

## PLANNING COMMITTEE AGENDA - 18th June 2014

### Applications of a non-delegated nature

- | <u>Item No.</u> | Description   |
|-----------------|---|
| 1.              | <p>13/01605/MFUL - Erection of a 500kW anaerobic digester and associated works with 4 silage clamps at Land at NGR 299621 112764, (Red Linhay), Crown Hill.</p> <p><b>RECOMMENDATION</b><br/>Grant permission subject to conditions.</p>  |
| 2.              | <p>14/00328/MFUL - Erection of agricultural livestock and storage buildings (2107sqm of floor space), construction of new vehicle access, slurry handling, storage and treatment system, private weighbridge and spoil grading/bund at Land at NGR 304227 114634, (Adjacent To Holbrook Interchange), Sampford Peverell.</p> <p><b>RECOMMENDATION</b><br/>Grant permission subject to conditions.</p> |
| 3.              | <p>14/00476/FULL - Change of use of land for 1 traveller pitch and associated works including 1 utility room and retention of hardstanding at Djangos Rest, Cullompton, Devon.</p> <p><b>RECOMMENDATION</b><br/>Grant permission subject to conditions.</p>   |

**Application No. 13/01605/MFUL**

**Plans List No. 1**

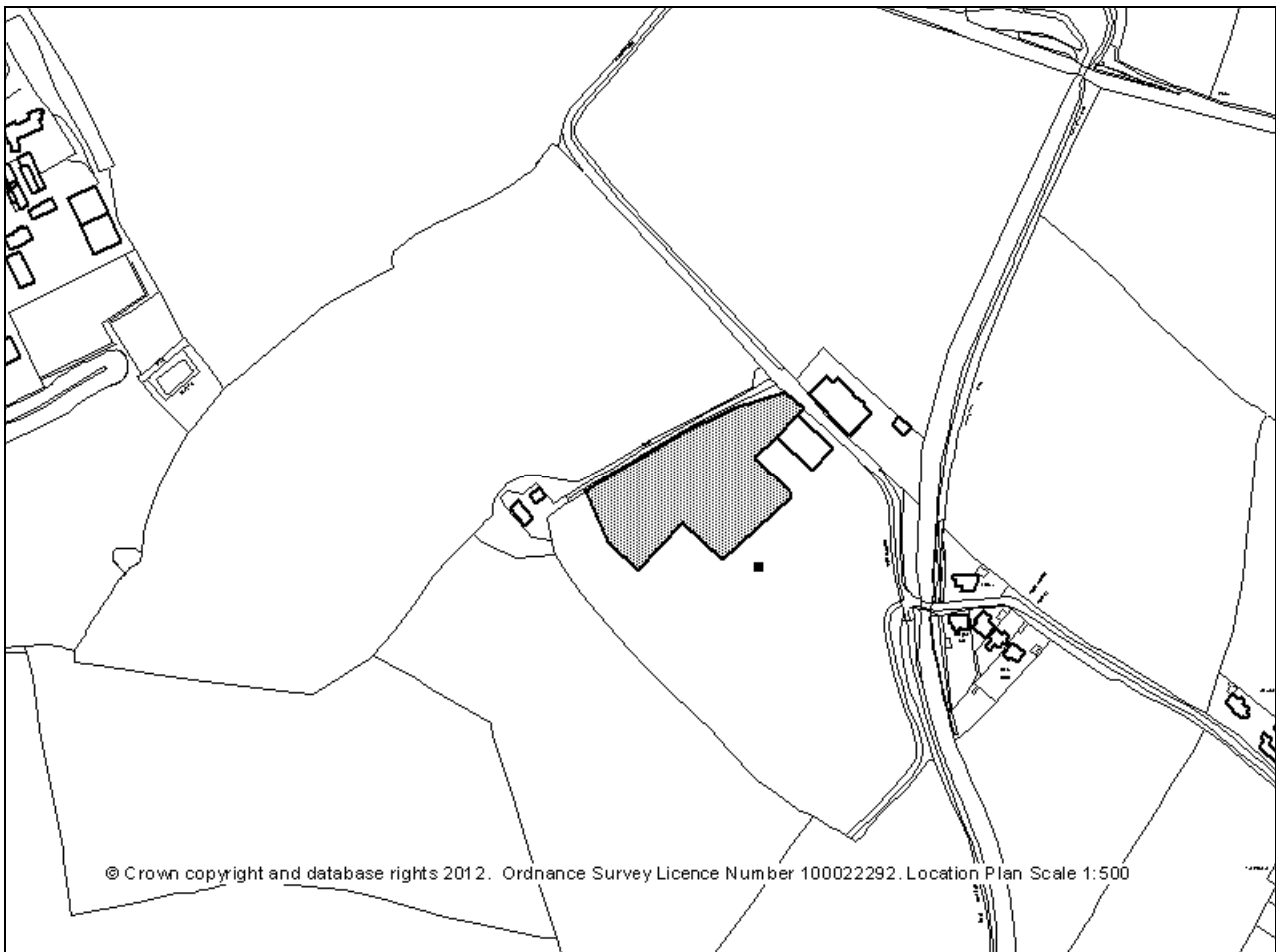
**Grid Ref:** 299621 : 112764

**Applicant:** Greener For Life  
Energy Ltd

**Location:** Land at NGR 299621  
112764 (Red Linhay)  
Crown Hill

**Proposal:** Erection of a 500kW  
anaerobic digester and  
associated works with  
4 silage clamps

**Date Valid:** 10th January 2014



## **Application No. 13/01605/MFUL**

### **RECOMMENDATION**

Grant permission subject to conditions and the completion of a unilateral agreement to implement the construction of a bund and planting in accordance with a scheme to have been submitted to and approved in writing by the Local Planning Authority.

### **PROPOSED DEVELOPMENT**

The proposed development is for the installation of an anaerobic digester (AD) to generate 500kW of electricity converted from biogas via a combined heat and power unit (CHP). Some of the power will be used to run the site with the remainder exported to the National Grid. The site is a pasture field which forms part of the Hartnoll Farm agricultural holding accessed via the existing access on Crown Hill and is adjacent to existing agricultural buildings associated with Hartnoll Farm.

The AD plant comprises:

- A digester tank: height 7m, diameter 24.9m and capacity 4300 cubic metres with a gas collection dome above of height 4.8m.
- A digestate storage tank: height 7m, diameter 24.8m and capacity of 4500 cubic metres.
- A buffer tank: height 4m and diameter 8m.
- A control cabin housing the control panels for the anaerobic digester: 12 long, 3m wide, and 2m high
- A CHP unit: 12m long and 2.6 m wide and 7m high contained in an acoustic box
- A solids feeder tank: 9.2 m long, 3.8m wide and 2.8m high
- A separator frame and clamp: 9m long, 7m wide, and 5.5m high
- Silage clamps comprising four bays: 14.7m wide, 29m long by 4.6m high proposed to hold silage
- A concrete yard for vehicular movements
- A GRP kiosk to house metering circuit breaker

The digester tank, digestate store, buffer tank, separator frame and clamp and solids feeder would be contained within a bund recessed into the ground by 1.4 metres. The overall area covered by the plant will be approximately 0.91 hectares.

The AD will be fed by approximately 13,925 tonnes of feedstock per annum comprising the following:

- Cow slurry - 2,000 tonnes
- Farmyard manure - 1,000
- Chicken manure - 2,000 tonnes
- Maize silage - 4,444 tonnes
- Grass silage - 2,981 tonnes
- Beet - 1500 tonnes

No animal by-products will be processed at the plant. The manures will be sourced from Swanhams Farm located approximately 4.25 km east of Halberton and Rix Farm located immediately north of the A361 between Tiverton and Bolham. The maize, grass and beet silage will be sourced from a number of local sites named by the applicant as Hartnoll Farm, Manley Lane, Maunders and 'Plots' all located within approximately 3km of the AD site and Wellington Farm which is located approximately 20km away.

The resulting products from the AD plant are digestate, heat and biogas which generate electricity via the CHP unit. The heat will be used on site to heat the digester and control cabin. The digestate will be in two forms, liquid and solid and used as a soil conditioner/fertiliser on land at Hartnoll Farm and Manley Lane. The electricity will be used to run the plant itself and the rest exported to the National Grid.

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

Waste Minimisation Statement

Odour Management Plan (dated March 2014)

Appendix 10 (showing Swanhams farm and Rix Farm - chicken, farmyard and slurry source sites)

Photograph (to illustrate GRP kiosk to house HV metering circuit breaker)  
Nutrient Management Plan  
Manure Management Plan  
Written Scheme of Investigation for Archaeological Watching Brief  
Landscape and Visual Impact Assessment  
GroundSure - Flood Insight report  
Pre-Development Flood Risk Assessment  
Extended Phase 1 Habitat Survey Report  
Envirocheck Report  
Volume 1 - Supporting Information (Post Submission Amended) - February 2014  
Volume 2 - Process Information - November 2013  
Transport Statement - October 2013  
Volume 3 - Environmental Review (post Submission Amended) - February 2014

## **PLANNING HISTORY**

08/00282/PNAG Prior notification for the erection of an agricultural storage building - No objection  
12/00585/PNAG Prior notification for the erection of an agricultural storage building  
PRIOR APPROVAL REQUIRED - LETTER SENT 17TH MAY 2012 - No objection  
12/00630/FULL Erection of an agricultural livestock building - PERMIT - June 2012

## **DEVELOPMENT PLAN POLICIES**

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

COR1 - Sustainable Communities  
COR2 - Local Distinctiveness  
COR5 - Climate Change  
COR18 - Countryside

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

DM1 - Presumption in favour of sustainable development  
DM2 - High quality design  
DM5 - Renewable and low carbon energy  
DM6 - Transport and air quality  
DM7 - Pollution  
DM8 - Parking  
DM22 - Agricultural development  
DM27 - Development affecting heritage assets

## **CONSULTATIONS**

**THE JOINT ADVISORY COMMITTEE (JAC)** - 06.02.2014 - recognises the pressing need for alternative sources of energy, minimisation of waste and agricultural diversification. It holds no general view on anaerobic digesters. The committee however is concerned about the location of the proposed plant within such close proximity to the Country Park. The Grand Western Canal serves as recreational green space for the wider area and this section sits within an attractive rural landscape which is part of that amenity value. The proposed plant is large, and will contribute to altering the character of the immediate area, especially when seen as a further addition to the recently erected large agricultural shed on the same site. The JAC considers the combined impact to be significant and detrimental to the amenity of the country park. Secondly the committee is concerned about the additional heavy vehicle movements on the narrow, winding access road.

