

## PLANNING COMMITTEE AGENDA - 22nd October 2014

### Applications of a non-delegated nature

- | <u>Item No.</u> | Description  |
|-----------------|--|
| 1.              | <p>14/01332/MOUT - Outline for a mixed use development comprising of a primary school and pre-school with ancillary facilities including sports pitch and parking and turning area; erection of up to 25 dwellings with parking and open space at Land at NGR 288080 098230, East of Station Road, Newton St Cyres.</p> <p><b>RECOMMENDATION</b><br/>Grant subject to conditions</p> |
| 2.              | <p>14/01464/FULL - Variation of condition 13 to permit general B1/B2/B8 use and removal of condition 14 (demolition of building if use ceases) of planning permission 10/01689/MFUL at Hitchcocks Farm, Uffculme, Devon.</p> <p><b>RECOMMENDATION</b><br/>Grant permission subject to conditions.</p>  |
| 3.              | <p>14/01466/FULL - Removal of condition 3 (Use classes B1 and B8 and in conjunction with 'Tilhill Existing Office Building' and shall not be let, sold or otherwise disposed of as a separate unit) of planning permission 11/00241/FULL at Hitchcocks Farm, Uffculme, Devon.</p> <p><b>RECOMMENDATION</b><br/>Grant permission subject to conditions.</p>                           |

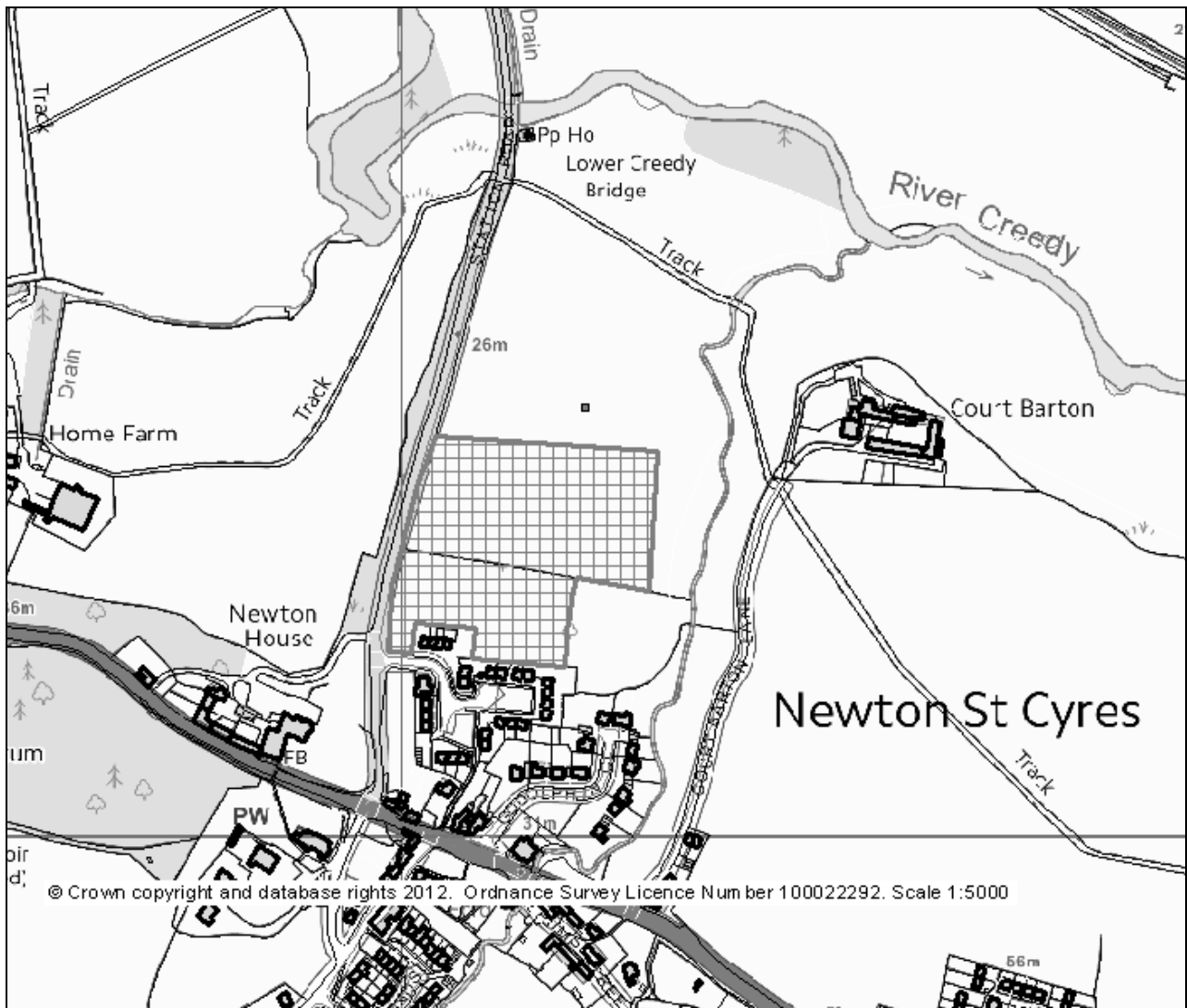
**Grid Ref:** 288144 : 98337

**Applicant:** Mr J Quicke

**Location:** Land at NGR 288080 098230 East of Station Road  
Newton St Cyres

**Proposal:** Outline for a mixed use development comprising of a primary school and pre-school with ancillary facilities including sports pitch and parking and turning area; erection of up to 25 dwellings with parking and open space

**Date Valid:** 5th August 2014



## **Application No. 14/01332/MOUT**

### **RECOMMENDATIONS**

Grant planning permission subject to the completion of a Section 106 Agreement as follows, and the conditions as set out in this report.

1. The transfer of the relevant part of the site, from the applicant to be vested with the Local Education authority for a minimum value (one pound). The agreement will need to ensure that this is completed prior to commencement of any development on the site.
2. The completion of all the necessary works, the details of which will have been previously agreed by the LPA, to provide a fully serviced school site, to include completion of access road, drop off and pick up parking area, staff parking area, drainage facilities and appropriate landscaping details to the open areas of the site (to include the layout out of the sports pitch and the hard court areas). The agreement will need to ensure that this is completed prior to commencement of the occupation of any of the approved dwellings.
3. To ensure that the sports pitch provided on the school campus is available for public use.
4. To ensure that the public open space/ village green /orchard area, the details of which will have been previously agreed by the LPA, is completed prior to commencement of the occupation of any of the approved dwellings.

### **PROPOSED DEVELOPMENT**

Outline for a mixed use development comprising of a primary school and pre-school building with ancillary facilities including sports pitch and parking and turning area; erection of up to 25 dwellings with parking and open space. Amendments to the application proposals have been made to include off site highway improvements (received 29th September) as shown on drawing no 4058revB.

The application proposes two new access / egress points from Station Road into the site which are proposed for consideration, approximately 50.0 metres and 130.0 metres from the turn off at Court Road. The first entrance would provide access to the residential estate, and the second entrance would provide access to the School. Means of access is proposed for consideration as part of this outline application.

Appearance, landscaping, layout and scale are reserved matters and will be dealt with at the next planning stage (reserved matters).

The application site is 2.8 hectares and is currently in agricultural use (pasture land). The application as submitted is supported by an illustrative masterplan - which is at a scale of 1:1000 on A1 sheet and presents an illustrative layout based on the means of access as described above. The very illustrative layout shows:

1. 6 units directly at the rears of 1-5 Court Orchard in a linear arrangement (plots 1-6)
2. 8 units at the rear of 16-19 Court Orchard in a courtyard style arrangement (plots 7-14)
3. 11 units in a courtyard style arrangement adjacent to Station Road (plots 15-25)
4. At this stage the parking arrangements are unclear. However on plot parking would appear possible on 19 of the plots given the size of the plots shown on illustrative layout, with a terrace based arrangement for plots 2, 4, 5, 18, 19 and 20 where it may be more difficult.
5. An open space buffer between the residential area and the school campus.
6. The school campus includes a drop off parking area (marked for use by 16 cars), a staff parking area (marked up for use by 20 cars), a school building, hard court, playing field and an area to accommodate two attenuation ponds.
7. Continuation of the pedestrian access from the A377 through to Court Orchard and into site.

The scope of the off-site highway improvements includes an extension to the extent of the highway envelope of 0.5M on the eastern boundary, currently land owned by the applicant, the highway authority and a third party.

#### **APPLICANT'S SUPPORTING INFORMATION**

Application form and site plan, drawing no 4058revB showing off site highway improvement (received 29th Sept) and illustrative masterplan (prepared by Clifton Emery).

Planning Statement  
Statement of Community Involvement  
Highway Statement  
Flood Risk Assessment & Drainage Strategy.

All prepared by PCL Consultancy.

Ecological Assessment dated July 2014 and prepared by EAd ecological consultants  
Design & Access statement: dated July 2014 and prepared by Clifton Emery  
Statement of Archaeological potential: dated August 2014 and prepared by AC archaeology.  
Phase 1 Geo-environmental Desk Study Report: dated July 2014 and prepared by Red Rock.

#### **PLANNING HISTORY**

None.

#### **DEVELOPMENT PLAN POLICIES**

##### **Mid Devon Core Strategy (Local Plan 1)**

COR1 - Sustainable Communities  
COR2 - Local Distinctiveness  
COR3 - Meeting Housing Needs  
COR8 - Infrastructure Provision  
COR9 - Access  
COR11 - Flooding  
COR17 - Villages  
COR18 - Countryside

##### **Mid Devon Allocations and Infrastructure Development Plan (Local Plan 2)**

AL/DE/1 - Housing Plan, Monitor and Manage  
AL/DE/2 - Overall Affordable Housing Provision  
AL/DE/3 - Affordable Housing Site Target  
AL/DE/4 - Occupation of Affordable Housing  
AL/DE/5 - Inclusive Design and Layout  
AL/IN/3 - Public Open Space

##### **Mid Devon Local Plan Part 3 (Development Management Policies)**

DM1 - Presumption in favour of sustainable development  
DM2 - High quality design  
DM7 - Pollution  
DM25 - Community facilities  
DM27 - Development affecting heritage assets

## **CONSULTATIONS**

**NEWTON ST CYRES PARISH COUNCIL** - 4th September 2014 - The Parish Council is in overall favour of the proposal with the following conditions:

It is the view of the Parish Council that Items 14 ( Potential for enhanced pedestrian crossing over the A377), item 15 (Potential for improvements to the junction) and item 17 ( potential enhanced vehicle arrangements on the narrow part of Station Road) as marked on the plan, must be essential and mandatory rather than as currently stated, "potential for".

**HIGHWAY AUTHORITY** - 4th September 2014 - Observations:

The Highway Authority has no objection in principle to the above application and the access onto Station road and the layout of the development, while they are indicative, are acceptable to the Highway Authority. The relocation of the school from its existing location to this site is beneficial in highway safety terms and welcomed by the Highway Authority. The provision of the housing is also acceptable subject to highway improvements.

The applicant has indicated in their transport assessment that the junction of Station road with A377 will run at under capacity and the figures identified would confirm this, however, the Highway Authority has a concern in terms of Highway Safety and forward visibility through the left turn from the A377 into Station road onto the narrow section of the road. The Highway Authority would wish to see a highway improvement to overcome this concern, in addition when approaching the junction from the West the eye is drawn passed the junction to the highway network further to the east, in particular the junction with West town road and signage for the village hall/public car park. A scheme to highlight the junction should also be provided.

