in total. The applicants are very experienced in working with children in similar environments and are confident that they can create a small group of homes that will be exemplary in its operation and outcomes, and maximise the benefits for the children in their care. Loyalty Hall is the first of these houses and the intention is to create a small facility to educate the children on the site, together with an office for the administrative purposes of the Group. The applicants perceive the site to be ideal for their needs.

## **Observations**

This is a highly charged and contentious application and the following planning issues need to be considered; the issue of fear of crime and Section 17 of the Crime and Disorder Act, traffic issues, policy issues regarding the reuse of rural buildings and other minor matters.

## **Fear of Crime**

High levels of concern were raised locally regarding the operation of the premises and fears have run high that the girls who will live in the care homes will engage in a wide range of criminal acts against people and property. These views were informed by the history of premises known as Bradfield School which operated in the Cullompton area and which specialised in the education of convicted male young offenders. In addition, concerns have been raised regarding the operation of a home at Luppitt which specialises in children referred there for a period of 28 days as a short term measure. Neither of these facilities are directly comparable with the type of operation proposed here, which is to educate girls who are living voluntarily in a settled environment. No evidence has been produced that the type of operation proposed by the applicants has given rise to problems in Devon, and the police liaison officer was aware of other similar houses in the East Devon area which caused no problems. The formal response of the police force is that they do not foresee significant problems arising and they raise no objections.

Given the fact that a settled environment is to be created, the fact that girls will be present voluntarily, the expertise of the people running the facility, the level of resources available per child and the strict regulatory regime for care homes and schools, it is unlikely that criminal behaviour will occur to any significant extent in the homes owned by the applicants, and in turn at the small school the subject of this application. Fear of crime is a planning issue but such fears have to be well based and would rarely by themselves justify a refusal of planning consent. In this instance, the fears of widespread criminal activity jeopardising public safety and property appear to be overstated and as not supported by evidence, a refusal on these grounds would not be justified.

## **Highways Issues**

The site is some 800m from the main A373 along a single track lane which is lightly trafficked. The proposed use is likely to generate around 8 –12 vehicle movements at either end of the school day which will be staggered (applicants estimate total of 16). As and when the other houses are in operation, all the children from an individual house will travel in a single vehicle – they do not need to be transported separately. There is a small yard and garaging available and it is unlikely that the road outside the site will be obstructed. The volume of traffic likely to be generated will be low and the Highways Officer raises no objection to the proposal.

## **Policy Framework**

General policy in rural areas is to conserve the countryside for its own sake but to encourage diversification of the rural economy. In practise this means seeking to focus major or large scale development in urban areas or along major road networks, whilst allowing small scale uses which generate low traffic flows in redundant buildings or sites, in rural areas.

One of the identified Key Principles of Sustainable Development contained within PPS 7 is “social inclusion, recognising the needs of everyone”. This principle is considered particularly pertinent in this case. Additionally, there is support for allowing building groups to be replaced for economic development.

Objections have been raised to the remote location, the generation of traffic and the insubstantial nature of the buildings currently on site. These factors have been used to present a case that the proposed use does not comply with policies for the re-use of rural buildings. However, the use is such that it is low key and will generate little traffic. It can take place within two buildings on site, one of which will be renovated and one of which will be replaced with a smaller building. The access is suitable for the level of traffic generated, being a few minutes off the main road network and under 3Km from Cullompton. Given that the proposal will generate up to 41 jobs and provide a facility needed within the wider community, it is considered that the proposal is a good use of the existing building group and meets the criteria for sustainable development.

**Other Matters**

It was claimed that rare bats, newts and glow worms were present on site. A report has been submitted from Devon Wildlife Trust which failed to find these species and advise the habitat is not suitable for them.

Concerns have been raised as to the capacity of the existing sewerage system. This matter can be dealt with by way of condition.

Objections have been made that a retail use was refused on site which objectors consider demonstrates that the site is not suitable for additional traffic, and that the LPA is being inconsistent. No such planning application appears to have been made, but it is quite likely that a full retail use would not be appropriate on this site.

With regard the issue of an unreasonable strain being put on community facilities, no evidence that this will occur has been produced. The police do not think this will occur in relation to their own functions.

**Conclusions**

A substantial volume of objections have been received, in which concerns regarding fear of crime feature prominently. It appears highly unlikely that the scale of criminal activities will be anything like that feared by residents and the police raise no objection to the proposal. It has been accepted that the use of the houses as small care homes does not require planning permission and the use of the buildings at Loyalty Hall as an educational facility should not generate unacceptable problems when in use. It is considered that the proposal is in accordance with policies on rural diversification and that the site is well suited for the proposed use. However, the site is not suitable for a larger facility than that proposed and it is reasonable to restrict the use of the site to girls only, so that if the type of operation is changed, the issue of fear of crime can be revisited. These matters will be controlled by condition.

**Recommendation** APPROVE subject to the following conditions

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1. The principal use of the site for educational purposes shall be limited to the education of no more than 12 girls aged between 12 and 18, who are in the care of “the Willows Group” and for no other persons or uses.  
Reason: The site is constrained in spatial and access terms and whilst the Local Authority accepts that the applicants can run the educational facility within the constraints of the site, other users may not. It is not a site therefore where an unrestricted consent can be granted.
2. The only building to be used principally as a classroom is the building at the northern end of the building group, marked in the plans as “Education”. No other buildings in the group shall be used principally as a classroom and shall be used as buildings either ancillary to the educational use, or ancillary to the adjoining property known as “Loyalty Hall”, with the exception of the office building granted as part of this consent (see below). Notwithstanding any rights granted by the 1995 General Development Order, or any Order which amends or replaces that Order, the uses of the buildings shall be as described within this consent once implemented, unless otherwise approved by the Local Planning Authority.  
Reason: To define the uses of the buildings and to prevent the use intensifying in a location where there are spatial and access constraints.
3. The use of the office building hereby approved shall be used solely for administrative purposes of “the Willows Group” and for no other business or commercial purposes.  
Reason: The site is constrained in spatial and access terms and an additional independent business use is likely to create traffic and parking problems.
4. The parking spaces shown on the approved plans shall be marked out and available for use prior to the educational or administrative uses hereby approved commencing.  
Reason: in the interests of highway safety.
5. Prior to the educational use commencing the applicants shall demonstrate that the existing septic tank has sufficient capacity to cope with the additional flows generated by the use hereby approved. In the event that the system is inadequate, details of a new system shall be submitted for approval by the Local Planning Authority. This system shall be installed prior to the educational use being commenced.  
Reason: To protect the environment.

List of background papers

The file containing all letters, consultations and documents referred to in the report