The stretch connecting Crown Hill to the main Tiverton-Halberton road is very narrow and has blind, right angle bends. The recent road closure in Lower Town, Halberton caused a very temporary increase in traffic on the lane and the impact was significant. Vehicles frequently had trouble negotiating the route as they met large vehicles on the single track road. Quite a small increase in traffic has also resulted in very rapid degradation to the roadside verges and banks as vehicles have sought to pass. Additional heavy vehicle traffic on that route is undesirable and will reduce access amenity to Canal visitors. The route to the site from Lower Town, Halberton and Ash Thomas is even less suitable as towpath users must use the road to cross the bridge as the towpath changes from one side of the canal to the other at this point. We

understand that the applicant does not intend to use this route for heavy vehicle access. Should the application be allowed the committee feels that the planning committee should apply a condition ensuring access is not via that route in so much as that is within the planning committee's powers.

**HIGHWAY AUTHORITY** - 24th January 2014 - The Highway Authority has considered the application and has the following comments to make. The proposed development as described by the application details will give rise to a reduction in traffic, if the pumping system to Hartnoll Farm is installed and conditioned and that the feed materials are sourced from the farms identified (including Hartnoll Farm). On this basis the Highway Authority would have no objection subject to the identified farms being secured for the feed stocks and the delivery of the digestate by condition or legal agreement. Without which the applicant would be able to source the feed stock and deliver to alternative locations which would be an increase in the traffic generated by this development and highway Improvements along Crown hill would be sought in the form of passing places.

However, the Local Planning Authority will, be aware of the emerging review of the local plan and the potential for Hartnoll Farm to be included for development. It is a matter for the Local Planning Authority to consider the impact that such allocated development would have in terms of increased traffic on the network and the increase in traffic of feed stock deliveries as a result of the digestate being delivered to an alternative location and feed stock being received from alternative locations to this application site and the need for highway improvements resulting at the future date for the allocated development.

The Local Planning Authority may wish to future proof this application and negate the need for conditions over the use of the farms identified, which may prove difficult to enforce, by conditioning the provision of passing places along Crown Hill. The applicant is in control of land which would be necessary for such provision in the land edged blue and the number can be determined through the appropriate design. The Local Planning Authority may wish to discuss this with the applicant prior to a consent being granted and the Highway Authority would seek the advice of the Planning Authority prior to seeking any conditions.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, MAY WISH TO RECOMMEND CONDITIONS ON ANY GRANT OF PLANNING PERMISSION:-

**ENVIRONMENT AGENCY** - 13th January 2014 - While we have no objections to the proposal, we wish to make the following comments.

Flood Risk.

The site is under 1ha and in Flood Zone I , therefore we will not be commenting in detail on the Flood Risk Assessment, I do note there is a commitment to SUDS.

Water Quality.

Please refer to the Agricultural Development Guidance notes for the appropriate conditions and informatives.

General.

The proposed activity may require an Environmental Permit, the applicant is advised to discuss the proposal with our National Permitting Team (03708 506 506).

**HALBERTON PARISH COUNCIL** - 29th January 2014 - The Parish Council recommended refusal and its recommendation was unanimous based on the following:-

- i. Single lane road access to the application site is totally unsuitable for industrial type use.
- ii. No animal or bird waste is produced on Hartnoll Farm and would therefore lead to an inevitable increase of additional heavy vehicular movements through Halberton.
- iii. Grade I is the most versatile land and should be used for the production of food and not for the production of industrial use crops.
- iv. The digester would have an unacceptable impact on the amenities of nearby properties.

v. The digester building would visually impair the setting of the Grand Western Canal and the surrounding area.

vi. Smells emanating from the digester site could be at an unacceptable level both for local residents and users of the Grand Western Canal.

vii. No additional employment would be created.

in addition it was recommended that:-

i. an archaeological survey should be made of the proposed site.

ii. In the event of Mid Devon District Council's Planning Officer being minded to grant permission, that the application should be determined by Mid Devon District Council's Planning Committee and therefore be called in.

The clerk to liaise with Mid Devon District Council about this matter.

27th February 2014 - The Parish Council was of the view that nothing of significance had altered in relation to the application, despite the revised information/drawings. The objections submitted to Mid Devon District Council by the Parish Council previously, were unaltered other than Mid Devon District Council to be advised that as far as the Parish Council was aware the provision of a digester would not create one single extra job.

12th March 2014 - The Parish Council was of the view that nothing of significance had altered in relation to the revision and therefore the previous comments of the Parish Council remain unaltered.

**ENVIRONMENTAL HEALTH - 26th February 2014**

Contaminated Land - No objections

Air Quality - No objections

Drainage - No objections

Noise & other nuisances - Noise and Odour assessments required.

Housing Standards - N/A

Licensing - N/A

Food Hygiene - N/A

Health and Safety - No objections

5th March 2014 –

Contaminated Land - No objections

Air Quality - No objections

Drainage - No objections

Noise & other nuisances - Noise and Odour assessments required.

Housing Standards - N/A

Licensing - N/A

Food Hygiene - N/A

Private Water Supplies - No objections

Health and Safety - No objections

12th March 2014

Satisfied with the noise and odour submissions and have no objections to this proposal.

**DEVON & CORNWALL POLICE AUTHORITY - 17th January 2014 - no comment**

**WILLAND PARISH COUNCIL - 28th January 2014 - No observations.**

**HISTORIC ENVIRONMENT SERVICE - 31.01.2014** - The information submitted in support of this application does not consider the impact of the proposed development upon the archaeological resource. The application area lies in an area of high archaeological potential. Recent archaeological work in the vicinity has identified the presence of several funerary monuments in the fields to the north and west. Findspots of prehistoric tools are recorded in fields to the west and geophysical surveys undertaken there

indicate the below-ground survival of widespread prehistoric activity in the form of enclosures and funerary monuments across this landscape. Groundworks associated with the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with the known prehistoric activity in this area.

Given the high potential for survival and significance of below ground archaeological deposits associated with the prehistoric activity in the vicinity and the absence of sufficient archaeological information, the Historic Environment Team objects to this application. If further information on the impact of the development upon the archaeological resource is not submitted in support of this application then I would recommend the refusal of the application. This would be in accordance with the Mid Devon Local Plan Policy ENV7 and paragraph 128 of the National Planning Policy Framework (2012).

The additional information required to be provided by the applicant would be the results of:

1. a geophysical survey of the proposed development site, and
2. the excavation of a series of intrusive evaluative trenches to investigate any anomalies identified by the survey.

The results of these stages of work would allow the significance of heritage assets potentially affected by the development to be understood and enable an informed and reasonable planning decision to be made. It would also enable the requirement and scope of any further archaeological mitigation to be determined and implement in advance or during construction works.

I would recommend that the applicant or their agent contact this office to discuss the scope of works required and obtain contact details of professional archaeological consultants who would undertake these investigations. I would expect to provide the applicant with a Brief setting out the scope of the works required.

24th February 2014 - After my initial response requesting additional information, I have re-examined the information on the archaeological work undertaken on the archaeological sites to the north and - given the known level of truncation of the known archaeology and the limited 'footprint' of the proposed development - I would regard it unlikely that any archaeology present on site would be a constraint to development. Any archaeological deposit present could therefore be dealt with through the usual worded archaeological condition or by the implementation of this Written Scheme of Investigation submitted in support of this application. In the latter case the following worded condition could be used:

The development shall proceed in accordance with the approved document: Proposed development Hartnoll Farm, Post Hill, Tiverton, Devon - Written Scheme of Investigation for an archaeological watching brief, version 1.4.

#### Reason

'To ensure, in accordance with guidance in paragraph 5.3 for Policy DM27 of Mid Devon District Council's Local Plan and paragraph 141 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development'.

#### **REPRESENTATIONS**

108 objections received, summarised as follows:

1. Concern regarding odour from the digester, silage clamps, unloading of feedstock materials on the site and the spreading of digestate
2. Concern about the volume of additional traffic movements - in particular through Halberton
3. Potential for congestion when considered alongside other local development e.g. Waddington Park, Junction 27, Tiverton Eastern Urban extension developments and general congestion in the local area
4. Visual impact for residents, on landscape of the wider area and in particular upon the Grand Western Canal
5. Odour impact upon local residents, the wider area and in particular the Grand Western Canal
6. Adequacy of the road access to site for large vehicles and lack of passing places

7. Noise from related vehicular movements on the highway and reversing alarms within the site - especially if deliveries are made throughout the night
8. Risk of vermin being attracted to the site
9. Concern that this site will become an industrial estate - more appropriate location at Hartnoll Business Park
10. Water run-off from hard surfaced areas and the impact on existing localised flooding of the highway
11. Visual impact on Grand Western Canal and introduction of an uncharacteristic structure
12. Visual impact on the general locality and lack of proposed screening
13. Noise impact on peace of Grand Western Canal
14. Questioning figures which state that solid digestate will be used as animal bedding as there are no animal shelters on site
15. Questioning whether the stated existing figures relate to the existing site access or in fact the Hartnoll Business park access further east
16. Not seen as a farming activity
17. Loss of Grade 1 agricultural land which should be used for food production rather than energy crops
18. Impact on recent reconstruction works carried out to Grand Western Canal
19. Traffic impact on Blundells Road and Sampford Peverell
20. Impacts on Grand Western canal may reduce leisure use and important economic income from it as a visitor attraction
21. Impacts on local holiday let businesses
22. The impact of noise from the digester and machinery on local residents and stress it may cause
23. Risk of pollution incidents from digester materials, in particular risk of pollution of Grand Western Canal
24. Lack of an Environmental Impact Assessment
25. Unacceptable impact on amenity of nearby residents
26. Lack of related employment benefits
27. Impact on archaeological interests
28. Resulting traffic on Crown Hill conflicting with pedestrians, cyclist and other road users
29. Health hazard from transporting feedstocks on the public highway
30. Air pollutions
31. HGVs damaging road verges
32. Lack of need - inappropriate use of agricultural land
33. Lack of control over the applicant's stated feedstock source sites which cannot be secured by planning condition
34. Difficulty controlling odour and enforcing controls on operations
35. Flood risk on the site and adequacy of the proposed soak-away to deal with clean surface water
36. Potential for mess on roads
37. Impact upon wildlife of Grand Western Canal
38. Inappropriate location for a 'commercial waste processing plant'
39. Would be better sited nearer agricultural waste sources
40. Carbon footprint from materials being brought to site
41. Concern that this is a petrochemical industrial activity
42. Misleading visuals stitching photographs together and taken with vegetation in full leaf
43. Lack of information addressing points set out in national policy statements relating to energy and renewable energy
44. The use of land for energy crops with the environmental implications of this
45. The AD will encroach upon the green buffer between Tiverton and Halberton
46. Concern that the feedstock source sites will not produce enough material and so additional will need to be transported in from further away
47. Concern that potential public nuisance will not be adequately considered
48. Concern about the validity of the Nutrient and Manure Management Plans given that there was an error in the description of the general soil type of the site in each document.
49. Concern that future changes in feedstock types would have a resulting impact on traffic generation and resulting impacts on the local road network.
50. Concern that the silage clamps may leak and cause a pollution incident impacting the Grand Western Canal
51. Preference for location of such a development at the Hartnoll Farm Business Park
52. Concern that the site operations will result in a 'common law nuisance', that the Applicant is not the landowner nor has control over the land surrounding the application site. Disputing the assumptions and conclusions of the submitted Landscape and Visual Impact Assessment.
53. Highlighting apparent inaccuracies in the photographs which are provided in the Landscape and



Visual Impact Assessment.