The footpath access is acceptable and the existing crossing could be enhanced as part of any scheme although the location and constraints will make this limited in the works that can be undertaken.

The Education department in facilitating this scheme has commissioned the County's Highway Consultants to design a scheme for the improvement of Station road and two options have been submitted for approval. These schemes require third party land outside of the control of the applicant, but the owners of the property have indicated to the Highway Authority that they would be willing to negotiate the use of their land to facilitate the full scheme options. The Highway Authority has looked at a third option which required only land in the control of the applicant, but was advised that the forward visibility would still be a concern for the safety Auditors, albeit this would significantly benefit road users by reducing the length of the narrow section considerably, and a consideration of that benefit taken alongside the acceptable capacity may be sufficient to allow the increase in traffic generated by the scheme. Such benefits would need the support of the independent Safety Auditor. The application as it stands is in outline with all matters reserved except access, and while a Grampian condition can be placed upon the application for the land in control of the applicant it may be unreasonable to condition land in third party ownership even though there is a reasonable prospect of this being made available.

The Highway Authority is minded to recommend conditions on the application, but would seek an amendment to the application to allow further discussion and negotiation with third party land owners by the applicant to facilitate the full highway scheme and with this in mind would consider it appropriate for the access arrangements to be considered as part of the reserve matter application and withdrawn from this application. Alternatively a Grampian Style condition requiring the applicant to submit for written approval and the delivery of a highway junction improvement to the satisfaction of the Local planning Authority Could be imposed.

Therefore should the Local Planning Authority be minded to grant consent for the development the following conditions should be imposed.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT THE FOLLOWING CONDITIONS SHALL BE INCORPORATED IN ANY GRANT OF PERMISSION:-

#### CONDITIONS FOR RESIDENTIAL ESTATES

1. The proposed estate road, school access and turning, cycle ways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins, For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

REASON: To ensure that adequate information is available for the proper consideration of the detailed proposals.

2. The development hereby approved shall not be carried out otherwise than in accordance with a phasing programme which shall previously have been submitted to and approved by the Local Planning Authority in writing.

REASON: To ensure the proper development of the site.

3. No part of the development hereby approved shall be commenced until:
  - A) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 metres back from its junction with the public highway
  - B) The ironwork has been set to base course level and the visibility splays required by this permission laid out
  - C) The footway on the public highway frontage required by this permission has been constructed up to base course level
  - D) A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority

REASON: To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents

4. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out to the written satisfaction of the Local Planning Authority:
  - A) The spine road and cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
  - B) The spine road and cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
  - C) The cul-de-sac visibility splays have been laid out to their final level;
  - D) The street lighting for the spine road and cul-de-sac and footpaths has been erected and is operational;
  - E) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;
  - F) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;
  - G) The street nameplates for the spine road and cul-de-sac have been provided and erected.

REASON: To ensure that adequate access and associated facilities are available for the traffic attracted to the site

5. No development shall take place until a Construction Management Scheme has been submitted to and approved in writing by the County Planning Authority. The statement shall provide details of:
- a) Timetable/programme of works
  - b) Measures for traffic management [including routing of vehicles to and from the site, details of the number/frequency and sizes of vehicles]
  - c) Days and hours of construction and deliveries
  - d) Location of loading, unloading and storage of plant and materials
  - e) Location of contractor compound and facilities
  - f) Provision of boundary fencing/hoarding
  - g) Parking of vehicles of site personnel, operatives and visitors.
  - h) Wheel washing
  - i) Dust control

The development shall be implemented in accordance with the approved scheme.

REASON: To ensure adequate access and associated facilities are available for the construction traffic and to minimise the impact of construction on [nearby residents/local highway network] in accordance with policy \*\*\*\*\*.

6. No development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. Unless it is demonstrated that it is unfeasible to do so, the scheme shall use appropriate Sustainable Urban Drainage Systems. The drainage scheme shall be designed so that there is no increase in the rate of surface water runoff from the site resulting from the development and so that storm water flows are attenuated. The development shall be carried out in accordance with the approved scheme.

REASON: To protect water quality and minimise flood risk in accordance with policy in the flood management act and NPPF

7. No development shall take place on site until the off-site highway works for the provision of a Junction improvement scheme, at the junction of Station road and the A377, inclusive of but not limited to road widening, Signing and lining, and the enhancement of pedestrian crossing facilities has been approved in writing by the Local planning Authority and has been constructed and made available for use.

REASON: To minimise the impact of the development on the highway network in accordance with policy asset out in NPPF.

Following on from their original comments as set out above, the HIGHWAY AUTHORITY have since confirmed that the off-site works as shown on the drawing received 29th September are acceptable.

**ENVIRONMENT AGENCY** - 29th August 2014 - We have no in principle objection to the proposal subject to ground levels within Flood Zones 2 and 3, associated with the Shuttern Brook, not being raised above existing levels.

We are pleased that the built development elements of the proposal will be within Flood Zone 1 and that surface water runoff will be managed in accordance with the philosophy of sustainable drainage.

Given the presence of residences in Godolphin Close, immediately upstream of the site, which are within the floodplain of the Shuttern Brook, it is imperative that ground levels within the proposed 'Sports Pitch' are not raised above existing. Failure to achieve this risks an increase in flood risk to Godolphin Close which is unacceptable and contrary to the requirements of the NPPF. We recommend that your authority requests that a level survey of the floodplain be produced so that compliance with the above can be checked if found necessary.

We also advise that you receive written assurances regarding the long term maintenance of the proposed sustainable urban drainage features, prior to determination of the application.

We recommend that the following condition be placed should your authority grant planning permission.

**CONDITION**

There shall be no raising of ground levels within the floodplain areas associated with, and adjacent to, the Sports Pitch, including the temporary storage of materials, including topsoil and subsoil.

**REASON**

To safeguard the function of the floodplain thus preventing an increase in flood risk to adjacent property.

**ENVIRONMENTAL HEALTH - 27th August 2014**

Contaminated Land - no objections to this proposal

Air Quality - no objections to this proposal

Waste & Sustainability

Drainage - no objections to this proposal

Noise & other nuisances - no objections to this proposal

Housing Standards - No comments

Licensing - No comments

Food Hygiene - No objections

Private Water Supplies - Not applicable

Health and Safety - No objections

**DEVON COUNTY EDUCATION - 21st August 2014 - No objection to this development and accept the developers offer of land of land for a new primary school at a nominal fee.**

**NATURAL ENGLAND - 20 August 2014**

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

The Wildlife and Countryside Act 1981 (as amended)

The Conservation of Habitats and Species Regulations 2010 (as amended)

The National Park and Access to the Countryside Act 1949

Natural England's comments in relation to this application are provided in the following sections.

Statutory nature conservation sites - no objection

Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes.

Protected species

We have not assessed this application and associated documents for impacts on protected species. Natural England has published Standing Advice on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy. You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation. The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence is needed (which is the developer's responsibility) or may be granted.

Priority Habitat as identified on Section 41 list of the Natural Environmental and Rural Communities (NERC) Act 2006. The consultation documents indicate that this development includes an area of priority habitat, as listed on Section 41 of the Natural Environmental and Rural Communities (NERC) Act 2006. The National Planning Policy Framework states that 'when determining planning applications, local planning authorities



should aim to conserve and enhance biodiversity. If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.'

#### Local sites

If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

#### Biodiversity enhancements

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

#### Landscape enhancements

This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green space provision and access to and contact with nature. Landscape characterisation and townscape assessments, and associated sensitivity and capacity assessments provide tools for planners and developers to consider new development and ensure that it makes a positive contribution in terms of design, form and location, to the character and functions of the landscape and avoids any unacceptable impacts.

#### Impact Risk Zones for Sites of Special Scientific Interest

Natural England has recently published a set of mapped Impact Risk Zones (IRZs) for Sites of Special Scientific Interest (SSSIs). This helpful GIS tool can be used by LPAs and developers to consider whether a proposed development is likely to affect a SSSI and determine whether they will need to consult Natural England to seek advice on the nature of any potential SSSI impacts and how they might be avoided or mitigated. Further information and guidance on how to access and use the IRZs is available on the Natural England website.

**SPORT ENGLAND** - 4th September 2014 - The site is not considered to form part of, or constitute a playing field as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2010 (Statutory Instrument 2010 N0.2184), therefore Sport England has considered this a non-statutory consultation.

Sport England has assessed the application in the light of Sport England's Land Use Planning Policy Statement 'Planning for Sport Aims and Objectives'. A Copy of which can be found at:

<http://www.sportengland.org/media/162412/planning-for-sport-aims-objectives-june-2013.pdf>

The statement details Sport England's three objectives in its involvement in planning matters;

- 1) To prevent the loss of sports facilities and land along with access to natural resources used for sport.
- 2) To ensure that the best use is made of existing facilities in order to maintain and provide greater opportunities for participation and to ensure that facilities are sustainable.
- 3) To ensure that new sports facilities are planned for and provided in a positive and integrated way and that opportunities for new facilities are identified to meet current and future demands for sporting participation.

The application is for a new primary school in Newton St Cyres on the back of a new housing development. The application is outline only but an indicative site plan shows a new school with a playing field. The proposed playing field is located in the floodplain which is a concern to Sport England. This is not recommended. Playing pitches should not be located in floodplain.

In order to assess the suitability of the site to accommodate pitches, it will be important that the ground conditions and pitch specification to prepare the site as a playing field are given careful consideration. The preparation of new sports pitches will benefit from specialist consideration by sports turf consultants/agronomists due to the need to understand the implications of topography, soils, drainage, and surface preparation etc. and to ensure the pitches are fit for purpose. Without this there is risk that playing pitches will not meet needs because they will suffer from problems such as waterlogging and uneven surfaces. Consideration also needs to be given to matters such as soils, seeding, water supply depending on the ground conditions, and the standard of pitch to be provided.

Sport England recommends that a ground conditions assessment is undertaken by a sports turf specialist/agronomist who can recommend a scheme for preparing the playing fields to the required specification. The recommended scheme should then be implemented. Detailed guidance on the issues that require consideration is set out in the Sport England's guidance 'Natural Turf for Sport'.

<http://www.sportengland.org/facilities-planning/tools-guidance/design-and-cost-guidance/natural-turf-for-sport/>

Sport England recommends, based on our assessment, that if the Council is minded to approve the application, the following planning conditions should be imposed.

1. No development shall take place unless and until:
  - a) A detailed assessment of ground conditions of the land proposed for the new/retained replacement playing field land as shown on drawing number..... shall be undertaken (including drainage and topography) to identify constraints which could affect playing field quality; and
  - b) Based on the results of this assessment to be carried out pursuant to (a) above of this condition, a detailed scheme to ensure that the playing fields will be provided to an acceptable quality (including appropriate drainage where necessary) shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England.

The works shall be carried out in accordance with the approved scheme within a timescale to be first approved in writing by the Local Planning Authority after consultation with Sport England.

Reason: To ensure that site surveys are undertaken for new or replacement playing fields and that any ground condition constraints can be and are mitigated to ensure provision of an adequate quality playing field and to accord with LP Policy.

2. The playing field/s and pitch/es shall be constructed and laid out in accordance with the planning application, Section and Drawing No. and with the standards and methodologies set out in the guidance not "Natural Turf for Sport" (Sport England 2011), and shall be made available for use before first use or occupation or other specified timeframe of the development or specified part of the development hereby permitted.

Reason: To ensure the quality of pitches is satisfactory and they are available for use before development or agreed timescale and to accord with LP Policy.

