Planning Committee: 01 March 2016 **Item Number:** **8**

Application No: W 15 / 2169

Registration Date: 23/12/15
Town/Parish Council: Kenilworth **Expiry Date:** 17/02/16
Case Officer: Liam D'Onofrio
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The Castle Pavilion, Castle Road, KenilworthCV8 1NG
Proposed refurbishment of existing building to form dwelling FOR Mr A Cockburn

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This application has been requested to be presented to Committee by Councillor Shilton.

RECOMMENDATION

Planning Committee are recommended to refuse planning permission.

DETAILS OF THE DEVELOPMENT

Planning permission is sought for a change of use from a stable building to a dwellinghouse comprising 3 bedrooms, 4th bedroom/ study with open plan living room/ dining room/kitchen. External building changes are minimal, with some changes to fenestration. The proposal also includes a change of use of the land from paddock to residential curtilage. The scheme is the same as the previous application W/14/0522 but to overcome the previous refusal reason/Appeal decision the outside 'curtilage' area has been reduced in size.

The application is accompanied by a Design and Access Statement, Planning Statement and Sustainability Statement.

The supporting Planning Statement acknowledges the principle reason for the previous scheme being dismissed at Appeal was the 'extensive outdoor area', which would domesticate the rural green belt setting. The applicant believes that if it is accepted that the reduced curtilage would not have an adverse effect on the green belt setting, it is unlikely to have an effect on the adjoining registered park and gardens of Kenilworth Castle.

THE SITE AND ITS LOCATION

The application site relates to a detached stable building located to the west of Castle Road and accessed via an existing long unmade track. The site is located within open countryside with fields extending to the south. Immediately to the northern boundary is a Scheduled Ancient Monument (Kenilworth Castle outer defensive works) and the Kenilworth Conservation Area. Kenilworth Castle also has a Grade II* Registered Park and Garden. The site falls outside of the urban area of Kenilworth and is within Green Belt.

PLANNING HISTORY

W/14/0522 - Change of use of existing building to a dwelling (Use Class C3): Refused 18/03/15 - Appeal dismissed 15/10/15 because of: 'the intrinsic harm that arises from inappropriateness, the loss of rural character and the harm to the setting of the ancient monument, registered park and garden and the conservation area'.

W/05/1464 - Change of use to stables: Granted 14/10/05
W/99/1069 - Change of use from agriculture to office (B1a): Refused 1999
W/96/0691 - Change of use from farm shop to storage for contract lawnmower equipment: Refused 1996
W/95/0896 - Erection of dwelling and garage: Refused 1995
W/95/0345 - Change of use from farm shop to tea room: Refused 1995
W/91/0993 - Erection of bungalow and garage to replace existing timber framed building: Refused 1991
W/90/1252 - Erection of dwelling and double garage: Refused 1990
W/90/0191 - Erection of 2 bungalows and garages: Refused 1990

RELEVANT POLICIES

- National Planning Policy Framework

The Current Local Plan

- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP3 - Natural and Historic Environment and Landscape (Warwick District Local Plan 1996 - 2011)
- DP6 - Access (Warwick District Local Plan 1996 - 2011)
- DP7 - Traffic Generation (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011)
- DP9 - Pollution Control (Warwick District Local Plan 1996 - 2011)
- DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)
- DAP3 - Protecting Nature Conservation and Geology (Warwick District Local Plan 1996 - 2011)
- DAP8 - Protection of Conservation Areas (Warwick District Local Plan 1996 - 2011)
- DAP9 - Unlisted Buildings in Conservation Areas (Warwick District Local Plan 1996 - 2011)
- DAP11 - Protecting Historic Parks and Gardens (Warwick District Local Plan 1996 - 2011)
- RAP1 - Directing New Housing (Warwick District Local Plan 1996 - 2011)
- RAP7 - Converting Rural Buildings (Warwick District Local Plan 1996 - 2011)

The Emerging Local Plan

- BE1 - Layout and Design (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- BE3 - Amenity (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- BE4 - Converting Rural Buildings (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- HE1 - Protection of Statutory Heritage Assets (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

- HE2 - Protection of Conservation Areas (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- HE4 - Protecting Historic Parks and Gardens (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)
- CC2 - Planning for Renewable Energy and Low Carbon Generation (Warwick District Local Plan 2011-2029 - Publication Draft April 2014)

Guidance Documents

- Sustainable Buildings (Supplementary Planning Document - December 2008)
- Agricultural Buildings and Conversion - Barns (Supplementary Planning Guidance)
- Vehicle Parking Standards (Supplementary Planning Document)
- Residential Design Guide (Supplementary Planning Guidance - April 2008)

SUMMARY OF REPRESENTATIONS

Kenilworth Town Council: Members objected to the application due to the intrusion of the access track and intensification of use within the domestic curtilage. They feel the area is unsuitable for such development as it lies within an area of historic landscape close to the boundary of the Scheduled Ancient Monument.