54. Concern that despite statements to the contrary the site will include external storage of feedstocks.

In addition, a petition opposed to the development was received with 187 signatures. However the petition included no statement giving reasons for the objections indicated.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main issues in the determination of this application are:

1. **Policy**
2. **Access and transport**
3. **Strategic planning and land allocations**
4. **Landscape and visual impacts**
5. **Impact on neighbouring residents**
6. **Drainage**
7. **Other impacts**

1. **Policy**

### **Mid Devon Core Strategy (LP1)**

Policy COR1 seeks ensure that growth is managed so that development meets sustainability objectives, brings positive benefits, supports the diverse needs of communities and provides vibrant, safe, healthy and inclusive places where existing and future residents want to live and work.

Policy COR2 seeks to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets, preserve Mid Devon's landscape character, and promote the efficient use and conservation of natural resources of land, water and energy.

Policy COR5 seeks to contribute towards targets for the reduction of greenhouse gas emissions and support the development of renewable energy capacity in locations with an acceptable local impact including, visual, on nearby residents and wildlife.

Policy COR18 seeks to control development in the open countryside and specifically permits renewable energy developments.

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

Policy DM1 states that the Council will take a positive approach to sustainable development and approve wherever possible proposals that improve the economic, social and environmental conditions in the area.

Policy DM2 requires development to demonstrate a clear understanding of the site and surrounding area and to take into account impacts on local character and landscapes, biodiversity and heritage assets, impacts on neighbouring uses and appropriate drainage solutions.

Policy DM5 states that proposals for renewable or low carbon energy will be permitted where they do not have significant adverse impacts on the character, amenity and visual quality of the area, including cumulative impacts of similar developments, within the parish or adjoining parishes.

Policy DM5 is designed to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily.

Policy DM6 requires development proposals that would give rise to significant levels of vehicular movement to be accompanied by a transport assessment to include mitigation measures.

Policy DM7 permits development where the direct, indirect and cumulative effects of pollution will not have an unacceptable negative impact on health, the natural environment and general amenity.

Policy DM22 permits agricultural development where it is reasonably necessary to support farming activity on the farm or in the immediate agricultural community, where it is located to minimise adverse effects on

the living conditions of local residents and to respect the character and appearance of the area, and where it will not have an unacceptable adverse impact on the environment or the local road network.

Policy DM27 Seeks to protect heritage assets and their settings, including Conservation Areas recognising that they are an irreplaceable resource.

### **National Planning Policy Framework (NPPF)**

The NPPF has a presumption in favour of sustainable development which requires development which accords with the development plan to be approved without delay. It specifically requires planning to encourage the use of renewable resources, for example, by the development of renewable energy and requires significant weight to be placed on the need to support economic growth through the planning system.

The NPPF sets out core planning principles which include: seeking to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings, and; supporting the transition to a low carbon future in a changing climate, encouraging the reuse of existing resource and encouraging the use of renewable resources (for example by the development of renewable energy).

The NPPF suggests that developments should be located and designed where practical to accommodate the efficient delivery of goods and supplies.

The NPPF states that local planning authorities should not refuse planning permission for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have been mitigated by good design (unless the concern relates to a designated heritage asset and the impact would cause material harm to the asset or its setting which is not outweighed by the proposal's economic, social and environmental benefits).

The NPPF supports the rural economy by promoting the development and diversification of agricultural businesses taking a positive approach to sustainable development in rural areas.

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The NPPF supports the rural economy by promoting the development and diversification of agricultural businesses taking a positive approach to sustainable development in rural areas.

The NPPF requires a safe and suitable access to be provided to the site and for improvements to be made to the transport network which cost-effectively limit the significant impacts of development. It states that development should only be refused on transport grounds where the residual cumulative impacts are severe.

The NPPF states that local planning authorities should help increase the use and supply of renewable

energies and design their policies to maximise renewable developments whilst ensuring that adverse impacts are addressed satisfactorily, including cumulative impacts. It states that applicants should not need to demonstrate the overall need for renewable energy and requires local planning authorities to approve applications where the impacts are (or can be made) acceptable.

The NPPF states that Local Planning Authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.

The NPPF Planning policies and decisions should aim to mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions; recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

### **Devon Waste Local Plan**

Policy WPC1 (Sustainable Waste Management) states that planning applications for waste management facilities will only be permitted where they accord with the Objectives of the Waste Local Plan and form part of an integrated and sustainable waste management strategy for the County. When assessing a planning application for a waste management facility, regard will be had to:

- (i) the waste hierarchy;
- (ii) minimising the transportation of waste;
- (iii) self-sufficiency; and
- (iv) whether any potential adverse effects on the environment which cannot be mitigated are outweighed by wider environmental benefits.

## **2. Access and transport**

The agricultural element of the business at Hartnoll Farm (Red Linhay) is predominantly arable farming comprising in the main of maize/corn production which is then exported from the farm.

The application site is located approximately 1.5km west of Halberton and 5km east of Tiverton. The site is positioned south of Crown Hill. The applicant states that the site has been chosen for its proximity to the land which will provide the necessary feedstocks and the land over which the digestate can be spread.

The Transport Statement (TS) states that vehicles related to the proposed AD plant would travel to and from the application site via Post Hill only. This is the same route taken by traffic generated by existing agricultural activities at Hartnoll Farm for the delivery of grain to the two storage barns and products for conditioning/fertilising land. The site access currently serves the landowner's dwelling as well as the existing two agricultural barns and the proposed AD site. Plans show that there are adequate visibility splays at this access and HGV's can turn into the site and turn within the site using the space at the mouth of the silage clamps.

The feedstock for the AD plant would be provided by the farm business run by the owner of Hartnoll Farm - this refers to their wider holdings and not just the Hartnoll Farm site. Farmyard manure and slurry would be sourced from Rix Farm and chicken manure from Swanhams Farm. Sites identified on the submitted plans as 'Plots', Manley Lane, Maunders, Hartnoll Farm and Wellington Farm would provide maize, beet, wheat for use in the AD.

Silage would be delivered in trailers and stored in silage clamps and farmyard manure also delivered to site in trailers. Slurry would be brought to site in 10 tonne tankers over the course of a day and held in the buffer tank before being used in the digester.

The supporting documentation states that there will be a considerable reduction in traffic going to and from the wider Hartnoll Farm site (which covers 148.92 hectares) as a result of the proposal. The figures provided for the vehicle movements at present show:

- Slurry, compost, chicken manure, fertiliser and farmyard manure transported to the site - 809 loads

- annually  
- Silage, maize, wheat and straw leaving the site - 449 loads annually

Averaged over the year this represents an average of approximately 4 loads (8 vehicle movements) per day based on a 6 day working week across the year.

In comparison, the proposal is anticipated to reduce the volume of material being transported to the site and also the volume of material leaving the site. This is partly because where crops are currently transported to the adjacent agricultural barns for drying and storage and then transportation off site, fewer loads of these crops will be required as feedstock for the AD and there will be fewer movements associated with removing the digestate as some will be pumped by pipe to adjacent fields. Therefore, the proposed development is anticipated to generate the following:

- Slurry and manure transported to the site - 300 loads annually
- Grass, maize, silage and beet loads transported to the site - 339 loads annually
- Digestate transported by road off the site - 145 loads annually

Averaged over the year this represents an average of approximately 3 loads per day (6 vehicle movements) based on a 6 day working week across the year.

It should be noted that the total loads of digestate stated here does not account for the total amount of digestate produced or removed from site - the remainder will be pumped from the AD to surrounding Hartnoll and Manley Lane fields for spreading using a temporary roll out 'umbilical pipe' which feeds spreading equipment on a tractor. Furthermore, the operation of the AD plant will remove the need for fertiliser and compost to be delivered to the site as the digestate will be used instead.

These figures show that in terms of traffic generation, the proposed development would reduce the number of vehicle movements on the local highway network by 474 loads (948 movements per year), therefore resulting in a net decrease in traffic when compared to the existing traffic movements occurring at the same site.

Respondents to the consultation have queried whether these existing traffic movements actually relate to the access to the site that will serve the AD plant, or in fact the Hartnoll Business Park located on the landowner's wider holding approximately 300m northwest of the site. However, the landowner has confirmed that the traffic movements stated relate to the agricultural access which is the subject of this application.

The Highway Authority notes that, as there is no land in the ownership of the applicant (Greener 4 Life), planning conditions cannot be used to secure the feedstock sources and pumping and destinations of digestate. This means that the LPA must consider the possibility that the applicant would be able to source the feedstock and deliver to alternative locations which could have an impact on the validity of the figures in the Transport Statement provided and on which this application is being assessed. Recognising this, the Highway Authority recommended that a passing place be provided between the site access and the junction of Crown Hill with Post Hill. The applicant has accordingly amended the site boundary to include the land necessary to provide a passing place. The provision of a passing place also addresses some of the concerns relating to traffic on Crown Hill raised by respondents. Full details of the design for the proposed passing place will be required by planning condition which therefore satisfies the requirements of policy DM22 d).

While it is noted that a high proportion of the neighbour objections received in relation to this proposal raise concern about the impact of traffic on amenity and road conditions, the Inspector for the recent Edgeworthy Farm appeal which was allowed (Re Ref: APP/Y1138/A/14/2211282) accepted that this could not constitute a reason for refusal as the vehicles involved in serving the site would be a legal size for the highway and the roads would be used legally. It would therefore be unreasonable for the Highway Authority to seek any improvements or maintenance for such use or to restrict the use of that road. Furthermore, the Highway Authority has raised no objection to the proposal since it includes the provision of a passing place on Crown Hill to accommodate the traffic serving the site.

### **3. Strategic planning and land allocations**

The figures in the Transport Statement are based on the presumption that Hartnoll Farm will be a key contributor to the provision of feedstock for the anaerobic digester and land where the digestate would be spread.