3. No development shall commence or such other timescale until a community use scheme has been submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. The scheme shall apply to describe facilities and shall include details of pricing policy, hours of use, access by non-educational establishment users/non members, management responsibilities, a mechanism for review and a programme for implementation. The approved scheme shall be implemented upon the start of use of the development or other agreed timescale and shall be complied with for the duration of the use of the development.

Reason: To secure well managed safe community access to the sports facility, to ensure sufficient benefit to the development of sport and to accord with LP Policy.

This being the case, Sport England does not wish to raise an objection to this application.

The absence of an objection to this application in the context of the Town and Country Planning Acts, does not in any way commit Sport England's or any National Governing Body of Sport's support for any related application for grants funding.

## **REPRESENTATIONS**

Notifications were sent out to neighbours when the application was first submitted, with further notifications sent out on 2nd October advising of the amended plans that were rec'd on the 29th September. In total 12 representations have been submitted by local stakeholders raising the followings points of objection:

1. The site is low lying ground and therefore the development scheme proposes a flood risk.
2. The proposal would adversely affect the amenity currently enjoyed by local residents surrounding the site, in particular residents of Godolphin Close. New planting between the site and Godolphin Close would assist. It is noted that the area behind Godolphin Close would be used as allotments/parking not agriculture.
3. Extending the existing school would have less environmental impact and it is considered the existing school can be extended at a lower cost.
4. The application will set a precedent for further large scale development within the village.
5. The proposals do not include any affordable housing
6. What is happening to the existing school buildings. Although not relevant to the determination of this planning application the existing site is likely to be brought forward for housing development.

One letter of support has been confirming that the plans are considered well thought out and sympathetic to the character, scale, design and appearance of the village. The site is considered small, discreet and close to local amenities and transport routes.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main issues to be considered at this stage are:

- 1. Policy/Land Use Issues**
- 2. Highway, Transport Issues and Movement Issues**
- 3. Implications of delivering the development on the site.**
- 4. Section 106/ Affordable Housing issues**
- 5. New Homes Bonus**
- 6. Conclusions/Planning Balance**

### **1. Policy/Land-use Issues**

Newton St Cyres is a designated village where minor development proposals are acceptable under Policy COR17 'Villages'. However, the site lies outside the settlement limit, and is therefore considered to be within the 'countryside' as covered by COR18. Development in the countryside is strictly controlled, and is limited as follows:

a affordable housing to meet local needs, gypsy accommodation, replacement dwellings, housing essential to accommodate an agricultural or forestry worker and accommodation ancillary to a dwelling;  
b appropriately scaled retail, employment, farm diversification and tourism related development (including conversion of existing buildings);  
c appropriately scaled and designed extensions and other physical alterations to existing buildings;  
d agricultural buildings;  
e community facilities, such as educational facilities, buildings associated with public open space, development required to support or enhance biodiversity or geodiversity interests, transportation and

infrastructure proposals, horse riding establishments and golf facilities; and  
f. renewable energy and telecommunications

Therefore given the location of the application site compared to the existing Primary School site in terms of how accessible it would be for residents in Newton-St-Cyres (Upper and Lower), the support for a new school in the locality (ref: comments from Parish Council and comments submitted to both the community event held by applicants team at the pre-application stages and to the consultation undertaken on the planning application scheme), and the proposed improvements to the highway it is considered that school element of the application scheme is in accordance with COR18 and also DM25. The policy provides a supportive framework for the development of new community which provide a local community benefit where they are easily accessible by the local community and well related to a settlement.

With regard to the residential part of the proposals, this part of the scheme is more problematic in policy terms. Housing development outside settlement limits is limited to affordable housing exception sites. Policy DM9 would permit the inclusion of some market housing to cross subsidise the affordable element. However the application scheme is an outline proposal for market housing only.

In summary the application is not proposed an exception site and therefore cannot be considered to be policy compliant. However the local planning authority could consider granting planning permission, on the basis of the positive community benefit arising from the delivery of a new school which is enabled by the delivery of market housing. However a decision on this basis would represent a departure from existing policy.

The next stages of the planning assessment of this application scheme is to assess the means of access into the site as proposed and consider if the application scheme and the documentation submitted to support it satisfactorily demonstrates that the site could accommodate the scope of development as proposed. These matters are considered below at point 2, 3 and 4 of this report.

## **2. Highway, Transport and Movement Issues**

The application scheme raises four broad highway issues:

- The acceptability of the proposed points of access into the site;
- The scheme of improvements to the highway capacity of the local road network and impact on highway safety given the additional traffic that will be generated after development of the site;
- The level of car parking proposed at the school;
- The impact on highway safety during construction.

In terms of vehicular access the comments from the Highway Authority are set out above and they are supportive of the scheme in terms of the means of access points from Station Road and the scheme of improvements to Station Road at the junction with the A377. The scope of these works will be required to be completed prior to the opening of the school, and this will be conditioned. Provision is made for parking for both staff, and parents dropping off and picking up children, on site. Access to the site for pedestrians is achieved by extending the route from the A377 through Court Orchard and into the site. This aspect of the scheme will be conditioned to be provided prior to the commencement of the occupation of the houses and/or the school. A construction management plan will be required in order to seek to minimise the impact of the construction phases on highway safety and the general amenities of the area.

## **3. Implications of delivering the development on the site**

**Arboriculture:** The scheme results in the loss of a field orchard directly at the rear of Court Orchard. A number of other trees and sections of hedgerow will also be removed. However the indicative layout shows a number of new trees to be planted which in numerical terms will compensate for the number proposed to be lost. A condition requiring further details is recommended to redress this matter at the reserved matters stage, and also to protect the remaining hedgerow and trees to be retained on site during the construction phases.

Ecological / Biodiversity: The development will inevitably have an impact on the ecological capacity of the area with the introduction of the development as proposed. The applicant has undertaken an extended Phase 1 Habitat Survey of the site, and has submitted a report of the findings of this assessment to support the application which indicates that the site has the capacity to provide habitats for a variety of species, including; reptiles, birds, bats, hedgehog, dormouse. The mitigation recommended by the applicant's consultants is to undertake a phase 2 on site survey to establish and confirm what species are present. The findings of this phase 2 survey would inform any reserved matters that are submitted to include any site specific mitigation, but even the indicative layout shows open areas of the site and new tree planting which will provide a variety of habitat types. This approach is considered acceptable.

Ground conditions and contamination: A phase 1 contaminated land study has been submitted to support the application, and it is concluded that given the historic use of the site, it is unlikely that contamination exists. Officers in the Health & Environmental Services Directorate are supportive of the application on this basis.

Landscape, visual and conservation area impacts: The development will inevitably have an impact on the landscape and visual amenities of the area, but reflecting on the magnitude of soft scape (open spaces and new planting) as shown on the indicative masterplan the development should read as a comfortable edge of settlement extension to the existing settlement where the proposed buildings and hardscape should not dominate. The site is just beyond the boundary Newton St Cyres Conservation Area, and taking into the scale of the development and the existing context directly adjacent to the boundary of the Conservation Area it is not considered that the application scheme would adversely affect the character and appearance of the Conservation Area.

Flood Risk and drainage: All the buildings as proposed are contained within flood zone 1, and are therefore acceptable as a matter of principle. The applicants have submitted a report that presents a drainage strategy, taking into account existing and predicted run off rates. A SUDS based approach is proposed with a location to layout attenuation ponds on the northern boundary of the site. The operational details would need to be submitted at the reserved matters stage. The Environment Agency are supportive of the scheme on this basis subject to conditions as recommended.

Archaeological Impacts: A statement of archaeological potential has been submitted, and based on this work the applicant's archaeologist considers it is likely that archaeological remains will be present on the site, and a standard programme of archaeological monitoring / works condition is considered a satisfactory approach to deal with this issue. No comments have been made by the Devon County Council Archaeologist.

Amenity Impacts: The separation distance between the existing houses on Court Orchard and the development area are considered reasonable and can be secured at the reserved matters stage when details of layout are submitted. A Construction Management Plan is proposed to manage and minimise the impact during the construction phases.

#### **4. Section 106 / Affordable housing Issues**

As stated elsewhere in this report the scheme will deliver a significant community benefit in terms of the delivery of a full serviced and accessible site to build a new primary and pre-school facility, and in order for this to happen the terms of the planning permission will need to include arrangements as follows.

The transfer of the relevant part of the site, from the applicant to be vested with the Local Education authority for a minimum value (one pound). The agreement will need to ensure that this is completed prior to commencement of any development on the site.

The completion of all the necessary works, the details of which will have been previously agreed by the LPA, to provide a fully serviced school site, to include completion of access road, drop off and pick up parking area, staff parking area, drainage facilities and appropriate landscaping details to the open area areas of the site (to include the layout out of the sports pitch and the hard court areas). The agreement will need to ensure that this is completed prior to commencement of the occupation of any of the approved dwellings.

Policy AL/IN/3 requires that either public open space is provided on site and/or an off- site contribution is made. Reflecting on the size of the area of public open space, which also includes new tree planting and an area to locate children's play equipment as shown on the indicative masterplan, and by securing access to the sports playing field for the public, as suggested by the Sports Council Public then the scheme complies with the requirements of this policy. The development appraisal submitted on behalf of the applicant provides a budget to deliver this space which exceeds the off- site payment level that would be required by the adopted formula.

The agreement will need to ensure that the sports pitch provided on the school campus is available for public use, and that the public open space/ village green /orchard area, the details of which will have been previously agreed by the LPA, is completed prior to commencement of the occupation of any of the approved dwellings.

Policy AL/DE/3 establishes that 35% of all new housing should be provided as affordable housing, and in this case that would equate to 8 of the houses. However the policy framework does allow for the applicant to submit evidence to seek to demonstrate why this affordable housing target is not deliverable in scheme viability terms.

In this case the applicant is proposing to gift the land to the Local Education Authority, in order that the Local Education Authority for a nominal sum can secure funding to develop out the school building and associated facilities. However the school development is not able to contribute towards the off- site highway works and any other service infrastructure (ie drainage). In this case the offsite costs associated with the improvements to the highway/ drainage infrastructure and the deliverability of a fully serviced school site cost at minimal cost mean that the delivery of affordable housing either on site or off site (as a commuted sum) is not financially viable.

## **5. New Homes Bonus**

Sections 143 of the Localism Act amends Section 70 of the Town and Country Planning Act 1990 so that when determining planning applications, Local Planning Authorities should also have regard to any local finance considerations, so far as material to the application. Local finance considerations means a grant or other financial assistance that has been, or will or could be provided to the relevant authority by a Minister of the Crown, or Sums that a relevant authority has received, or will or could receive, in payment or a Community Infrastructure Levy.

In respect of this application consideration should be given to the New Homes Bonus that would be generated by this application. If New Homes Bonus is distributed across the Council Tax bands in the same way as last year, the award for each market house is estimated to be £1,028 per year, paid for a period of 6 years. In total this equates to up to £154,200.

## **7. Summary/Planning Balance/Reason for approval**

The principal of developing the site for a replacement village primary school is considered in accordance with policy, and whilst the new residential development as proposed is not supported in development policy terms there is a strong case to support granting planning permission for it as a departure to the development plan given the community benefits that would be secured. Matters relating to architecture and design of all buildings, height, scale and massing of all buildings and site layout issues, including the design of all open space, landscaped areas, drainage infrastructure and parking provision are all reserved for future consideration. The arrangements regards providing access into the site as proposed are considered acceptable in terms of the capacity along Station Road, and the widening improvements close to the junction with the A 377 will provide a satisfactory access onto and from Station Road. No issues are raised in terms of this application scheme regards drainage, archaeology, flood risk and/or ground contamination or the impact on protected species/ecology.