Cllr Shilton: Request that application is considered by planning committee if to be recommended for refusal.

Historic England: Objection. The scheme should be refused on the basis of the level of harm to the very important adjoining heritage assets. The unlisted building lies immediately beside the Brays, the major outer defensive works of Kenilworth Castle, which is a scheduled monument encompassing the whole of the Castle site. The activities associated with a domestic dwelling could be very damaging to the setting of the scheduled monument and the park.

CAF: It was considered that the Planning Inspector who dismissed the recent appeal for the conversion of this pavilion to residential use (Appeal Ref: APP/T3725/W/15/3032611) clearly thought the introduction of a residence would be harmful to the setting of heritage assets of the highest significance, including the adjacent Kenilworth Castle Scheduled Ancient Monument, the Grade II* Registered Park and Garden, and the Kenilworth Conservation Area, as well as the rural character of the Green Belt. CAF concur with the Inspector's decision. It was considered that the relatively minor alterations to reduce and screen the curtilage of the proposed dwelling would not mitigate the harm caused by the change of use.

WCC Ecology: No objection, subject to conditions.

WCC Highways: No objection.

Natural England: No objection.

Public response:

Twelve letters of objection received from local residents raising the following concerns:

- Harmful to the green belt.
- No very special circumstances.
- Existing building is not permanent/substantial, previously a corrugated structure.
- Paragraph 55 states that isolated homes should be avoided.
- Impact upon character of rural area, site is visible from the nearby bridle way.
- Noise and disturbance, dust nuisance from vehicle movements on track.
- Traffic generation.
- Impact upon Kenilworth Castle, Scheduled Ancient Monument and outer defensive works and conservation area.
- Impact upon wildlife.
- Smaller garden and planting will not reduce impact.
- Impact upon longer views/light spill visible in the evening.

ASSESSMENT

The main issues relevant to the consideration of this application are as follows:

- The principle of development;
- The impact upon landscape/heritage assets;
- The impact on the living conditions of nearby dwellings;
- Highway Safety;
- Drainage and Flood Risk;
- Energy efficiency/C02;
- Ecological Impact;
- Health and Wellbeing.

The Principle of the Development

The site is within Green Belt where the current Local Plan Policy in relation to residential development is RAP1 - 'Directing New Housing'. The National Planning Policy Framework (NPPF) 2012 states (para. 49) that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites against their housing requirement. The Council's current position is that it cannot demonstrate a five year supply of deliverable housing sites against the housing requirement and Policy RAP1 is to be considered out-of-date.

NPPF paragraph 14 explains that, where relevant policies are out of date, planning permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

The NPPF paragraph 90 notes that certain forms of development are not inappropriate provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. This includes the re-use of buildings provided that the buildings are of permanent and substantial construction.

The building is described in the 1991 application as a timber framed structure. Timber structures are not ordinarily considered suitable for conversion to other uses since they are inherently temporary structures not designed for permanent use or habitation. It is noted, however, that the building is well-established and has a substantial brick base and brick chimney and the structure appears in good

order. The building is therefore considered to be substantial and permanent as its construction would not preclude it from being successfully converted (a single skin brick barn would also need insulating internally) and the proposed conversion is not considered to represent inappropriate in principle. The external changes are limited and the change of use of the building would not have a significantly greater impact upon the openness of the Green Belt.

The previous scheme was refused (W/14/0522) due to the size of the curtilage and the change of use of the Green Belt land to domestic garden, which was considered to represent inappropriate development that would result in a significant detrimental impact upon the rural character and appearance of this land, by the introduction of domestic paraphernalia, washing lines, children's play equipment, manicured lawns, flower beds/domestic planting etc. all of which could not be controlled by a planning condition.

In order to address the previous refusal reason and Appeal decision, which dismissed the scheme, the applicant has re-submitted the current scheme with a much smaller curtilage area and additional native tree planting to the east and west of the building to ensure that the garden and building are screened from public view. The refusal reason and Appeal decision are material considerations that must be overcome to enable the grant of planning permission to be recommended.