Hartnoll Farm is included as a key allocation option for housing in the Local Plan Review options document (January 2014) and is the only available option which has been identified as providing sufficient capacity for Tiverton under the town-centric option (see Local Plan Review options document Policies S3, S11 and TIV2). Although it is recognised that currently the Local Plan Review is not at an advanced stage and can be accorded no weight in planning decisions, the impact of a grant of planning permission for an anaerobic digester at this site must be considered. There are 2 potential scenarios:

- a. If planning permission secured (by condition or legal agreement) the use of Hartnoll Farm as a key contributor of feedstock for the anaerobic digester and as the land where digestate will be spread, it would pre-empt the Council's strategic decision on the future distribution of development across Mid Devon. However, National Planning Practice Guidance (2014) indicates that to justify a refusal on grounds of prematurity, emerging plans should be at an advanced stage and the impact of a proposal so substantial or its cumulative impact so significant that to grant permission would undermine the plan making process. As such, it is unlikely that prematurity would justify a refusal of the application.
- b. If permission did not require the use of the wider Hartnoll Farm site for the spreading of digestate the impact on the plan-making process would be minimal, but this would call into question the validity of the results of the Transport Statement for the proposal. Alternative feedstock and spreading sites have not been considered in the figures provided, nor the implications of this for the level of traffic to and from the site. It should also be noted that the proposed site is likely to fall within the Green Infrastructure buffer for the Hartnoll Farm housing allocation option, intended to protect the Grand Western Canal's amenity, wildlife and heritage.

It is not considered to be necessary or reasonable to restrict the feedstock source sites and digestate spreading sites through a legal agreement because, as well as being a renewable energy project, this is an agricultural process using agricultural products and traffic movements relating to the movement of waste agricultural products and crops are likely to be on the public highway regardless of their end use. In addition, in such a rural area there are likely to be a number of alternative feedstock sources available. Policy DM22 a) requires that agricultural development is reasonably necessary to support farming activity on that farm or in the immediate agricultural community. It is unlikely to benefit the applicant to source feedstock from outside the local area and so any further control over this element of the development is not considered necessary.

The proposed site is also approximately 700m from the eastern edge of the Tiverton Eastern Urban Extension mixed use allocation in the current Local Plan and the impact of the AD on this allocation should be considered. The Tiverton Eastern Urban Extension draft Masterplan Supplementary Planning Document (SPD) proposes a significantly lower quantum of development than the policy allocation for the site (1500 houses as opposed to up to 2000 houses and 30,000 square metres of employment floorspace as opposed to up to 130,000 square metres of floorspace) and includes traffic management along Blundells Road between Post Hill and Heathcoat Way, which is the route the submitted Transport Statement states that the AD vehicles would use. As it is, the submitted Transport Statement does not include a thorough consideration of the impacts on Blundell's Road and the Tiverton Eastern Urban Extension. However as the predicted daily average number of vehicle movements is lower than those currently accessing the application site and having regard to the Inspector's findings in the 2010 appeal at Hartnoll Farm Business Centre which related to traffic impacts and which found that highway safety would not be compromised as a result of a small increase in traffic movements, it is not considered that a reason for refusal could be justified on the grounds of the impact upon traffic along Blundell's Road.

#### **4. Land and visual impacts**

The AD site is proposed to be located in a field adjacent to two existing buildings used as grain stores and farm equipment storage and within fields used as grassland for grazing and harvesting. There is also a large timber yard located on the far side of the Crown Hill lane from which the AD site is accessed, though this is less prominent in the local landscape. The site is located on land that is typical of the Mid Devon lowland plains landscape character area and is bordered on all four sides by hedgerows with some small trees. The land slopes from north to south away from the proposed location for the plant. The plant will therefore be prominent in some local views of the site, though the impact is reduced by the location of the

plant adjacent to two sizeable agricultural buildings. As such it would be seen grouped closely together with existing agricultural structures relating to the same farm business and not as a solitary new built form in the landscape.

A plan has been provided which shows the grid connection is proposed to an existing pole approximately 210m south east of the site. The cabling will be laid underground so there is no visual impact in that respect.

All existing hedgerows would be retained and a planning condition is recommended to secure their maintenance and therefore screening properties in the longer term.

The Landscape and Visual Impact Assessment was conducted over a 5km radius study area and a total of 10 viewpoints. In summary, the assessment concludes that the significant effects of the proposed development would be limited to:

- The character of the landscape of the site and immediately surrounding area which would be limited to a small part of the Culm Valley Lowlands Landscape Character Area.
- The visual amenity of residents in properties up to approximately 1km from the proposed development, with open views towards the proposed development. These are limited to a few properties at Crown Hill Bridge as well as possible some other properties on the outskirts of Halberton and northwest near Hartnoll Cross.
- Walkers on a limited section of the Grand Western canal, boat users on the canal in the immediate vicinity of the site, cyclists on the section of Sustrans route adjacent to the site and users of a limited part of the country park adjacent to the site.

The assessment also concludes that there would not be any significant effects on the landscape fabric, the character of the landscapes beyond the immediate surroundings of the site, or the visual amenity of most residents, or walkers, equestrian and cyclists in the study area or motorists on the local highway network.

Many of the responses to the consultation raised concern based on visual impact, in particular the impact on the Grand Western Canal (GWC) which is located approximately 200m to the north and 70m to the east of the proposed AD site and designated as a Conservation Area, Country Park and Local Nature Reserve. The appearance and setting of the GWC is important to its special character and qualities, and the impact of the development must be taken into account in this regard. The proposed AD will introduce a large structure into the landscape close to and visible from the canal. The viewpoints provided in the Landscape and Visual Impact Assessment show that the AD will be more prominent in some views from the canal than others, depending on the density of vegetation along the canal and in the intervening landscape. However, it is noted that the viewpoints provided show the landscape in full leaf so the development may be more prominent in winter. It is also noted that the viewpoints do not include a photomontage or wireframes siting the development structures at scale in the landscape. Neighbour consultation responses and observation made by Members during their site visit highlighted that the visuals providing in the planning application do not appear to accurately reflect the views of the site from the points indicated. Some alternative photographs provided by a member of the public have already been circulated to Members via the Member Services Officer 30<sup>th</sup> May 2014 and other photographs will be presented as part of the PowerPoint presentation at Committee.

For the purposes of this report, and by reading the viewpoints in conjunction with the written assessment, the revised elevation plans and topographical survey, it is possible to get an adequate impression of the impact and significance of the development in the landscape. For example, the elevation plans show the tip of the dome on the AD to be lower than the height of the tallest existing agricultural building immediately adjacent to it and so this can be considered when assessing the viewpoints. It should also be noted that the AD plant will be set within a bund and the site will be subject of some cut and fill that will sit the plant into the natural slope of the site and slightly reduce the overall height above existing ground level.

The impact of the development can be further mitigated by the external finishes chosen. Correspondence from the applicant confirms that all proposed structures would be green. This is not detailed on the plans provided and so it is recommended that a planning condition is used to secure this important detail. A submitted planting plan shows a goat willow and downy birch to be planted along the northern boundary of the site. There is limited potential for further planting within the site boundary and there is no other land in the ownership of the applicant. Given the scale of the proposed building and its visibility in some views from the GWC, the applicant and the landowner have agreed to enter into a unilateral agreement to secure construction of a bund and planting in accordance with a scheme to have been submitted to and approved in

writing by the Local Planning Authority. The purpose of the bund and screening is to screen the development from views from the Grand Western Canal Conservation Area where Crown Hill crosses the canal, and from properties in that location. The bund shall be approximately 15 metres wide and 3 metres high and shall include substantial planting in order to offer effective screening of the building which is 11.8 metres high to the top of the dome.

In order to properly assess the impact of the development upon the landscape, it is important to recognise that landscape has a perceptual aspect, not just a physical one. The European Landscape Convention defines landscape as 'an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors'. The Mid Devon Landscape Character Assessment identifies the site area as Lowland Plains the key characteristics it describes as including large scale farmsteads including modern steel framed buildings located on the rolling sides of the land above the valley floor. As such, the existing agricultural buildings and the proposed AD structures would appear to be typical of this landscape character type and could be perceived as part of the farming practices and patterns that have become part of the local rural character over time.

While many of the objections raise concern about visual impact both in relation to the wider rural landscape and the GWC in particular, it is considered that the intermittent views from the GWC and the immediate site context which includes 2 existing large scale agricultural buildings means that the proposed development will read as part of the existing landscape fabric and not a solitary lone feature unrelated to its surroundings. Combined with careful colour choice and potential for some additional screening with planting the development is considered to respect the character and appearance of the area in accordance with criteria b) of policy DM22 and will preserve the character and setting of the GWC, meeting policy DM22 of Local Plan Part 3 (Development Management Policies).

### **Impact on neighbouring residents**

#### **Odour**

Manures will be transferred directly to the solids feeder on arrival at site for feeding into the digester. A planning condition preventing the storage of any farmyard or chicken manure in the clamps is recommended to avoid odour nuisance and addresses some of the concerns raised by respondents. The silage stored in the clamps will be sheeted restricting potential release of odours. The application states that other liquid digestate will be stored in a lagoon if required temporarily, but discussions with the applicant revealed this detail was an error in fact the sealed digestate tanks have sufficient capacity to store the product for 6 months.

The digestate (in both solid and liquid form) will be used on land as a soil conditioner and fertiliser, in place of the slurry that is currently used. The applicant states that the digestate would have "significantly lower odour impact than slurry" as the volatile fatty acids in the raw materials is reduced in the AD process by up to 80% and so the potential for odour nuisance is significantly reduced and this would therefore reduce odour emissions during spreading. The Inspector who determined the recent appeal in relation to an AD plant at Edgeworthy Farm, Nomansland (Ref: APP/Y1138/A/14/2211282) accepted that the reduction in fatty acids as a result of digestion means that the resulting digestates are less odorous than untreated raw slurry which is currently spread on surrounding agricultural land in its raw state and odours released unchecked.

Spreading techniques allow for digestate, to be injected into the land. This is much easier to do with digestate coming from the AD compared to slurry on its own. The digester chops the fibres and with the digestion process allows a more homogeneous product, the digestate, to be either dribble barred or injected into the land minimising opportunity for release of odour.

The plant would treat the feedstock in a fully enclosed environment thus controlling odour emissions and reduce risk of odour nuisance to residents and passers-by. Slurry would be transported in tractor and (sealed) tanker and then piped from the tanker into the buffer tank so the process is completely contained. The applicant asserts that the AD process itself stabilises organic wastes avoiding uncontrolled methane (CH<sub>4</sub>) emissions and odours.

Anaerobic digestion can only take place in the absence of oxygen and so all tanks and pipe work must be airtight to keep oxygen out of the system - this will also have the effect of largely containing odours.