On this basis the element of the application scheme which includes the primary school is considered to meet the requirements of Policies COR1, COR2, COR8, COR9, COR11, COR18 of the Mid Devon Core Strategy (Local Plan Part 1), Policy AL/IN/3 of the Mid Devon Allocations and Infrastructure Development Plan

Document (Local Plan Part 2) and Policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies). The element of the scheme which includes the 25 open market dwellings without any affordable housing (either on site or off site) is considered to be contrary to COR 17 and COR 18. However when taking into account the overriding social, economic and community benefits that would arise by delivering a site to accommodate a new primary school, it is considered that there is a case to support the scheme overall as a departure to policy.

## CONDITIONS

1. Before any part of the development hereby permitted is begun, detailed drawings to an appropriate scale of the layout, scale and appearance of the building(s), and the landscaping of the site (hereinafter called the Reserved Matters) shall be submitted to and be approved in writing by the Local Planning Authority.
2. Application(s) for approval for all the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the Reserved Matters which have been approved, whichever is the latter.
4. The proposed estate road, school access and turning, cycle ways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins, For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.
5. The development hereby approved shall not be carried out otherwise than in accordance with a phasing programme which shall previously have been submitted to and approved by the Local Planning Authority in writing.
6. No part of the development hereby approved shall be commenced until:
  - A) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 metres back from its junction with the public highway
  - B) The ironwork has been set to base course level and the visibility splays required by this permission laid out
  - C) The footway on the public highway frontage required by this permission has been constructed up to base course level
  - D) A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority
7. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out to the written satisfaction of the Local Planning Authority:
  - A) The spine road and cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
  - B) The spine road and cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
  - C) The cul-de-sac visibility splays have been laid out to their final level;
  - D) The street lighting for the spine road and cul-de-sac and footpaths has been erected and is operational;
  - E) The car parking and any other vehicular access facility required for the dwelling by this

permission has/have been completed;

F) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;

G) The street nameplates for the spine road and cul-de-sac have been provided and erected.

8. No development shall take place until a Construction Management Scheme has been submitted to and approved in writing by the County Planning Authority. The statement shall provide details of:
- a) Timetable/programme of works
  - b) Measures for traffic management [including routing of vehicles to and from the site, details of the number/frequency and sizes of vehicles]
  - c) Days and hours of construction and deliveries
  - d) Location of loading, unloading and storage of plant and materials
  - e) Location of contractor compound and facilities
  - f) Provision of boundary fencing/hoarding
  - g) Parking of vehicles of site personnel, operatives and visitors.
  - h) Wheel washing
  - i) Dust control

The development shall be implemented in accordance with the approved scheme.

9. No development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. Unless it is demonstrated that it is unfeasible to do so, the scheme shall use appropriate Sustainable Urban Drainage Systems. The drainage scheme shall be designed so that there is no increase in the rate of surface water runoff from the site resulting from the development and so that storm water flows are attenuated. The approved drainage scheme shall be fully implemented before any part of the development is occupied, and be so retained. The surface water details shall utilise infiltration systems unless it is proven that ground conditions dictate otherwise, and above ground swales, and detention areas. The development shall be carried out in accordance with the approved scheme.
10. No development shall take place on site until the off-site highway works for the provision of a junction improvement scheme, at the junction of Station Road and the A377, inclusive of but not limited to road widening, Signing and lining, and the enhancement of pedestrian crossing facilities has been approved in writing by the Local planning Authority and has been constructed and made available for use.
11. There shall be no raising of ground levels within the floodplain areas associated with, and adjacent to, the Sports Pitch, including the temporary storage of materials, including topsoil and subsoil.
12. The detailed drawings required to be submitted by Condition 2 shall include the following additional information:
- (i) Boundary treatments, existing site levels, finished floor levels, long and cross sections through the site indicating relationship of proposed development with existing adjacent development.
  - (iii) Protective measures for all trees and hedgerow to be retained on the site.
  - (iii) Measures to demonstrate compliance with the carbon footprint targets as set in the Policy AL/IN/6 of the Allocations and Infrastructure Development Plan Document (Local Plan Part 2) and the code for sustainable homes requirements as required by Policy DM3 of the Local Plan Part 3 (Development Management Policy).
13. The pedestrian footpath link between the school site and the existing footpath that links Orchard Way and the A377 shall be completed available for use to a useable standard prior to first occupation of any development hereby approved.
14. No development shall take place until the applicant has secured the implementation of a programme



of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority. The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

15. A management plan, setting out the long term management responsibilities and maintenance schedules for the Sustainable Urban Drainage Systems (SUDS) including pipes, swales, detention areas, and associated flow control devices and all areas of public open space, shall be submitted to, and approved in writing by, the Local Planning Authority prior to any of the buildings first coming into use. The SUDS and public open space shall thereafter be managed in accordance with the agreed details.

## **REASONS FOR CONDITIONS**

1. The application was submitted as an outline application in accordance with the provisions of Articles 4 and 5 of The Town and Country Planning (Development Management Procedure) Order 2010.
2. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
3. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
4. To ensure that adequate information is available for the proper consideration of the detailed proposals.
5. To ensure the proper development of the site.
6. To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents.
7. To ensure that adequate access and associated facilities are available for the traffic attracted to the site.
8. To ensure adequate access and associated facilities are available for the construction traffic and to minimise the impact of construction on nearby residents and the local highway network in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies).
9. To protect water quality and minimise flood risk in accordance with policy in the flood management act and National Planning Policy Framework and to ensure the positive management of surface water arising from the site and in compliance with Policy COR11 of the Mid Devon Core Strategy (Local Plan Part 1).
10. To minimise the impact of the development on the highway network in accordance with policy asset out in National Planning Policy Framework..
11. To safeguard the function of the floodplain thus preventing an increase in flood risk to adjacent property and in accordance with Policy COR9 of the Mid Devon Core Strategy (Local Plan Part 1).
12. To ensure the proper development of the site.
13. To ensure satisfactory access to the site for pedestrians, in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies) and Policy COR9 of the Mid Devon Core Strategy (Local Plan Part 1).

14. To ensure that an appropriate record is made of archaeological evidence that may be affected by the development in accordance with Policy DM27 of the Local Plan Part 3 (Development Management Policies).
15. To ensure compliance with the provision of the National Planning Policy Framework and to safeguard the future maintenance of common areas across the site whilst also minimising flood risk.

## **REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT**

The principal of developing the site for a replacement village primary school is considered in accordance with policy, and whilst the new residential development as proposed is not supported in development policy there is a strong case to support granting planning permission for it as a departure to the development plan given the community benefits that would be secured. Matters relating to architecture and design of all buildings, height, scale and massing of all buildings and site layout issues, including the design of all open space, landscaped areas, drainage infrastructure and parking provision are all reserved for future consideration. The arrangements regards providing access into the site as proposed are considered acceptable in terms of the capacity along Station Road, and the widening improvements close to the junction with the A 377 will provide a satisfactory access onto and from Station Road. No issues are raised in terms of this application scheme regards drainage, archaeology, flood risk and/or ground contamination or the impact on protected species/ecology.

On this basis the element of the application scheme which includes the primary school is considered to meet the requirements of Policies COR1, COR2, COR8, COR9, COR11 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1), Policy AL/IN/3 of the Mid Devon Allocations and Infrastructure Development Plan Document (Local Plan Part 2) and Policies DM1 and DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies), (as far as is relevant to the application details). Whilst the element of the scheme which includes the 25 houses is considered to be contrary to COR17 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1), and AL/DE/3 of the Allocations and Infrastructure Development Plan Document (Local Plan Part 2), it is considered that there is a case to support the scheme overall as a departure given the community benefits that would arise by delivering a site to accommodate a new primary school.

**Application No. 14/01464/FULL**

**Plans List No. 2**

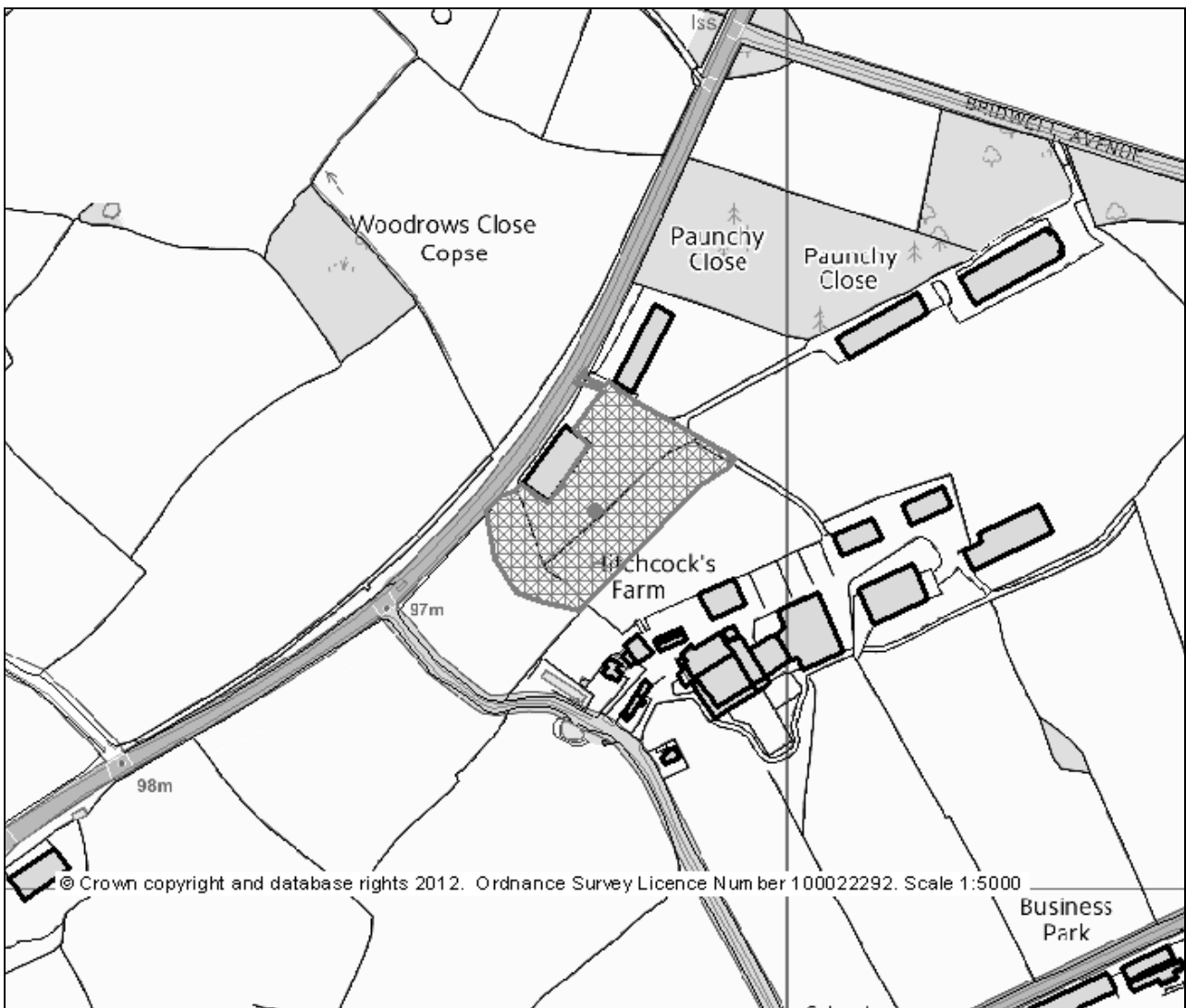
**Grid Ref:** 304920 : 112311

**Applicant:** Mr R Persey

**Location:** Hitchcocks Farm Uffculme Devon

**Proposal:** Variation of condition 13 to permit general B1/B2/B8 use and removal of condition 14 (demolition of building if use ceases) of planning permission 10/01689/MFUL

**Date Valid:** 1st September 2014



## **Application No. 14/01464/FULL**

### **RECOMMENDATION**

Grant permission subject to conditions.