In the Appeal Decision the Inspector noted that NPPF paragraph 90 requires that any development allowed under its provisions must preserve the openness of the Green Belt. The applicant's suggested landscaping condition and condition removing permitted development rights were noted, however the Inspector considered that many domestic activities which would have an effect on the appearance of the curtilage and surrounding rural area would not be affected by the removal of permitted development rights. The Inspector considered that the appeal proposal would inevitably change the character of the area around the building and would fail to preserve openness, thus representing inappropriate development within the Green Belt.

Whilst the applicant has clearly attempted to reduce this harm by making the curtilage smaller it is considered that the current scheme will still have a greater impact upon openness in this particularly sensitive location than the current stable use and the scheme is therefore contrary to the aims and objectives of the NPPF, paragraph 90.

The Impact on Landscape and Heritage Assets

In addition to the harm to the openness of the Green Belt the Inspector found in their Appeal Decision that the stable building is isolated from the nearest existing dwelling 'Green Bank', which stands at the end of a line of existing residential development close to the southeastern tip of the designated area. As the stable building is immediately adjacent to the Castle's defensive works the Inspector considered that the changes to the outdoor area would be damaging to the setting of the ancient monument, registered park and garden and conservation area.

In terms of the current, reduced curtilage, scheme Historic England have objected and note that the unlisted building lies immediately beside the Brays, the major outer defensive works of Kenilworth Castle. It is a part of the

scheduled monument which encompasses the whole of the castle site. This designation acknowledges the considerable importance of the ancient monument as one of England's premier medieval castles. The whole of the Castle site and the former mere associated with it are designated as a Grade II* registered park and garden.

Historic England consider that the proposals differ little from the previous scheme for the conversion of the former golf club house (now stables), to residential use. The conversion of the building will have no direct impact on the scheduled monument or the registered park and garden. However, the activities associated with a domestic dwelling, and the permitted development rights, could be very damaging to the setting of the scheduled monument and the park. For example, it would not be desirable to allow the building of a garage or any other associated structures, or to allow the establishment of a garden which would be visually disturbing if it is any more than the simple grass that is there at the moment. Whilst some of the curtilage is currently laid out as a car park it is flat and unobtrusive in the open landscape. The proposed change of use would inevitably change the character of the land surrounding the building to that of a domestic nature with associated paraphernalia, eroding the open landscape that surrounds the scheduled ancient monument.

Historic England note that the heritage impact was specifically acknowledged in the appeal decision, and the applicant has responded by offering a smaller garden area. However, there is no explicit response to the heritage impact of the scheme. The drawings give no indication of the details of the proposed landscaping or boundary treatments which will have a major impact on the how the scheme is perceived. The 1:500 block plan shows some landscaping outside the red line of the proposal, and Historic England do not understand how that work will be controlled. In any case, to simply hide the site in more screening would not be appropriate: it will erode the very clear distinction between the treed Castle ramparts and the surrounding open landscape.

The proposals will affect the setting of the scheduled monument and the registered park to the extent that they will cause harm to their significance, although less than substantial, in terms of the NPPF as there is no direct physical impact to the heritage asset. The level of harm is still sufficient to merit a refusal and along with Historic England there are considered to be no public benefits to be derived from the scheme sufficient to outweigh that harm (NPPF paragraph 134).

The removal of permitted development rights would not control this impact as many domestic activities which would have an effect on the appearance of the curtilage and surrounding rural area would not be affected by the removal of permitted development rights. Further planting to screen the site would not overcome this harm and adversely effects the clear distinction between the treed Castle ramparts and the surrounding open landscape, although this soft landscaping element does not require planning permission.

It therefore remains that the uncontrolled spill of domestic paraphernalia and physical change of use of the land to a residential use would result in harm to the currently open and nature of the land surrounding the existing building, and will therefore detract from the countryside and setting of the Conservation Area, registered park and garden and Scheduled Ancient Monument which would conflict with Policies DP1, DAP8, DAP9 and DAP11 and NPPF.

The impact on the living conditions of nearby dwellings

Policy DP2 requires development to not lead to an unacceptable adverse impact on the amenity or nearby users or residents, and to provide acceptable standards of amenity for future users/ occupiers of the development. Furthermore, the District Council has also adopted Supplementary Planning Guidance on Distance Separation Standards contained within the Residential Design Guide SPG which aims to limit the potential for over-development, loss of privacy and dominance over adjoining dwellings and secure a reasonable standard of amenity and outlook for local residents.