It is considered that all these aspects of the AD process and management of the operation adequately address concerns relating to odour raised by respondents. Environmental Health have raised no objection to the proposed development based on the odour assessment provided and further control will be applied to

the operation through the environmental permit process administered by the Environment Agency. The Inspector for the recent Edgeworthy appeal considered that these are adequate measures to protect against unacceptable odour emissions as a result of the proposed development and in line with the requirements of criteria b) and c) of policy DM22 and policy DM7 of Local Plan Part 3 (Development Management Policies).

#### Other emissions to air

No gases from the anaerobic digestions process would be released into the environment. During maintenance or in the unlikely event of a breakdown of the CHP unit, gas would be burned off via the fully enclosed flare. The only gases that would be released into the environment as a result of the proposed plan would be exhaust gases from the CHP unit which would need to be maintained within the statutory limits for such emissions.

#### Noise

The main sources of noise relating to this development are the related traffic movements from operations and the construction period, the unloading of materials on site, the running of the CHP unit and the pumping of digestate to land which will each be considered in turn.

Operating hours for deliveries and maintenance would be between 7am to 6pm Monday to Sunday. However, the applicant states that the traffic movements to and from the site would not be continuous during that period. While the transport figures given show the number of movements averaged out over the year, this is not an accurate reflection of the pattern of movements likely to take place. The applicant states that harvest of silage feedstocks will take place on approximately 20 days per year between mid-May and the end of October. At these times, delivery traffic movements may need to take place out of normal operating hours in order to complete the job while weather and light allows. This does present some level of uncertainty over the time and duration of vehicle movements, though the applicant stresses that harvests are part of normal agricultural practices and reflect the patterns of vehicle movements already taking place for deliveries of grain to the existing agricultural buildings for storage at harvest time.

Noise is also likely during the construction period which would be temporary and a construction environment management plan could be secured by planning condition to control hours of potential noise disturbance as well as dust and local traffic impacts from deliveries.

Respondents to the consultation raised concern regarding reversing alarms from delivery vehicles. Tractors and trailers making deliveries do not tend to have reversing alarms and so this leaves the slurry tanker deliveries as the only likely source of reversing alarm noise. This accounts for a small proportion of all the vehicle movements to site and so the frequency of this noise will be minimal. The existing buildings and silage tanks will also act as a noise barrier between the source of the noise and nearest properties and the GWC.

The submitted noise assessment considers that the maximum noise level at the nearest noise sensitive property is likely to be 19dB(A). This takes into account the ambient noise levels, the distance to the nearest noise sensitive property, the position of existing buildings and the proposed silage clamps which would attenuate some of the noise. Environmental Health have advised that 19dB(A) would be considered very low and well below World Health Organisation guidelines. At these levels, noise is unlikely to have any discernible impact on the tranquillity and peaceful character of the GWC.

#### Examples of familiar noise levels:

Telephone ringing	80 dB
Piano practice	60 - 70 dB
Average road noise	@ 25m - 30m 72 dB
Normal Conversation	60 -70 dB
Washing Machine	70 dB
Vacuum Cleaner	@ 1m 72 dB

No noise assessment of the equipment used to pump the digestate to adjacent fields has been provided. However, the pump is driven by a tractor engine and would be used only for a few days twice a year when the spreading is required. The tractor and pump would be located within the site and so again the buildings and silage clamps would provide some attenuation for the temporary noise event. Environmental Health has raised no concern relating to this practice. Given that the noise would be temporary and infrequent and its source is a common agricultural practice, it is not considered to be likely to cause a statutory nuisance or



present a robust reason for refusal.

#### Other

Planning permission was approved (by reserved matters) in February 2014 for a rural worker's dwelling associated with the timber yard and located approximately 10 metres north east of the proposed site access. Development has not yet commenced, but this approval was highlighted to the Council's Environmental Health officers who confirmed that this did not alter their comments.

#### **Drainage and water impacts**

Rain water from the buildings and non-silage clamp areas will be collected and channelled into a soakaway. Rain water from the clamps and effluent in the bunded area will be channelled into a drainage system and then into a buffer tank which feed the anaerobic digester. Sewerage from the WC facilities in the staff building will drain to a septic tank. Further details of these systems are recommended to be required by planning condition.

The site is in a Groundwater Nitrate Vulnerable Zone and as such the surrounding land would benefit from the use of fertilisers which have a more uniform nutrient content so that spreading rates can be better controlled on the land. While the land surrounding the site is identified as having soils with a high leaching potential, the plant is closely controlled by electronic monitoring systems and the bund within which the plant would sit has sufficient capacity to accommodate leaked material should there be a breach. The Environment Agency permit would require a bund that can contain the entire product volume plus 10%.

#### **7. Other impacts**

The operation of the biogas plant would be fully automated from an on-site central control panel which would monitor information transmitted from instruments around the plant. Marches Biogas (the technology provider) would provide a remote monitoring service via internet which allows changes to be made to the system remotely, while advice can be given over the phone. A plan would be put in place to ensure that plant is well maintained.

While the application states that the AD plant is designed to accommodate a variety of solid and liquid feedstock types to give the plant a greater degree of flexibility in the future, the application seeks permission for silage, slurry and chicken/farmyard manure only. Should the applicant wish to use different feedstock types in the future, an application to vary the permission would be required.

Although the proposal would result in just 1 additional job, the development would be operated by existing farm staff, helping to secure their employment and support diversification of this agricultural business in line with the National Planning Policy Framework.

The site does not lie within any designated wildlife site.

The Phase 1 Habitat Survey revealed no significant evidence of protected species or flora which need special consideration as a result of the proposed development.

The proposed development lies in an area of potential archaeological, prehistoric activity in the immediate vicinity demonstrated by find spots of flint tools and two ring ditches in the field to the northwest. Accordingly a Written Scheme of Investigation has been submitted with the application and as the Devon County Council Historic Environment Service raised no objection to the proposal, though a planning condition is recommended to secure the implementation of that scheme before any development commences.

There should be no risk of vermin being attracted to the site as the only materials stored outside the sealed AD system will be silage.

Respondents raised concern about the loss of Grade 1 agricultural land for the AD plant itself, and also the crops grown as part of the feedstock. However, the application site is compact and covers less than a hectare of land which has a minimal impact on ground available for other agricultural uses. The applicant states that the land used for growing the silage elements of the feedstock is already used for growing the same or similar crops and as such their use as feedstock for the AD plant would have no discernible impact on the agricultural landscape. It is also considered that there is no change of use on this land as the AD process would use farmyard and chicken manure and standard agricultural crops to produce digestate to be used as a soil conditioner. The Inspector for the recent Edgeworthy Farm appeal which was allowed,

concluded that as such the AD process "would clearly be part a productive agricultural activity. Land would thus not be taken out of productive agricultural use and nor would it become unavailable for agriculture."

Furthermore, given the relatively low land-take involved, the benefits of the scheme in respect of renewable energy production outweigh the loss of less than 1 ha of grade 1 land.

Respondents also raised concern relating to the potential for mess to be brought onto the public highway. However, the site will be set on a concrete pad with only silage stored externally in the clamps which offer only limited risk of being spread onto the road. The applicant will be bound by the normal responsibilities to keep the public highway clear of debris without the need for a specific condition to try and control this further.

The site is within a Groundwater Nitrate Vulnerable Zone and the digestate produced by the AD process offers better control over nutrients being applied to this land as well as the resulting reduction in transport movements and odour from transporting raw materials to sites for spreading.

The NPPF states that local planning authorities should help increase the use and supply of renewable energies and that applicants should not need to demonstrate the overall need for renewable energy. It also requires local planning authorities to approve applications where the impacts are (or can be made) acceptable. The proposed development would contribute to national targets for sourcing 20% of the UK's energy from renewable sources by 2020 and this report has demonstrated that the proposed development accords with Local Plan policy and the impacts are considered to be acceptable.

The AD process is an efficient way of capturing nutrients in organic wastes, including animal manures. The AD process retains these nutrients and converts them into available forms enabling a farm to plan its nutrient management and reduce its use of fossil fuel dependant mineral fertilisers. The recycling of these wastes also reflects the priorities of the waste hierarchy and Policy WPC1 of the Devon Waste Local Plan.

Significantly, the AD produces renewable energy in the form of biogas. Biogas can be used either in a conventional boiler, or as the fuel for a combined heat & power (CHP) unit. The applicant has stated that they are keen to work in partnership with Mid Devon District Council to support local plan priorities. The Allocations and Infrastructure DPD expressed the LPAs commitment to renewable and low carbon energy in policy AL/TIV/5 which seeks Renewable and low carbon energy generation to provide a significant proportion of the Tiverton Eastern Urban Expansion's energy use. The proposed AD could contribute to these ambitions, through for example, a district heating scheme which the applicant states they are willing to consider should the opportunity arise.

## **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. No development shall begin until details of the colour and finish of the building materials to be used (including the digester dome) has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with these details.
4. No development shall begin until a Construction Environment and Traffic Management Plan shall have been submitted to and approved in writing by the Local Planning Authority. The plan shall include details of:
  1. hours of working;
  2. hours of deliveries;
  3. dust suppression management measures;
  4. traffic management
  5. vehicle routing to and from the site;
  6. programme of works
  7. parking for vehicles of site personnel, operatives and visitors;
  8. storage of plant and materials;
  9. loading and unloading of plant and materials.

5. No development shall begin until full design details of the proposed passing place on Crown Hill as shown on the submitted plans shall have been submitted to and approved in writing by the Local Planning Authority. The passing place shall be provided in accordance with the approved details before any other works begin.
6. The development shall proceed in accordance with the approved document: Proposed development Hartnoll Farm, Post Hill, Tiverton, Devon - Written Scheme of Investigation for an archaeological watching brief, version 1.4, received by the Local Planning Authority on 17th February 2014.
7. No development shall take place until a detailed drainage scheme, including provision for clean surface water which shall be managed by a Sustainable Urban Drainage System, separate provision for disposal of foul waste and separate provision for disposal of dirty surface/yard water, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include specifications, a timetable for implementation and arrangements for management and its maintenance. The water management system shall be completed in accordance with the approved details and maintained for that purpose at all times.
8. There shall be no external storage of chicken and farmyard manures or slurry within the application site.
9. Unless laid as part of their management, all hedgerows within the site shall be retained at a height of not less than 1.8m above adjacent ground levels and existing trees shall be retained.
10. The feedstock for the anaerobic digester shall be slurry, farmyard and chicken manure and grass and arable crops only.
11. There shall be no floodlighting during the hours of darkness, except for low-level safety lighting for the protection of personnel or for purposes of essential maintenance.
12. The storage of digestate or other hazardous substances must be within properly constructed bunded areas of sufficient capacity to avoid contamination of any watercourse, surface water drains or groundwater in the event of a spillage.