### **PROPOSED DEVELOPMENT**

Planning permission was granted in January 2011 (ref. 10/01689/MFUL) for the erection of a building to be used for the manufacture of egg packaging materials (a B1 use). The building is 90m long and 25m wide, giving a total floor area of 2250 square metres. It is referred to as Unit 3.

Condition 13 of the planning permission restricts the use of the building as follows:

13. The building hereby permitted shall be used for the manufacturing of non-plastic egg packaging materials (including non-plastic egg boxes and/or non-plastic egg cartons and/or non-plastic egg trays) and for no other purpose (including any other purpose in Class B2 or B1 or B8 of the Schedule to The Town and Country Planning (Use Classes) Order 1987 (as amended)), or in any provision equivalent to those Classes in any statutory instrument revoking and re-enacting that Order with or without modification.

It is proposed that this condition be varied to allow the building to be used for any B1 (office), B2 (light industrial or B8 (storage and distribution) uses and not just be restricted to the manufacture of egg packaging.

Condition 14 states that if the building becomes redundant for the purposes of egg packaging manufacture as set out in condition 13 of the permission, the building shall be demolished and all materials resulting from the demolition shall be removed from the site (including the removal of the production machinery within the building) within 1 year of the date this occurs.

It is proposed that this condition be removed.

The application building lies to the northwest of the main group of buildings on the wider site that lie close to the farmhouse and is approximately 24 metres southeast of the existing building on the site that was granted planning permission under reference No. 07/00814/MFUL. The building is located close to the southeastern side of the B3181 County road and approximately 1.6 kilometres to the northeast of Willand. The site lies within Halberton Parish.

The site is outside of any recognised settlement but is in relatively close proximity to the villages of Willand and Uffculme; the National Cycle Network route 3 runs immediately to the west of the site which gives access to Tiverton Parkway railway station. Pedestrian accessibility is however limited as there are no footways leading from Uffculme or Willand to the site and although buses do run along the B3181 and the adjoining Bridwell Avenue there are no bus stops nearby.

### **APPLICANT'S SUPPORTING INFORMATION**

Covering letter

### **PLANNING HISTORY**

Relevant:

07/00814/MFUL Erection of building for egg packaging and farm waste storage - PERMIT

09/00268/FULL Widening of existing vehicular access - PERMIT

10/00983/MFUL Erection of building for manufacturing egg packaging materials and associated works - WITHDRAWN

10/01689/MFUL Erection of building for manufacturing egg packaging materials and associated works (Revised scheme) - PERMIT

11/00241/FULL Change of use of 2 agricultural buildings to B1 light industrial and B8 storage use and outdoor storage area - PERMIT

12/00690/FULL Change of use of agricultural building to B8 storage use with associated parking (APPEAL ALLOWED 22.03.13) - REFUSE

14/01310/MFUL Change of use of agricultural buildings for B1/B2/B8 commercial use, the demolition of agricultural buildings and the erection of replacement B1/B2/B8 commercial buildings, the provision of associated landscaping, yard areas and infrastructure - PENDING CONSIDERATION

14/01466/FULL Removal of condition 3 (Use classes B1 and B8 and in conjunction with 'Tilhill Existing Office Building' and shall not be let, sold or otherwise disposed of as a separate unit) of planning permission

11/00241/FULL - PENDING CONSIDERATION

## **DEVELOPMENT PLAN POLICIES**

### **Mid Devon Core Strategy (Local Plan 1)**

COR1 - Sustainable Communities

COR4 - Meeting Employment Needs

COR5 - Climate Change

COR9 - Access

COR18 - Countryside

### **Mid Devon Allocations and Infrastructure Development Plan (Local Plan 2)**

AL/IN/6 - Carbon Footprint Reduction

### **Mid Devon Local Plan Part 3 (Development Management Policies)**

DM1 - Presumption in favour of sustainable development

DM2 - High quality design

DM8 - Parking

DM11 - Conversion of rural buildings

DM20 - Rural employment development

## **CONSULTATIONS**

**WILLAND PARISH COUNCIL** - 29th September 2014 - Willand Parish Council are of the view that the application should be refused taking into account the circumstances and information given to obtain the original permission. These conditions were a persuasive point at that time. It is appreciated that the Planning Committee will have difficulty in standing by their original conditions BUT it has to be asked that if conditions cannot or will not be enforced why make them in the first place?

Willand Parish Council draws attention to their response dated 15th September 2014 for the whole site which has been made in response to application 14/01310/MFUL. All of the general comments still stand. The specific comments made in relation to this site are contained in paragraph 4.6 and are reproduced here:

4.6 Existing Building Unit 3 - This is an existing building which was built under approval 10/01689/MFUL. As far as can be ascertained this building has never been used for the intended approved purpose. There is mention that it has been used for non approved purposes. The current Design and Access Statement at paragraph 5.1 states "Unit 3 has existing consent for the manufacture of egg packaging materials. It is proposed to vary condition 13, and remove condition 14 on that consent, to allow the use of the building for general B1/B2/B8 use, and also to introduce new door openings as noted on the submitted plans."

4.6(i) This building was applied for and received approval for a specific purpose on 6th January 2011 and Condition 13 reads "The building hereby permitted shall be used for the manufacturing of non-plastic egg packaging materials (including non-plastic egg boxes and/or non-plastic egg cartons and/or non-plastic egg trays) and for no other purpose (including any other purpose in Class B2 or B1 or B8 of the Schedule to The Town and Country Planning (Use Classes) Order 1987 (as amended)), or in any provision equivalent to those Classes in any statutory instrument revoking and re-enacting that Order with or without modification." The reason recorded for this condition is "To concur with the nature of the application having regard to the

submitted details in respect of which the Local Planning Authority consider the proposed use of the proposed building to be an acceptable form of farm diversification development having regard to current development plan policies in that respect in this instance but other B2, B1 and B8 Uses in this location may not be. Also, to control the character, and to minimise the volume of, traffic attracted to the site."

4.6(ii) Condition 14 is asked to be removed but at the time it is argued that it was included to prevent any manipulation of the planning system. Condition 14 states "Should the building hereby permitted become redundant for the purposes as set out in condition 13 of this permission, it shall be demolished and all materials resulting from the demolition shall be removed from the site (including the removal of the production machinery within this building) within 1 year of the date this occurs." The reason recorded for this condition is "This building is permitted for the use specified as the Local Planning Authority consider on the basis of the submitted information it would be an acceptable form of farm diversification having regard to current development plan policies in that respect."

4.6(iii) The conditions were very clear and if the planning system is to retain any credibility the conditions should be implemented. For these reasons Willand Parish Council object to this particular section of the application and recommend refusal.

What area is this application covering?

If plans are studied for the various applications on this site there is room for confusion as to what is actually being applied for as the 'RED LINE' differs or conflicts on site plans.

The original application 10/01689/MFUL has a site plan Drawing 1808-04 Rev A dated 25/06/10.

The current application 14/01464/FULL has a site plan Drawing 1808-04 Rev B dated 25/06/10. The red line is identical BUT there is now a building on the site which is not shown on the plan.

Application 13/00597/FULL is for part of an adjoining site where the current 'large' application refers to it as Unit 1. The red lines overlap.

The 'large' application 14/01310/MFUL also incorporates Unit 3 which is the subject of this current application. The red line is in a different place not consistent with this application.

Planning Committee may wish to be clear on what they are being asked to approve.

**HIGHWAY AUTHORITY** - 6th October 2014 - The Highway Authority has no objection to the above planning application and the transport assessment submitted as part of planning application 14/01310/MFUL supports the change of conditions

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT:-

**HALBERTON PARISH COUNCIL** - 25th September 2014 - PC'S COMMENTS:- No objections. However the PC reached this view due to the fact that this application related to an area which was now part of a larger proposed industrial estate and was no longer adjoining farm land. The PC was extremely concerned that this was a prime example of a conditioned approval in which the conditions had been completely ignored and no action had been taken by MDDC. The PC could see no point in conditions being applied to approvals if they were not being followed up.

**ENVIRONMENTAL HEALTH** - 23rd September 2014 -

Contaminated Land N/A

Air Quality N/A

Drainage: no objections to this proposal

Noise & other nuisances: no objections to this proposal

Housing Standards N/A

Licensing: no comments

Food Hygiene: no fundamental objection on these grounds  
Private Water Supplies N/A  
Health and Safety: no fundamental objection on these grounds

## **REPRESENTATIONS**

One letter of objection received, summarised as follows:

- Agree with Halberton Parish Council that this is a 'prime example of a conditioned approval in which the condition had/have been completely ignored and no action taken by MDDC.'
- No planning approval yet exists, and indeed, should never exist, for a large industrial estate on a farm.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

**The main considerations in the determination of this application are:**

- 1. Planning History and history of the building**
- 2. Planning Policy**
- 3. Need for additional employment floor space and sustainable development**
- 4. Other matters**

### **1. Planning History and history of the building**

Over the years Hitchcocks Farm has been subject of a number of applications for the erection of agricultural buildings and then the change of use or replacement of those and other buildings on the site for commercial use. There is no longer any commercial scale farming activities occurring at the Farm, with the cattle having been sold in 2013 and the poultry buildings also now being empty. There is currently an application submitted (ref. 14/01310/MFUL) relating to the remainder of the wider agricultural site to enable its use for commercial purposes and this is anticipated to come before the Planning Committee at the next meeting on 5th November 2014. Justification for the variation and removal of the conditions subject of this application has been provided as part of the wider application.

Having discussed the use of this building with the applicant it is understood that when the planning permission was sought for the erection of the building, a grant was available to help fund the purchase of the egg packaging manufacturing equipment and that this was applied for and required planning permission to have been granted, however this grant was abolished during the construction phase of the building as a result of the economic downturn. The applicant asserts that he has explored the potential of purchasing new or refurbished equipment however this is either not economically viable due to high purchase prices or is extremely hard to obtain due to the manufacturers of the equipment also being existing manufacturers of egg packaging. Discussions have also been held with investors, however these have not come to fruition as they have not been financially viable propositions. The building has therefore lain empty since its construction. Concerns are raised that the condition 14 requiring the removal of the building has not been enforced, however as the building has never come into its permitted use it is not considered that its removal can be required.

Although the permitted use of the building is conditioned to a very narrow use, this is nevertheless an employment generating use and falls within the B1 Use Class.

### **2. Planning Policy**

National planning policy has changed significantly since planning permission for the erection of the building was granted in January 2011, with a greater emphasis now being placed on economic development.