The building is sited over 70m from the nearest residential property which lies to the eastern side of the application site. Given the separation between surrounding buildings it is not considered that the proposal would result in an unacceptable loss of neighbouring amenity. The proposed use is not incompatible with another residential use. The neighbour would experience a loss of view of currently open land, but this is not a planning matter in terms of neighbouring amenity.

For these reasons the proposal is considered to comply with Policy DP2 and the Residential Design Guide SPG.

Highway Safety

The Highway Authority note that access from the private drive onto the public highway (Castle Road) appears to be to an acceptable standard, with the required visibility splays being achieved in both directions at the junction onto Castle Road and no objection is raised.

Drainage and Flood Risk

The site is located within flood zone 1, which has the lowest probability of flooding.

Energy efficiency/C02

A Sustainable Buildings Statement has been submitted which sets out the improvements that will be made to the thermal efficiency of the building, and also includes the proposal to install an air source heat pump to provide energy for heating. A condition can be imposed to require the submission of further details in order to ensure that the appropriate model and siting is chosen in addition to noise mitigation measures.

Ecological Impact

A bat survey has previously been carried out to the satisfaction of the County Ecologist, and subject to their recommended conditions, the impact on this protected species can satisfactorily mitigated.

Health and Wellbeing

No issues are raised in terms of health and well-being.

SUMMARY/CONCLUSION

The previous refusal reasons/dismissed Appeal decision is not considered to have been overcome and the land associated with the proposed building to be converted is considered to have a detrimental impact upon the openness of the Green Belt and the setting of the Conservation Area, registered park and garden and Scheduled Ancient Monument of Kenilworth Castle. It is therefore recommended that planning permission is refused.

REFUSAL REASONS

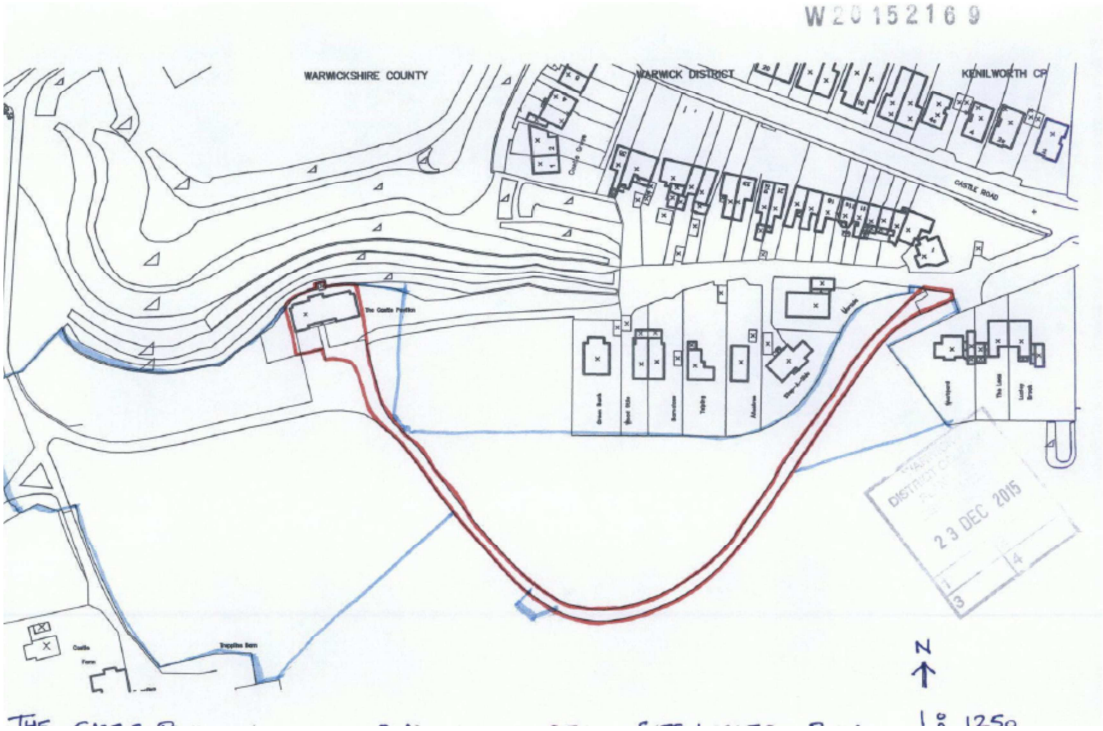
1 The application site is within the Green Belt, wherein the Local Planning Authority is concerned to ensure that the rural character and openness of the area will be retained and protected in accordance with the National Planning Policy Framework (NPPF) 2012.