## **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. No development shall begin until details of the colour and finish of the building materials to be used (including the digester dome) has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with these details.
4. To safeguard the amenities of the area and occupiers of nearby buildings in accordance with Policy DM2 of the Local Plan Part 3 Development Management Policies).
5. In the interest of highway safety and to ensure that adequate passing facilities are available for vehicles attracted to the site in accordance with DM2 and DM22 of the Local Plan Part 3 (Development Management Policies).
6. To ensure that an appropriate record is made of archaeological evidence that may be affected by the development in accordance with the National Planning Policy Framework.
7. To ensure adequate facilities are provided for the disposal of surface water from the development in accordance with policies DM2, DM22 and DM27 of the Local Plan Part 3 (Development Management Policies).
8. There shall be no external storage of chicken and farmyard manures or slurry within the application site.

9. In the interest of the visual amenity of the area and to protect the setting of the Grand Western Canal in accordance with policies DM2, DM22 and DM27 of the Local Plan Part 3 (Development Management Policies).
10. The application has considered as a site accepting these feedstock types only and not as a general waste facility and consideration of the impacts on the environment, neighbouring residents and the road network has been made on this basis and in order to accord with policies DM5 and DM22 of the Local Plan Part 3 (Development Management Policies).
11. To protect the rural character of the area in accordance with policies COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and DM5, DM22 and DM27 of the Local Plan Part 3 (Development Management Policies).
12. To prevent pollution of the water environment in accordance with policy DM7 of Local Plan Part 3 (Development Management Policies).

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

While a significant number of objections have been received in response to the consultation on this proposal, it is not considered that the harm to the environment, the landscape, neighbouring residents and the Grand Western Canal is significant enough to warrant refusal of the application when balanced against the benefits. The Anaerobic Digestion plant will process farm wastes into a product which will assist in improving land management techniques and will generate a source of renewable energy. The proposal has demonstrated how it will reduce traffic movements on the local highway network and improve the access to site. The impact on the Grand Western Canal is considered to be limited and is considered to be outweighed by the benefits of the proposal. Any harm likely to arise from this proposal can be adequately mitigated by the imposition of conditions. It is considered that this proposal will not cause significant harm and that the benefits of granting planning permission outweigh any limited harm that may be caused. Accordingly the application is in accordance with Mid Devon Core Strategy (Local Plan 1) policies COR1, COR2, COR5 and COR18, Local Plan Part 3 (Development Management Policies) DM1, DM2, DM5, DM6, DM7, DM8, DM22, DM27, Devon Waste Local Plan policy WPC1 and the National Planning Policy Framework.

**Application No. 14/00328/MFUL**

**Plans List No. 2**

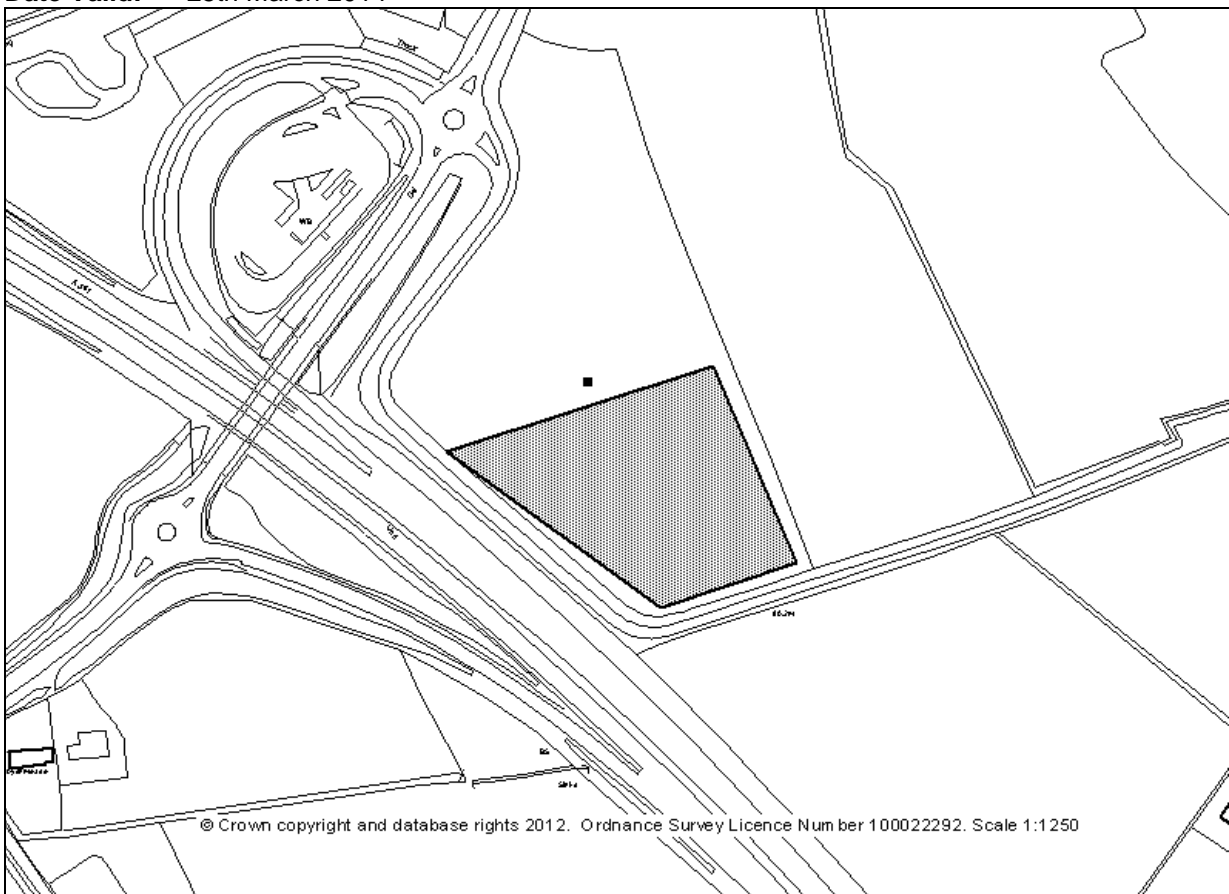
**Grid Ref:** 304226 : 114634

**Applicant:** Mr M Baker, Martyn  
Baker Livestock Ltd

**Location:** Land at NGR 304227  
114634 (Adjacent To  
Holbrook Interchange)  
Sampford Peverell

**Proposal:** Erection of agricultural  
livestock and storage  
buildings (2107sqm of  
floor space),  
construction of new  
vehicle access, slurry  
handling, storage and  
treatment system,  
private weighbridge  
and spoil grading/bund

**Date Valid:** 25th March 2014



## **Application No. 14/00328/MFUL**

### **RECOMMENDATION**

Grant permission subject to conditions.

### **PROPOSED DEVELOPMENT**

This application seeks planning permission for the erection of a livestock transfer station, including the provision of drainage facilities, a weighbridge, new access and the erection of a building to hold livestock, store feed, bedding and agricultural machinery and provide office and welfare facilities for staff and drivers.

Planning permission was granted in 2010 for the erection of a livestock transfer station and new access, however works which were commenced on site in 2013 were of a significantly different nature to those approved and resulted in the planning permission lapsing as a lawful commencement was not made within the 3 year period for implementation. The current application seeks to resolve works undertaken to date to allow for their completion.

The site is proposed to be accessed via a new access which has already been provided along the western boundary of the site, onto the C-class road which runs from the roundabout to the north of the site to the hamlet of Ayshford. Along the line of the existing hedgerow, this access has a width of 20 metres. A large amount of land has been excavated and it is proposed that the new facility be erected at this lowered ground level. The excavation has resulted in a bund of earth being present along the northern boundary of the application site. It is proposed that this bund be removed but that the earth be graded from the floor level of the proposed site, to the level of the remainder of the field. A new native species hedgerow is to be planted along this northern boundary with 4 specimen Oak trees also planted.

The bulk of the building proposed is to house the livestock in holding pens and with a smaller area for sorting the animals and loading and unloading the livestock lorries. This part of the building has dimensions 20.5m x 58.5m x 7.8m to ridge and is proposed to be open ended with cladding above eaves level at each end and with concrete walling with cladding above on the sides. The cladding is proposed to be box profile steel sheeting in a juniper green. A smaller area is proposed to provide storage for feed, bedding and machinery and measures 20.5m x 39m x 7.8m to ridge. This part of the building is also proposed to be open ended with timber vertical cladding on the side. The third part of the building provides an office and welfare block for staff and drivers and measures 7.5m x 13m x 5m to ridge. The roofs of the building are proposed to be fibre cement cladding in an Anthracite, dark grey finish and with the main roofs having 30% GRP roof lights.

A package treatment plant is proposed to cater for foul water with the outfall from this feeding an attenuation pond located in the adjacent field. A below ground manure bunker is proposed to the south of the buildings. The attenuation pond will also take surface water from the site.

Parking and turning for vehicles attracted to the site is proposed largely to the west of the buildings on a concreted surface and with a weighbridge located to the north of this.

Planning permission was granted in November 2010 (10/01363/FULL) for the erection of an agricultural livestock holding building, a new access and a 3m wide earth bank. The building allowed was 553sqm and 7m high to ridge. The current proposal is 2,096sqm. The principle of a livestock holding building has therefore established previously but the scale of the current proposal is significantly different. The determination of this application should therefore concentrate on the difference in scale of the operation and any potential impact as a result.

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

Planning Statement  
Landscape Appraisal  
Details for the Package Sewage Treatment Plant  
Foul Drainage Assessment form and SUDs design scheme report  
Carbon Reduction Strategy  
Transport Assessment  
Ecological Assessment

Construction Environmental Management, Waste Audit & Waste Management Plan  
Email from applicant in reply to representations made

## **PLANNING HISTORY**

10/00047/FULL Erection of agricultural livestock holding building, construction of new vehicular access and 3m wide earth bank - REFUSED MAY 2010

10/01363/FULL Erection of agricultural livestock holding building, construction of new vehicular access and 3m wide earth bank (Revised Scheme) - PERMITTED NOVEMBER 2010

13/01313/FULL Application to remove condition 6 of planning permission 10/01363/FULL - WITHDRAWN NOVEMBER 2013

## **DEVELOPMENT PLAN POLICIES**

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

COR1 - Sustainable Communities

COR2 - Local Distinctiveness

COR4 - Meeting Employment Needs

COR9 - Access

COR11 - Flooding

COR2 - Local Distinctiveness

### **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)**

DM2 - High quality design

DM7 - Pollution

DM8 - Parking

DM22 - Agricultural development

DM27 - Development affecting heritage assets

## **CONSULTATIONS**

### **MID DEVON DISTRICT COUNCIL - TREE OFFICER - 2nd May 2014**

I have had a look at this tree protection and remedial plan now and the suggestions seem reasonable. It is essential that the earth is moved from the Oak tree within the site as soon as possible. I have been in discussion with the agent regarding this matter but I am not sure if it has been done or not yet. The reason for the delay was the wet condition but these should have improved enough to be able to move the soil. It may be necessary to see if de-compaction work would be beneficial following the removal of the soil.