Paragraph 14 of the National Planning Policy Framework (NPPF) and policy DM1 of Local Plan Part 3 (Development Management Policies) set out a presumption in favour of sustainable development. Paragraph 19 of the NPPF states that the planning system should do everything it can to support sustainable economic growth, and not act as an impediment to sustainable growth. Significant weight should be placed on the need to support economic growth through the planning system. Paragraph 21

states that in drawing up Local Plans, Local Planning Authorities should support existing business sectors, taking account of whether they are contracting or expanding. In relation to rural economic development, paragraph 28 states this should be supported, taking a positive approach to sustainable new development. Plans should support the sustainable growth and expansion of all types of businesses and enterprise, both through conversion of existing buildings and well designed new buildings. Plans should also promote the development and diversification of agricultural and other land-based rural businesses.

Policy COR4 of the Core Strategy (Local Plan Part 1) states that approximately 300,000 sqm. of employment floorspace will be provided over the plan period (2007-2026). Policy COR18 "Countryside" limits the type of development which is acceptable in countryside locations, but states that appropriately scaled retail, employment, farm diversification and tourism related development are permitted.

Policy DM2 of Local Plan Part 3 (Development Management Policies) requires development of high quality design and incorporating appropriate drainage. Policy DM11 relates to the conversion of redundant or disused rural buildings which positively contribute to the rural character of an area to residential, tourism or employment uses. However, the building subject of this application is of a very functional appearance and could not be said to positively contribute to the rural character and no further consideration of policy DM11 is given. Rural employment development proposals are dealt with under policy DM20 and allows for the expansion of existing businesses provided that the development is of an appropriate use and scale for its location and would not lead to an unacceptable impact on the road network, the character and appearance of the countryside and that there are insufficient sites or premises in the immediate area to meet the needs of the proposal.

### **3. Need for additional employment floor space and sustainable development**

The findings of Mid Devon's Employment Land Review (ELR) produced in 2013 states that Mid Devon's portfolio of employment sites needs to be 'rebalanced' as a significant proportion is tied up in large strategic allocations which are dependent on the provision of significant additional infrastructure. The ELR recommends the allocation of a number of smaller sites which would not be burdened with the same time and infrastructure constraints, and could be delivered in the short-to-medium term. In light of this the report recommends that development management policies be applied flexibly to enable smaller rural employment sites to come forward throughout the district. The annual Employment Land Survey published by MDDC indicates that both permissions and completions of employment floor space are below the figures aimed for in policy COR4 of the Core Strategy (Local Plan Part 1), which over the plan period seeks the development of 300,000 square metres of B1, B2 and B8 floorspace, equating to an annual average of 15,000 square metres. In the seven years to 31st March 2014 since the adoption of the Core Strategy (Local Plan Part 1), only 37,740 square metres of employment floor space has been completed. The building the subject of this application will have already been counted in the completions figures as it has B1 use and therefore the removal of the occupancy condition will not increase the amount of floorspace developed, rather it will enable its use by a wider commercial market.

Kay Transport Ltd. is a subsidiary company of Gregory Distribution Ltd. and currently occupies the building known as Unit 14 on the wider Hitchcocks Farm site. They have taken on a new distribution contract which commences on 1st January 2015 and will require more space than they occupy in Unit 14; it is therefore proposed that Kay Transport Ltd. occupy Unit 3 (the building that is the subject of this application). Alterations which would be required to be made to the building and an increase in the yard area are included as part of the comprehensive scheme coming before the Planning Committee in November.

Facilitating such a move to larger premises before January 2015 would not be possible at a site offering 'design and build', which would need a longer lead in time as full planning permission for the building would be required, followed by the time taken for construction. This therefore rules out sites such as Willand Business Park and the Gladman's Week Farm site off Kingsmill Industrial Estate in Cullompton for use in fulfilling this contract in the short term. Additionally, it is understood that the Gregory Distribution site in Cullompton does not have sufficient spare capacity to accommodate the operation of the new contract. None of the existing buildings on the wider Hitchcocks Farm site which have planning permission for B1, B2, B8 uses are large enough to accommodate the needs of the new contract being taken on by Kay Transport Ltd, nor are they available as the majority of units are let. Accordingly, it would seem that there are



insufficient sites in the immediate area to meet the needs of Kay Transport Ltd. and this element of policy DM20 is met.

Although it is unfortunate that the consented building has never been used for its intended purpose, to continue to insist that it only be used for the manufacture of non-plastic egg packaging would not be in-line with the Government's vision to support economic development and sustainable development. There has therefore been a significant change to material planning considerations in respect of rural employment since the original 2011 permission was granted. The principle of an employment use at this site was accepted when the building was consented, albeit under the guise of a farm-diversification scheme associated with the egg production business which existed on the Farm. This egg production enterprise is no longer continuing but significant investment was undertaken to erect the building and a user for it has been found. In addition, there are a number of other buildings on the wider Hitchcocks Farm site which have obtained planning permission and are in use for unrestricted B1, B2 or B8 employment purposes. In these circumstances it is considered appropriate to vary the occupancy condition to allow the building to be used for any B1, B2 or B8 purpose and to remove the condition requiring the demolition of the building. Retention of the restrictions on the use of this building as expressed by the conditions in question can no longer be justified.

#### **4. Other matters**

There are no nearby residential properties that would be significantly affected by the proposed changes to the conditions, with the nearest property which is not associated with Hitchcock's Farm being approximately 440m to the south and Environmental Health has raised no objections to the proposal, including with respect to noise, odour and other nuisances.

The siting and design of the building is acceptable in the context of the surrounding landscape and the presence of other buildings of similar scale and design.

The Highway Authority has not raised any objections to this application as the access to the site is wide and has adequate visibility from and of vehicles on the B3181 and parking and turning space is provided on the site. They have also considered the proposal in conjunction with the large scheme for the wider site.

Willand Parish Council has raised issues regarding the red line application site of this and other applications on the wider site. This current application seeks to vary conditions attached to an earlier consented scheme; the red application line has not changed. Whilst the red application line may overlap with other red lines for different applications, this is not of any significance to what is being applied for under this proposal.

As the building has now been erected, some of the previously imposed conditions are no longer relevant and it is not recommended that they be re-imposed; equally, others have been amended to reflect details approved as part of discharge of condition requested. A list of recommended conditions and reasons is included below.

#### **CONDITIONS**

1. Subject to the effect of any condition of this permission, the development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
2. All new planting, seeding and turfing comprised in the approved details of landscaping as approved by letter on 24th May 2011 as part of application 10/01689/MFUL shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development hereby permitted, whichever is the sooner, and any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.
3. The surface water drainage details as approved in writing by the Local Planning Authority on 25th January 2012 as part of application 10/01689/MFUL shall have been provided before the enlarged hardstanding areas site as indicated on the submitted drawings numbered 1808-1 Revision C and

1808-6 Revision A are brought into use and thereafter shall be so retained.

4. The surface water drainage details as approved in writing by the Local Planning Authority on 25th January 2012 as part of application 10/01689/MFUL shall have been provided before the building hereby permitted is first brought into use and thereafter shall be so retained while the building hereby permitted remains on the site.
5. Before the building hereby permitted is first brought into its intended use, the enlarged hardstanding areas within the application site to provide vehicle parking and turning areas as indicated on the submitted Drawings numbered 1808-1 Revision C and 1808-6 Revision A approved as part of planning application reference 10/01689/MFUL, shall have been properly consolidated, hardened, surfaced, marked out and drained, in accordance with details which shall previously have been submitted to, and approved in writing by, the Local Planning Authority. Following their provision, these facilities shall thereafter be so retained.
6. Any gate(s) to the access to the site from the County road shall be set back a minimum of 20 metres from the nearest edge of the metalled part of the County road and hung to only open inwards towards the site.
7. Any storage facilities for oils, fuels or chemicals associated with the use of the building hereby permitted shall be provided in accordance with the details as approved in writing by the Local Planning Authority on 25th July 2011 and thereafter be so retained while the building hereby permitted remains on the site.
8. No raw materials, finished products or scrap or waste materials associated with the use of the building shall be stored outside of that building at any time.

#### **REASONS FOR CONDITIONS**

1. For the avoidance of doubt and in the interests of proper planning.
2. To safeguard the visual amenities of the area.
3. To prevent pollution of the water environment and minimise potential flooding occurring from the proposal.
4. To ensure adequate facilities are provided for the disposal of surface water from the development and to minimise potential flooding occurring from the proposed development.
5. To ensure adequate facilities are provided for traffic attracted to the site and to avoid surface water discharging onto the public road, in the interests of highway safety.
6. To ensure that vehicles entering and leaving the site can stand clear of the public highway, in the interests of highway safety.
7. To prevent pollution of the water environment.
8. To safeguard the visual amenities of the area.

## **REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT**

The proposal seeks to remove the occupancy condition restricting the use of the building to a very narrow B1 use in order to allow its occupation by other employment generating uses. More specifically, in the first instance it is proposed that the building be occupied by a company who are in need of significant space in a short time scale and who currently occupy a different unit at Hitchcocks Farm. Sufficient justification has been provided to demonstrate that the use of the building for the manufacture of non-plastic egg packaging is not a realistic prospect and therefore the restrictive occupancy condition is limiting the amount of usable employment floorspace in the district at a site which already has other employment floorspace. It is also no longer appropriate to retain a condition requiring the demolition of the building in the event that the manufacture of egg packaging ceases. The building is of a siting, design, scale and use that will not harm the rural character of the area. Subject to conditions, it is considered that the proposal is capable of being served with adequate private foul drainage and separate surface water drainage disposal facilities together with satisfactory on-site vehicle parking and manoeuvring with access thereto from the public road to serve it. The proposal will be sufficiently distant from residential properties in the locality to have no significant effect on the residential amenities of the occupiers of those properties to any extent to substantiate a refusal of this application on those grounds. Consequently, the proposal is considered to comply with Policies COR1, COR4, COR5, COR9 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1), Policy AL/IN/6 of the Allocations and Infrastructure Development Plan Document (Local Plan Part 2), Policies DM1, DM2, DM8, DM11 and DM20 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework. The application is therefore recommended as a grant of conditional planning permission. In considering this application, the Local Planning Authority has also carefully considered all representations submitted relating to this application.