The proposed change of use of Green Belt land to domestic garden would be inappropriate development, harmful by definition, and would have a significant impact upon the rural character and appearance of this land through the potential encroachment of domestic paraphernalia and visual clutter. The physical appearance of the land could also radically change by the introduction of manicured lawns, flower beds/domestic planting etc. which would be harmful to the existing rural, open, character.

The scheme would therefore fail to preserve the openness, character and appearance of the Green Belt and constitutes inappropriate development conflicting with the aims and objectives of the NPPF and Policy RAP7 of the Warwick District Local Plan 1996-2011. No very special circumstances have been demonstrated and none are considered to exist that outweigh the harm identified.

2 Policy DAP8 of the Warwick District Local Plan states development will be required to preserve or enhance the special architectural and historic interest and appearance of Conservation Areas. Policy DAP11 seeks to protect historic structures and the character and setting of historic parks and gardens.

The residential paraphernalia, visual clutter and domestic activities associated with the proposed dwelling would result in harm to the currently open and rural nature of the land surrounding the building, which is considered to be damaging to the character and setting of the adjoining Scheduled Ancient Monument, Registered Park and Garden and conservation area. The harm, although less than substantial in terms of the NPPF paragraph 134, is still sufficient to warrant refusal as there are no public benefits of the proposal. The scheme is therefore contrary to Policies RAP7, DAP8 and DAP11 of the Warwick District Local Plan 1996-2011 and the aims and objectives of the NPPF in seeking to preserve or enhance the historic environment.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KENILWORTH CP
CASTLE ROAD
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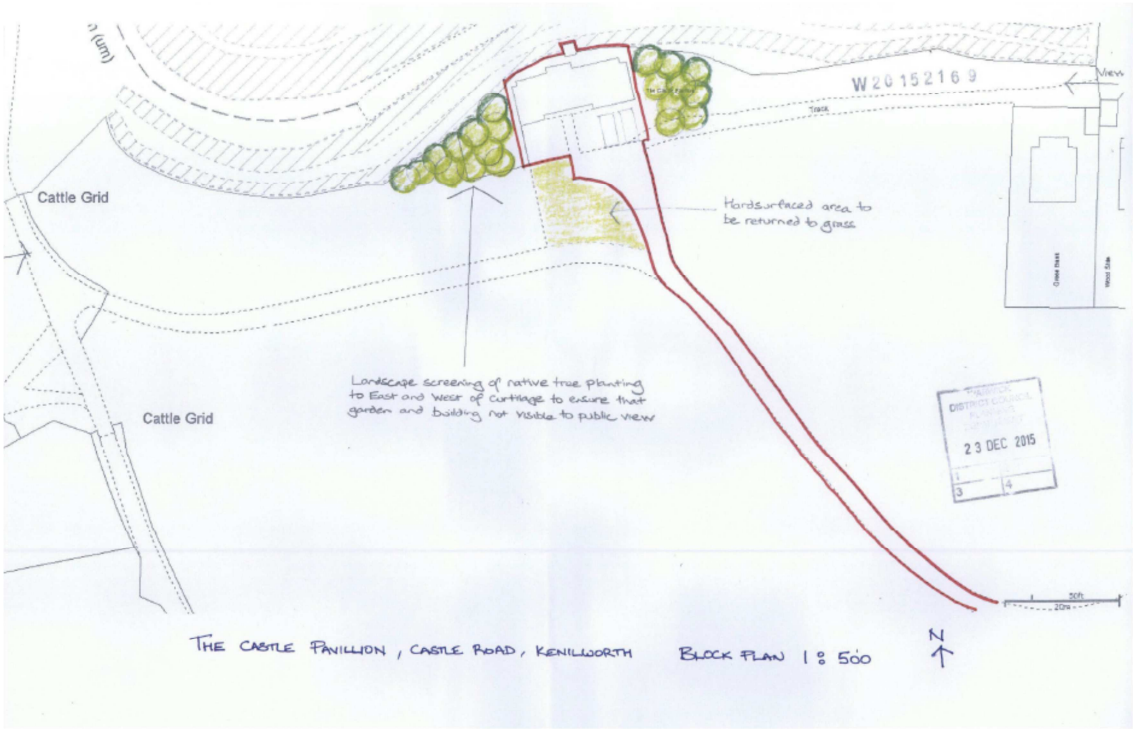
Cattle Grid
Cattle Grid
W20152169
Hardsurfaced area to be returned to grass
Landscape screening of native tree planting to East and West of curtilage to ensure that garden and building not visible to public view
23 DEC 2015
THE CASTLE PAVILION, CASTLE ROAD, KENILWORTH
BLOCK PLAN 1:500
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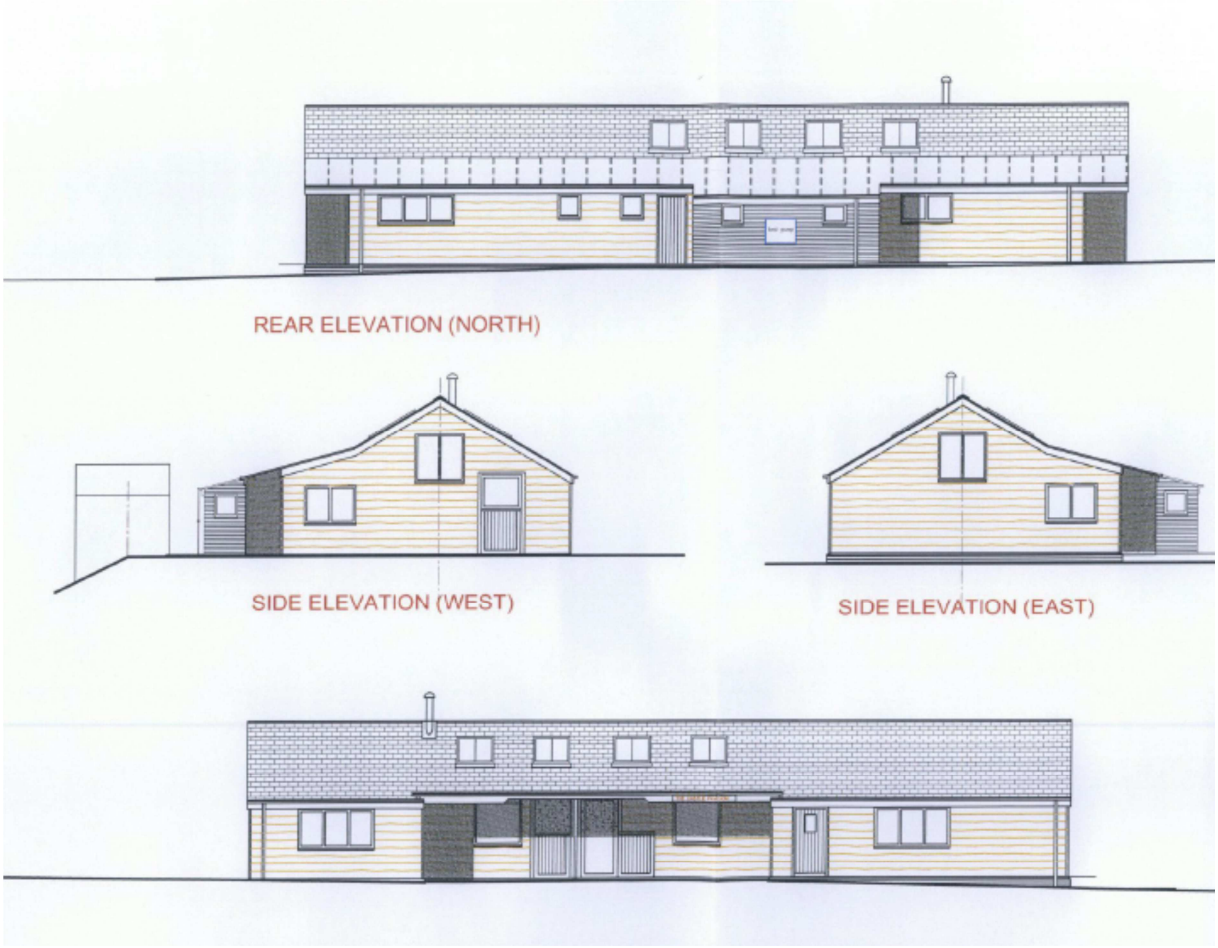
REAR ELEVATION (NORTH)
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