I was not aware that the drainage channel that had been dug around some other trees had severed roots 3m from the trunks. While these trees are not protected by TPO they are an important consideration for the development. The recommendation to prune damaged roots and infill the trench with topsoil should be done with the upmost priority, under the supervision of the arboricultural consultant.

I would like to see the earth moved and the protective fencing put into place within the next 2 weeks. I will visit the site to ensure that the fencing is in the correct location in accordance with the root protection area (RPA) measurements and specification put forward by JP Associates.

### **THE GRAND WESTERN CANAL TRUST - 28th May 2014**

Following the submission of revised plans for the site (4th April 2014), the Grand Western Canal, Joint Advisory Committee (GWCJAC) (Planning Consultee) were asked if a revised consultee submission was necessary. An emphatic yes and continued universal opposition to the application was the response. Listed below is the additional response from the committee and should be read in conjunction with our original submission. Our concerns remain and listed below but not in order of priority.

1. Justification of the vast increase in size and scale.
2. Details of the lighting scheme.
3. Results of percolation tests for the proposed soak away.
4. A Carbon Reduction Scheme, that complies with the requirement of 14 percent of the energy requirement to be generated on site, or from low carbon sources and calculated accurately.
5. Figures for the number of lorries taking livestock away not just those bringing livestock in. With other hauliers who may arrive empty. Lorries not parked overnight and feed and bedding deliveries the situation is more complex than stated.
6. Accurate plans for the crown spread and root protection zone around the protected oak tree on site.
7. Further details on roof materials and colours.
8. Inaccuracies and anomalies in reports submitted by Applicant.
9. Inconsistency with the geology of the area submitted and contrary to published National Geological Survey data.
10. Concerns over District Council's Environmental Health assertions based on what we assume are desktop analyses.
11. Scale and mass of proposed site.
12. Increased threat to canal hydrology and pollution.

The revised documents consist of a letter from the applicant's agent responding to some of the above, a revised Planning Statement, clearer drawings of the building, the addition of an attenuation pond in the adjoining field for the effluent and run off, a visual impact report and a SUDS (Sustainable Urban Drainage System) report on soil permeability.

There are many statements in the revised documents that are questionable, inconsistent, exaggerated, and unsubstantiated, with the intention of understating the adverse impact that this development will have on the landscape, amenity, economy and neighbouring land users including Minnows Park, other local businesses, residential properties and the Grand Western Canal hydrology and its conservation protection. Examples of these statements are:-

Current facilities at Middle Rill Farm (Size - 1263 m<sup>2</sup>) are too small and the roads too narrow for the distance being covered on a daily basis to and from the M5 motorway for the numbers of cattle being moved. Apparently 'Middle Rill Farm' will continue to be used for smaller numbers of cattle but probably not less than currently housed there. Lorries will continue to travel to and from Middle Rill Farm. If lorries are not to be parked overnight at the new facility where will they be parked? The assumption is the original departure point, Middle Rill Farm. Overall no real saving in lorry movements which is one of the proposed justifications. Claims that the new facility will house a "minimum of 84 cattle" in 12 pens plus 4 half size pens for sorting and overflow. Each pen is 50.4 m<sup>2</sup> and apparently designed around current housing requirements of 7.2 m<sup>2</sup> per animal to allow for loafing and lying down, i.e. 7 cattle per pen. On this basis 84 cattle should be the maximum for current welfare standards not the minimum - and the 4 half pens (maximum 14 cattle in total) which is stated are for sorting specific groups such as individual cows or bulls and accommodating daily overflow would only add slightly to that.

The choice of Holbrook Interchange despite the presence of the conservation area of the Grand Western Canal corridor, the canal itself and Minnows Touring Park is justified by a visual impact study, a SUDS soil permeability study and various claims that the pollution from noise, light, odours and flies will be no worse than at present.

The visual impact study (Landscape Appraisal) claims that this vast expanse of concrete (2 acres) and a building 7.8 metres (25'-4") high covering half an acre set into a pastoral landscape dotted with only small agricultural buildings will have only slight visual impact. It is very difficult to accept this conclusion. No consideration is given in the report to the added visual impact of high sided lorries and trailers nor the high visibility from the westbound carriageway of the A361 between Junction 27 and the Sampford Peverell off/on slip-road which is not a viewpoint covered by the report.

The original submission states there would be no overnight parking of lorries but this statement is omitted from the revised documents which states "and provide a secure storage yard for the operating vehicles and equipment".

A statement in the revised Planning Statement that by turning the building through 90 degrees the proposed building of 2107 m<sup>2</sup> will have less visual impact than the original proposal of a building of just 553 m<sup>2</sup>. This



is not accepted by the committee. While the scale of the original building was more in keeping with the size of existing buildings in the landscape, the new proposal will be an eyesore and blight local amenity. It is inappropriately large and would impact greatly on the general enjoyment of the Grand Western Canal and hence on visitor numbers and subsequent income to the area.

The revised Planning Statement still maintains, the development is 275 metres from Minnows despite the fact that the applicants own Landscape Assessment report, states the distance from Minnows as approx 145 metres - half the distance away! The same report shows the canal as 220 metres away. Clearly the 275 metres is shown to mislead anyone reading the report into thinking that it is far enough away from Minnows and the canal to have little impact. A significant concern.

The report also suggests, the roads around the site are currently used by various heavy engineering and transport businesses and another livestock collection centre within a few miles. There is one light engineering business and an approval for a sheep collection centre on land beyond the site which is not yet developed.

The report states the VOSA weighbridge operates 7 days a week and very often for 24 hours continuously, implying that the noise, activity and number of lorries at the livestock facility will be minor in comparison. The Committee understands that following receipt of a written statement from VOSA dated 14 May 2014, and supplied to management at Minnows, the weighbridge was operated only 75 days in 2013 and mainly between 7.30am and 5.00pm, that no continual 24 hour checks were carried out in 2013 nor are any currently planned, and that this is typical of VOSA's normal pattern of use of the site. The JAC strongly urge the planning department to clarify this matter prior to determination.

The visual impact study also wrongly states that the VOSA weighbridge is floodlight and visible through the peripheral tree-line. The Committee understands that the weighbridge floodlights are only used when operated in conditions of poor light, eg winter. The committee strongly urge the planning department to request clarification on this matter, prior to determination.

The revised Planning Statement says that "the site is free draining and that there should be no issues dealing with clean surface water or discharge from the slurry treatment plant." and that "clean surface water will be discharged into a trench soak-away " However, the SUDS report from 'Ambellia Consultancy' state that the current groundwater level is close to or just above the elevation of the levelled area, with constant seepage and low infiltration, that run off flows into a roadside ditch, that the site has a high risk of flooding and that a soak away system would not be appropriate. This, the committee consider, is clearly not the place for a large expanse of concrete, a slurry pit and treated liquid effluent. With the current weather patterns and especially with the residential properties of Locks Cottage and Swallows a short way along the lane, it is an inappropriate site for a facility such as this. Additionally liquid of any sort and most worrying in this case, polluted water once allowed to soak into the ground will permeate and spread in any direction not just by terrain but also geological characteristics. Liquid settles and can move in any direction threatening the water sources for the canal which is harmed by the smallest amount of noxious pollutant.

No Carbon Reduction Scheme has been submitted. Concentrations of cattle and multiple lorry movements will introduce large amounts of methane and carbon dioxide and the lack of a major carbon reduction within the proposed scheme is unacceptable.

This current scheme generates less spoil than the original approved scheme, although the volumes in the original scheme were not quantified." This the committee consider is significant. How can this be quantifiable when the currently excavated area and proposed area of the building and concrete yard are so much bigger, not forgetting, the excavation for the slurry pit, treatment plant and the attenuation pond.

The "vast volumes of daily traffic" on the A361 is cited as a "generating, noise, odour and light pollution" and "that the potential for pollution risks and issues relating to odours are minimal and no worse than at the present time." The committee is concerned the A361 is being used as a vindication for generating more noise, odour and light pollution at the proposed application site. The committee having had sight of the Minnows correspondence submitted, together with their stated concerns also concur with the statements shown below, these being:

There is noise from the A361 but as everyone who lives within earshot of the A361 knows this varies with weather conditions and wind direction from noisy to virtually inaudible. There is no odour pollution from the A361 and as far as light pollution is concerned as viewed from Minnows there is none from the A361.

It is the A361 that makes Sampford Peverell, Tiverton and the Exe Valley and local attractions so accessible to tourist

**SAMPFORD PEVERELL PARISH COUNCIL - 25th April 2014**

The Parish Council has been advised of the above proposal for development on land just within the Civil Parish boundary of Burlescombe. The site is very close to Minnows Touring Park, also immediately across the A361 North Devon Link Road from another holiday development site at Ayshmeade, both being within Sampford Peverell Parish.

Members of Sampford Peverell Parish Council have discussed this application and are unanimous in their opposition to it.

It is considered that this is a totally inappropriate location for a large commercial development. In such close proximity to an existing and well-established leisure site its impact would likely be disastrous to its future tourism business.

While it might be possible to screen the sight with trees, the noise, the lighting, the smell and other atmospheric pollution from what will be a 24/7 operation would cause continuous disturbance to near neighbours. The holiday caravan park would be bound to suffer.

There would be serious knock-on effects from a loss of business at the touring park. Its customers use and thus support many businesses in Sampford Peverell itself: the farm shop, the golf driving range and par-3 golf course, the village pubs and the shop and Post Office. But by far the biggest effect would be on the Grand Western Canal and the business generated by the sale of fishing licences, 'cycle hire, and so on.

This is a major tourist destination for Mid Devon. Minnows is the only business to offer accommodation to holiday-makers on the Canal itself, and, of course, the Grand Western Canal is a major tourist attraction in this area. Nothing should be permitted to be done that in any way will impact upon the amenity of the Canal and the Country Park, nor to harm the landscape and environmental qualities of the area.

In determining this application Mid Devon District Council must decide whether it wishes to support a tourist industry in Mid Devon.

**HOLCOMBE ROGUS PARISH COUNCIL - 30th April 2014**

Having considered the application and also letters of objection from Minnows Touring Park and the Grand Western Canal Joint Advisory Committee that have been made available to us, I am instructed by the council to convey our objections to the proposed development. Our Council considers that the location of the proposed development is wholly inappropriate. In particular, the scale and type of development is such that it will have a devastating effect on the Minnows Touring Park which attracts a large numbers of visitors to the area and which is very beneficial to the local economy.