**Application No. 14/01466/FULL**

**Plans List No. 3**

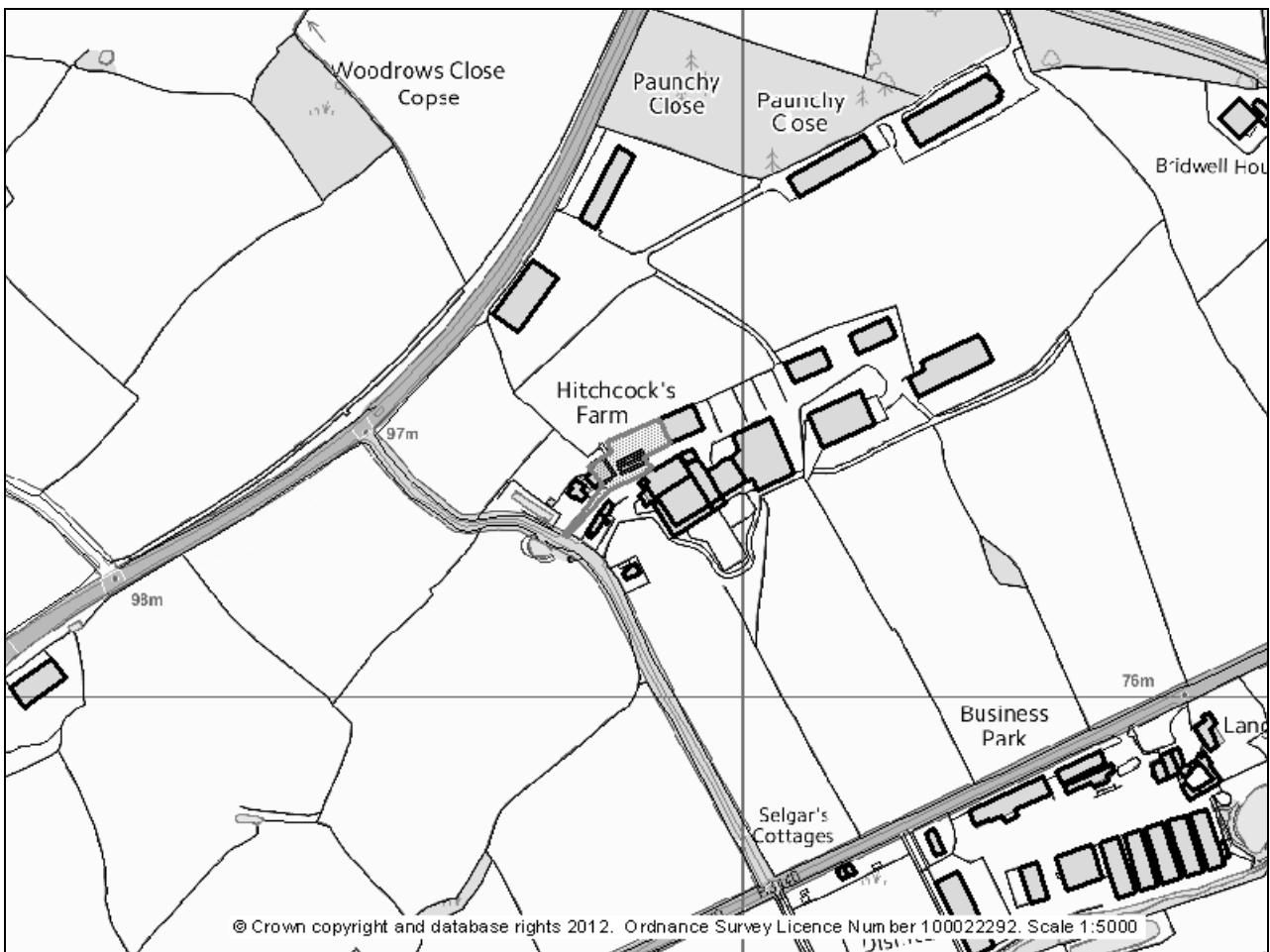
**Grid Ref:** 304920 : 112311

**Applicant:** Mr R Persey

**Location:** Hitchcocks Farm Uffculme Devon

**Proposal:** Removal of condition 3 (Use classes B1 and B8 and in conjunction with 'Tilhill Existing Office Building' and shall not be let, sold or otherwise disposed of as a separate unit) of planning permission 11/00241/FULL

**Date Valid:** 1st September 2014



## **Application No. 14/01466/FULL**

### **RECOMMENDATION**

Grant permission subject to conditions.

### **PROPOSED DEVELOPMENT**

Planning permission was granted in April 2011 (ref. 11/00241/FULL) for the change of use of two agricultural buildings to be used for B1 and B8 employment purposes in conjunction with an existing adjacent business known as Tilhill Forestry Ltd.

Condition 3 of the planning permission requires that the buildings only be used in association with the use of the Tilhill Forestry Office building, using the following wording:

3. The buildings and land subject of this approval shall be used solely for B1 light industrial and B8 storage uses in conjunction with the business premises identified as 'Tilhill Existing Office Building' on the submitted Block Plan, drawing number 1808-22 dated January 2011 and shall not be let, sold or otherwise disposed of as a separate unit.

It is proposed that this condition be removed in order allow occupation by businesses not associated with the 'Tilhill Existing Office Building'. The buildings are known as 'The Forge' and Unit 11.

The application buildings are presently accessed via the access from the S3614 to the west of the site, which is a single carriageway road joining up with the B3181 Willand to A38 road to the north and the B3440 Willand to Uffculme road to the south.

The site is outside of any recognised settlement but is in relatively close proximity to the villages of Willand and Uffculme; the National Cycle Network route 3 runs immediately to the west of the site which gives access to Tiverton Parkway railway station. Pedestrian accessibility is however limited as there are no footways leading from Uffculme or Willand to the site and although buses do run along the B3181 and the adjoining Bridwell Avenue there are no bus stops nearby.

### **APPLICANT'S SUPPORTING INFORMATION**

Covering letter

### **PLANNING HISTORY**

Relevant:

99/02876/FULL Erection of calf rearing shed to replace old livestock building - Granted September 1999

00/00628/FULL Conversion of building to offices for use in association with farm enterprise - Granted July 2000

06/02098/FULL Removal of condition 13 of planning permission 00/00628/FULL tying office use to Hitchcocks and Langlands Farm only - Granted November 2006

11/00241/FULL Change of use of 2 agricultural buildings to B1 light industrial and B8 storage use and outdoor storage area - PERMIT

14/00366/CLU Certificate of lawfulness for the existing use of land for the siting of a residential mobile home - PERMIT

14/01310/MFUL Change of use of agricultural buildings for B1/B2/B8 commercial use, the demolition of agricultural buildings and the erection of replacement B1/B2/B8 commercial buildings, the provision of associated landscaping, yard areas and infrastructure - PENDING CONSIDERATION

14/01464/FULL Variation of condition 13 to permit general B1/B2/B8 use and removal of condition 14 (demolition of building if use ceases) of planning permission 10/01689/MFUL - PENDING CONSIDERATION

## **DEVELOPMENT PLAN POLICIES**

### **Mid Devon Core Strategy (Local Plan 1)**

COR1 - Sustainable Communities  
COR4 - Meeting Employment Needs  
COR5 - Climate Change  
COR9 - Access  
COR18 - Countryside

### **Mid Devon Local Plan Part 3 (Development Management Policies)**

DM1 - Presumption in favour of sustainable development  
DM2 - High quality design  
DM8 - Parking  
DM11 - Conversion of rural buildings  
DM20 - Rural employment development

## **CONSULTATIONS**

**WILLAND PARISH COUNCIL** - 29th September 2014 - Willand Parish Council's observations in the letter dated 15th September 2014, for application 14/01310/MFUL, remain unchanged in relation to this single application.

15th September 2014 (14/01310/MFUL) There are some parts of the application to which we feel there is little point in responding in any detail as current regulations will allow what is being applied for on an individual building by building basis. There are other areas where we feel that the 'boundaries' are being bent or even crossed and these will be dealt with in more detail later in the response. There are also areas of concern with the planning process in this instance.

### **1 INTRODUCTION**

1.1 The site is in open countryside. It is not recognised in the MDDC Local Plan, or any other plan, as land identified for industrial, business or employment land. It was a farm but now most, if not all, of the livestock has gone. Some land is covered with solar panels other areas of land are covered with 'business sheds' which have been already approved as 'diversification'. Others have been used without appropriate approval for their specific use.

1.2 The site address at question 4 on the Application Form is shown as Hitchcocks Farm. The 'bream' report refers to 'Hitchcocks Business Park'. The 'Carbon Reduction Strategy' uses the same title as does the heading in the 'Covering Letter' from the agent; the 'Design and Access Statement'; the 'Flood Risk Assessment'; the 'Planning Statement'; the 'Statement of Community Involvement' and finally the 'Transport Statement'.

1.3 Signs at the entrance to the site from the B3181 advertise business units to let. The whole appearance from this point is of a business park - not a farm. It only appears to be 'agricultural' when it suits a particular argument or circumstance for further expansion with more 'sheds'.

1.4 With all of the points outlined in the three preceding paragraphs the question is asked - "How can what is now being sought be termed and treated as farm diversification or converting redundant agricultural buildings?"

### **2. STATEMENT OF COMMUNITY INVOLVEMENT**

2.1 The detail of meetings and discussions with planning officers, District Councillors and the applicant and his agent are all noted. Even the District Council Chief Executive becomes involved! It is noted that the people most likely to be affected - the parish residents and their representatives are excluded from the discussions. As far as Willand Parish Council, the area most likely to directly affected by this application, is concerned they were TOLD by the applicant what had been AGREED with the planning officers.

2.2 The notes of the meeting with Willand Parish Council at paragraphs 3.4 to 3.7 inclusive are considered a fair representation other than members felt that they were being presented with a 'done deal'.

The Parish Council concerns recorded [3.6] in relation to the Mid Devon Business Park and the potential development for housing is already being proven to have firm foundation in the light of a very recent PREAP Application.

2.3 The argument concerning the more cost effective flexibility of the units on the site compared with other sites is understood but does not attract support when properly designated sites within an area of population are unused or manipulated in such a way as to make them unavailable to some businesses.

2.4 Willand Parish Council are in agreement with the sentiments of Uffculme Parish Council that the proposals in this application are preferable and less intrusive on the countryside than the proposals being put forward for Junction 27 of the M5.

### 3. SITE ROAD LAYOUT AND INFRASTRUCTURE

3.1 Improvements to the internal road layout and structure with bollard lighting should be an improvement and better service the area without causing further adverse effect on the countryside than is already permitted.

3.2 The extensive Transport Statement is noted but the application appears to apply for nearly 1,000% increase in cars without taking into account the increase in commercial vehicles, including heavy goods vehicles. Although it is appreciated that the bulk of the goods vehicle movements will be to and from Waterloo Cross, cars will be coming from all directions. It is therefore strongly suggested that a proper right turn lane be constructed opposite the main entrance to cater for vehicles coming from the Willand direction. The potential increase in traffic flow towards Waterloo Cross also raises further concerns as to the safety aspect of Leonards Moor Cross where at times there is a considerable increase in traffic at school entry and exit times. This will be even more important to aid traffic flow for the occasions that the M5 is closed and traffic is diverted via the A38 and B3181.

3.3 The proposals for foul water/sewage which results in connection to mains services must be an improvement to the separate systems currently in place or proposed. It is suggested that a firm planning condition be put in place to achieve attachment to mains sewage systems for all sites. The surface water provisions are questioned when one looks at the land assessment but 'experts' have to decide that issue.

3.4 Willand Parish Council would like to see a physical boundary accompanied by robust and enforceable conditions to ensure that the boundary is retained and not subjected to further expansion of the site.

### 4. PROPOSED BUILDING CHANGE OF USE, DEMOLITION AND RECONSTRUCTION

4.1 Within the constraints of the observation and comments contained in the preceding paragraphs Willand Parish Council make the comments contained in the following paragraphs in relation to the buildings retained or proposed and as numbered on the Site Plan Drawing Number 1871 001 Revision B.

4.2 No objections are raised with regard to the applied for changes of use to B1, B2 and B8 categories for all buildings to allow for the required flexibility of use unless specifically mentioned relevant to a particular building. [Paragraphs 4.5 & 4.6 apply.]

4.2 No observations are made with regard to the proposed demolitions other than to support the return of the site of Chicken House 2 to a green field area. There are concerns as to the proposed replacement of this building elsewhere on the site which is covered in paragraph 4.5.

4.3 No current observations are made in relation to buildings numbered units 0, 1, 2, 4, and 14 as these appear to be outside of the application area and already have approvals.

4.4 No additional comment is made in relation to the proposals for buildings numbered units 6, 7, 8, 9, 10, 11, 12, 13 and The Forge.

4.5 Proposed Building Unit 5 - This is alleged to be to replace the Chicken House 2 from by the Uffculme Road. The inference is made that it will be almost 'like for like' replacement but be included on the

main site. Willand Parish Council recommend refusal of this portion of the application for the reasons listed below. It is NOT a 'like for like' replacement.

4.5(i) The Design and Access Statement in paragraph 4.9 states "The proposed building is of comparable scale to the existing Poultry House 2 and therefore represents a like for like replacement." Paragraph 5.2 of the same document gives the relevant sizes of the existing and proposed buildings. Separate elevation drawings are also provided for the existing chicken house and the proposed building which at first sight look to be similar.

4.5(ii) This information is considered to be incomplete and intended to mislead anyone not looking at matters in detail. The elevation drawings of the existing chicken house are at a scale of 1:100; the elevation drawings for proposed Unit 5 are at a scale of 1:200. It makes them look similar but they are not in reality.

4.5(iii) The Design and Access Statement in paragraph 5.2 states "The existing building has a footprint of 1,695 square metres, with a proposed footprint of 1,870 square metres, an increase of 11%." [It is in fact 10.4%] What is not shown is the increase in volume which amounts to 146.7% due to the massive increase in eaves and ridge heights.

4.6 Existing Building Unit 3 - This is an existing building which was built under approval 10/01689/MFUL. As far as can be ascertained this building has never been used for the intended approved purpose. There is mention that it has been used for non approved purposes. The current Design and Access Statement at paragraph 5.1 states "Unit 3 has existing consent for the manufacture of egg packaging materials. It is proposed to vary condition 13, and remove condition 14 on that consent, to allow the use of the building for general B1/B2/B8 use, and also to introduce new door openings as noted on the submitted plans."

4.6(i) This building was applied for and received approval for a specific purpose on 6th January 2011 and Condition 13 reads "The building hereby permitted shall be used for the manufacturing of non-plastic egg packaging materials (including non-plastic egg boxes and/or non-plastic egg cartons and/or non-plastic egg trays) and for no other purpose (including any other purpose in Class B2 or B1 or B8 of the Schedule to The Town and Country Planning (Use Classes) Order 1987 (as amended)), or in any provision equivalent to those Classes in any statutory instrument revoking and re-enacting that Order with or without modification." The reason recorded for this condition is "To concur with the nature of the application having regard to the submitted details in respect of which the Local Planning Authority consider the proposed use of the proposed building to be an acceptable form of farm diversification development having regard to current development plan policies in that respect in this instance but other B2, B1 and B8 Uses in this location may not be. Also, to control the character, and to minimise the volume of, traffic attracted to the site."

4.6(ii) Condition 14 is asked to be removed but at the time it is argued that it was included to prevent any manipulation of the planning system. Condition 14 states "Should the building hereby permitted become redundant for the purposes as set out in condition 13 of this permission, it shall be demolished and all materials resulting from the demolition shall be removed from the site (including the removal of the production machinery within this building) within 1 year of the date this occurs." The reason recorded for this condition is "This building is permitted for the use specified as the Local Planning Authority consider on the basis of the submitted information it would be an acceptable form of farm diversification having regard to current development plan policies in that respect."

4.6(iii) The conditions were very clear and if the planning system is to retain any credibility the conditions should be implemented. For these reasons Willand Parish Council object to this particular section of the application and recommend refusal.

## 5. CONCLUSION

5.1 There has been much development on this site with and without planning consent. Planning enforcement has been ineffective which has allowed a number of breaches. This current application is recognised as an attempt to regularise the position BUT there is scepticism that this will be the case in the light of some of the elements of the application and the apparent support from some MDDC officers including the Chief Executive.



**HIGHWAY AUTHORITY** - 6th October 2014 - The Highway Authority has no objection to the above development and the transport assessment submitted with application 14/01310/MFUL supports such a change in condition.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT:-

**HALBERTON PARISH COUNCIL** - 25th September 2014 - No objections

**ENVIRONMENTAL HEALTH** - 23rd September 2014 -

Contaminated Land N/A

Air Quality N/A

Drainage: no objections to this proposal

Noise & other nuisances: no objections to this proposal

Housing Standards N/A

Licensing: no comments

Food Hygiene: no fundamental objection on these grounds

Private Water Supplies: Further information is required prior to any comment. No record is held as being a private supply. However, if a private water supply is serving any other associated dwelling, the supply would become a small or Commercial (if let) private supply and subject to the Private Water Supply Regulations 2009. As such a private water risk assessment and sampling regime will need to be undertaken by this Authority prior to any residential or commercial use.

Health and Safety: no fundamental objection on these grounds

## **REPRESENTATIONS**

None received at the time of writing.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

**The main considerations in the determination of this application are:**

- 1. Planning History and the implications of removing the condition**
- 2. Highways**
- 3. Other matters**

### **1. Planning History and the implications of removing the condition**

Over the years Hitchcocks Farm has been subject of a number of applications for the erection of agricultural buildings and then the change of use or replacement of those and other buildings on the site for commercial use. There is no longer any commercial scale farming activities occurring at the Farm, with the cattle having been sold in 2013 and the poultry buildings also now being empty. There is currently an application submitted (ref. 14/01310/MFUL) relating to the remainder of the wider agricultural site to enable its use for commercial purposes and this is anticipated to come before the Planning Committee at the next meeting on 5th November 2014. Justification for the removal of the condition subject of this application has been provided as part of the wider application.

The building known as The Forge is presently being used as a car repairs garage (a B2 use) in breach of the planning permission, however it is noted that no complaints about this use have been received to date. The building known as Unit 11 is understood to be presently unoccupied.

The Forge building has a footprint of approximately 266 square metres and Unit 11 approximately 207

square metres. Following changes introduced in 2013, permitted development rights exist for the change of use of agricultural buildings to B1 and B8 uses up to a cumulative floorspace of 500 square metres per farm. Whilst the buildings subject of this application would not be capable of benefitting from these provisions as they are already in an employment use, it is clear that the government supports the principle of the provision of employment premises on farms. Equally, the findings of Mid Devon's Employment Land Review (ELR) produced in 2013 states that Mid Devon's portfolio of employment sites needs to be 'rebalanced' as a significant proportion is tied up in large strategic allocations which are dependent on the provision of significant additional infrastructure. The ELR recommends the allocation of a number of smaller sites which would not be burdened with the same time and infrastructure constraints, and could be delivered in the short-to-medium term. In light of this the report recommends that development management policies be applied flexibly to enable smaller rural employment sites to come forward throughout the district. The annual Employment Land Survey published by MDDC indicates that both permissions and completions of employment floor space are below the figures aimed for in policy COR4 of the Core Strategy (Local Plan Part 1), which over the plan period seeks the development of 300,000 square metres of B1, B2 and B8 floorspace, equating to an annual average of 15,000 square metres. In the seven years to 31st March 2014 since the adoption of the Core Strategy (Local Plan Part 1), only 37,740 square metres of employment floor space has been completed. The buildings the subject of this application will have already been counted in the completions figures as they have B1 and B8 uses and therefore the removal of the occupancy condition will not increase the amount of floorspace developed, rather it will enable their use by a wider commercial market.

The removal of the conditions is not sought to allow a particular end user to occupy the buildings and so the application fails to meet with policy DM20 of Local Plan Part 3 (Development Management Policies), although as the commercial use of the buildings is already consented this policy is considered to carry little weight. However, the site is relatively close to the villages of Uffculme and Willand and is reasonably accessible by bicycle as the National Cycle Network route 3 runs immediately to the west. Although the buildings are no longer proposed for use by Tilhill Forestry, which partly justified their change of use in the first instance, as is detailed below, the only practical issue surrounding the use of the buildings for other employment activities are highway considerations and given the government's broad support for ensuring the rural economy prospers and the findings of the ELR, the removal of the condition is considered appropriate and complies with the presumption in favour of sustainable development set out in policy DM1 of Local Plan Part 3 (Development Management Policies) and in the National Planning Policy Framework.

The applicants covering letter supporting the application states that they seek consent to allow B1 Light Industrial, B2 General Industrial and B8 Wholesale and Distribution uses, however the original permission sought only B1 and B8 uses. Permitted Development rights exist for the change of use to/from B1 and B8 uses, however they do not permit such uses to change to B2 activities without planning permission. Whilst there are no in principle objections to the use of the buildings for B2 uses, the description of the original development was for B1 and B8 uses and it would be inappropriate to introduce a B2 use via this current application. The use of the building for B2 uses will be addressed in the application coming before the Planning Committee in November.

## **2. Highways**

Currently the two buildings are accessed via the same access which serves the existing Farmhouse and the Tilhill Forestry Offices. This exits on to the single carriageway lane linking the B3181 Willand to A38 road to the north and the B3440 Willand to Uffculme road to the south. As part of the application which granted their change of use, the Highway Authority considered that the use of this access by the two buildings if they were not in use in conjunction with Tilhill Forestry would potentially have an unacceptable highway impact. However part of the larger application coming before the Planning Committee in November it is proposed that this access be closed to vehicles other than to give access to the Farmhouse and the Tilhill Forestry Offices and therefore that The Forge and Unit 11 be accessed via the main site access directly onto the B3181. Subject to this occurring, the Highway Authority has no objections to the proposed removal of the condition. A new condition is recommended for imposition to secure the closure of this access to vehicular traffic other than those using the Farmhouse and the Tilhill Forestry Offices.

## **3. Other matters**

The nearest residential property other than Hitchcocks Farmhouse itself lies approximately 77 metres to the

south, however this is also in the ownership of the applicant. Environmental Health have raised no objections on the grounds of noise or other nuisances and accordingly it is not considered that the use of the premises for commercial use other than in conjunction with the existing office premises will cause demonstrable harm to the privacy or amenity of neighbouring properties.

Environmental Health has made comments regarding the potential use of a private water supply to serve the two units. The applicant has confirmed that the two units are already connected to a mains water supply and so these comments from Environmental Health are of no relevance.

## **CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Following these access works, motorised vehicular access to the buildings subject of this permission (known as Unit 11 and The Forge) shall only be obtained from the main Hitchcocks Farm access onto the B3181, Willand to A38 road.

Within two calendar months of the date of this permission, a scheme for the permanent closure of the existing access currently serving the site from the S3614, other than to give access to Hitchcocks Farmhouse and the premises shown on the approved plans as 'Tilhill Forestry Office Building' shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a timescale for the closure works. Once approved the development shall be carried out strictly in accordance with the approved scheme.

## **REASONS FOR CONDITIONS**

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. In the interests of highway safety as the existing access onto the S3614 is sub-standard to cater for additional traffic arising from the proposed development.

## **INFORMATIVE NOTE**

1. You are advised that the grant of this planning permission does not include B2 General Industrial Use.

## **REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT**

The proposal seeks to remove the occupancy condition restricting the use of the buildings to occupation in conjunction with an existing business premises on the site to enable their use by separate businesses. The principle of employment development at these premises was accepted with the grant of the 2011 planning permission for the change of use and the scale of the development is small and is considered to be supported by the findings of the Mid Devon Employment Land Review. The access to the two buildings will be derived from the main entrance to the Hitchcocks Farm site off the B3181 road and subject to a condition requiring this, the proposal will not cause harm to highway safety. The buildings are of a siting, design, scale and use that will not harm the rural character of the area. The proposal will be sufficiently distant from residential properties in the locality to have no significant effect on the residential amenities of the occupiers of those properties to any extent to substantiate a refusal of this application on those grounds. Consequently, the proposal is considered to comply with Policies COR1, COR4, COR5, COR9, COR18 of the Mid Devon Core Strategy (Local Plan Part 1), Policies DM1, DM2 and DM8 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework. The application is therefore recommended as a grant of conditional planning permission.

Jonathan Guscott  
Head of Planning and Regeneration