The proposed development would be contrary to various policies as explained in the letters of objections mentioned above. There will be adverse impact on the adjoining Grand Western Canal which has Conservation Area status.

There is no overriding reason why the proposed development needs to be located at Holbrook Interchange. Additional transport activity will be detrimental to the local highway infrastructure which already serves Tiverton Parkway station.

The noise and smells generated by the planned use are unacceptable in this location because of the adverse impact on the local environment and tourist related activities.

**CULMSTOCK PARISH COUNCIL - 30th April 2014 - No comment.**

21st May 2014 - No comment

**ENVIRONMENTAL HEALTH - 11th April 2014**

Contaminated Land - No objections.

Air Quality - No objections.

Drainage - No objections.

Noise & other nuisances - No objections.

Housing Standards - Not applicable.

Licensing - Not applicable.

Food Hygiene - Not applicable.

Private Water Supplies - No objections.

Health and Safety - No objection on health and safety grounds on what would be a HSE enforced activity.

#### **NATURAL ENGLAND - 4th April 2014**

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 may be granted.

#### 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.

#### **MID DEVON DISTRICT COUNCIL - REGENERATION MANAGER - 5th June 2014**

The proposed site is well located in terms of its access to the main road network and is likely to represent an improved facility for the livestock farming sector of the area. The site also does offer the potential to maximise the ability to be appropriately screened and landscaped by virtue of its aspect and topography. However the site is also in relatively close proximity to one of the Districts key visitor and heritage assets, 'The Grand Western Canal' and also to one of Mid Devon's largest Touring Caravan Parks. Quite clearly these two business interests will have entirely different views on and concerns about the effects of the proposed development on the local business environment.

In my opinion the site does have the potential to minimise the very appropriate concerns of the 'visitor business' sector by means of a carefully controlled development with a number of appropriate management and design controls. This could be achieved by the following:-

1. Careful control of the design of the buildings and loading area including sound insulation/aspect/colour scheme/lighting scheme/and design of bunds and landscaping.
2. Close attention to environmental control allowed on the site e.g. waste control to minimise smells, noise controls, and appropriately controlled regimes to minimise problems of pollution/insects.
3. I would also feel it appropriate to limit, by condition and/or legal agreement the times of vehicle movement allowed on the site. In order to minimise the potential for conflict between the agricultural transport and visitor sectors I would consider it appropriate to consider exclude vehicle movements on or to the site on Sunday and Bank Holidays and between the overnight hours of say between 22.00 and 06.00. This would seem to be not too greatly in conflict with the Applicants own submitted 'Transport Assessment' and would give the visitor sector some guarantee of 'quiet enjoyment' at the most sensitive times.

**DEVON & CORNWALL POLICE AUTHORITY - 7th April 2014 -**

The Police have no comment at this time unless there is a specific issue that you feel requires Police input.

**HIGHWAY AUTHORITY - 9th April 2014 -**

The Local Planning Authority will be aware of the Highway Authority's previous comments and the conditions imposed at that time on application 10/01363/Full and reinforced on Application 13/01313/Full Such conditions and their amendments should be applied to the current application.

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:-

All conditions and their amendments set out in the Highway responses for application 10/01363/FULL and 13/0113/FULL should be imposed.

**ENVIRONMENT AGENCY - 4th April 2014 -**

The new agricultural buildings can be dealt with by the appropriate conditions and informatives contained in our agricultural guidance notes. The applicant is advised to visit our website for advice regarding the proposed private drainage system.

8th May 2014 - Please refer to comments already made on this application.

**BURLESCOMBE PARISH COUNCIL - 1st May 2014 -**

The Parish Council having reviewed this planning application along with concerns from local businesses and I have been instructed to convey the Parish Councils objections to this planning application.

It is believed that there is a need for this sort of operation to assist the local farming community, but this particular proposal is wholly inappropriate due to the locality and scale of the development.

The council highlighted that this proposal would contravene many aspects of the Mid Devon Plan, by the nature of this proposed operation it will have an adverse financial effect to the area, with a foreseen loss of business at Minnows as well as the additional holiday let applications currently in place on the Tiverton side of the interchange. This in turn will adversely impact the local economy and in particular the canal with a loss of income via public activities linked to these holiday parks such as Fishing etc.

A more suitable location, with adequate infrastructure for lorry movements and no adverse impacts on local businesses, communities, environment or tourist related activities should be sourced and this plot of land be restored to its former state.

## REPRESENTATIONS

24 letters of support including one from the NFU, summarised as follows:

- The Westcountry is one of the largest livestock areas in the UK and in recent years 16 abattoirs have closed within 30 miles of J27. The remaining few abattoirs struggle at time to cope with the high volume of livestock numbers and the industry is facing hardship with local plants taking up to 6 weeks to take stock. Beef values have dropped by over £200 per head;
- Martyn Baker Livestock Ltd. is well known & highly regarded at the larger abattoirs for selecting the right animals for the right abattoir and delivering them on time. Individual farmers are unknown to the larger abattoirs further afield and have little chance of securing booking slots;
- Martyn Bakers Livestock Ltd. played a major role during the BSE crisis when many farmed were left with unwanted barren cows as the local markets were unable to move stock. Martyn and his team worked with many abattoirs to secure contracts to move the livestock;
- During the Foot & Mouth outbreak in 2001 Martyn Baker Ltd. was the first to move stock from farms direct to the abattoirs;
- Farmers often have two or three different types of cattle to go to different abattoirs which can't go on the same lorry. Martyn Baker can take all these cattle to his collection centre where they can be put on lorries to go to the appropriate abattoir;
- A collection centre at J27 would be a huge asset for SW farmers, enabling their cattle to achieve the greater price paid by abattoirs in other parts of the country;
- Will reduce the fully loaded HGV's travelling through Bolham, Cove, Bampton and Shillingford making it a safer and greener place to live;
- An efficient livestock handling centre will assist with economic transport & offer increased welfare;
- Having a collection centre at J27 would help to keep transportation costs as low as possible;
- Not everybody wants to go to market with their stock because of time and distance to travel so to go to one place and have stock professionally sorted make sense;
- There are no houses to pass or narrow roads to access at the proposed site;
- Martyn Baker Ltd. is the largest independent livestock collection centre in England and deals with 600 cattle per week as well as sheep and has 11 different outlets;
- The need from the agricultural community is great enough to warrant increasing the size of the development from the earlier planning permission;
- The road infrastructure at J27 is far more suited to lorries and articulated lorries than the current site;
- Food production is a key Government priority;
- The National Planning Policy Framework reinforces the need for Local Planning Authorities to assess the needs of the food production industry and the need for economic growth;
- Gilders Transport are regularly contracted by Mr Baker to transport livestock - our trucks are full length 44 tonne articulated lorries as that is the only size that can move animals economically over long distances. It takes around 45 minutes to get to the existing transfer station from the M5. On many occasions small collection vehicles comes from the M5 area to the collection centre before going back again. We are trying to reduce our fuel consumption and carbon footprint so a collection centre close to the M5 would be a massive help

26 letters of objection received, from 16 different people/groups, including Minnows Touring Park and the Tiverton and District Angling Club summarised as follows:

- The site is 175 metres away from Minnows Touring Park and the noise of distressed animals and HGV's combined with the smell of slurry and nuisance of flies in such close proximity is unacceptable and cannot co-exist with a holiday park. The Touring Park operates 12 months a year and between March and November over 22,000 visitor nights are spent at the park;
- Little Turberfield farm shop gains a significant proportion of its business from Minnows Touring Park between March and November each year. The scale and size of the livestock operation so close to Minnows Touring Park is a major concern and believe it will have an extremely bad effect on the popularity of Minnows Touring Park and as a consequence, also upon the income of the farm shop;
- No indication is given of the number of cattle and sheep that will be held in the pens;
- No limit is given on the number of lorries going to the site, although it is indicated that they would start at 5am but no indication of what time they would stop at night;
- Flies and odours will be a constant problem from slurry both in the pens and the open slurry pit;
- Operation is not compatible with a holiday park;
- Concerns for the Little Turberfield butchery business with fresh meat on display less than 240

- metres from a major source of flies and farmyard odours;
- The scale and extent of the operation is not appropriate in this location, which is primarily a large tourist accommodation area alongside the Canal with associated local retail, leisure and recreational businesses;
- Lighting around the transfer station will detrimentally affect Minnows Touring Park;
- The horse-drawn barge and café bar on the Grand Western Canal receive visitors directly from Minnows Touring Park and would be affected if visitor numbers fall at Minnows;
- The Westcountry Golf Academy and Driving Range (on road to Tiverton Parkway) draws a significant amount of its custom from the Minnows Touring Park and the smell, noise from distressed animals and loss of business from local tourist attractions will all impact upon the Golf Academy and Driving Range;
- Pedestrian safety concerns as there is no footway on the road giving access to the site and the road is not a major road to be taking HGV's;
- Potential water collection or flooding if the drainage is not adequate;
- Will be an eyesore;
- Harmful to wildlife, which has probably already suffered from the excavation of the site;
- Negative effect on house prices in the village and on longstanding local businesses;
- The application is on a significantly larger scale than the previous application;
- Would spoil the tranquillity here at present;
- The amount of stress the animals would be under might cause them to create more excrement than usual;
- There is newly built lairage for this type of operation at J28;
- With land disappearing due to urban development and solar parks cattle numbers are diminishing and so demand for these developments becomes less of a necessity;
- Most cattle markets now have a holding facility;
- The site lies at the base of the valley which regularly flood in winter and contamination from rain water runoff cannot be avoided;
- The wording of the carbon reduction strategy is weak;
- The permission for holiday log cabins at Ayshmead will be undermined if this application is approved;
- The proposal does not meet the policies in the Core Strategy, Local Plan Part 3 (Development Management Policies) of National Planning Policy Framework;
- Impacts adversely on the Canal Conservation Area, 250m away;
- Incompatible with Country Park and all its stands for
- Given industrial scale it would be better suited to other side for J27;
- FOI request details from the operators of the public weighbridge stating that the site is mainly used from 07.30 - 17.00 but sometime used outside of these hours. In 2013 the site was scheduled for use on 75 days with Devon and Cornwall Policy using it for no more than an additional 5 times per year.

In addition, three petitions containing a total of 127 signatures, some of whom have also made individual representations, have been received. In summary, the petitions state the following:

- That the proposal is incompatible with the character, amenity and land use of the area which is used for tourism, leisure, recreation, rural residential, rural retail, arable crops and grazing;
- The proposal is incompatible with the neighbouring Minnows Touring Park whose visitors make a valuable social and economic contribution to the village, local businesses and wider Mid Devon economy;
- The constant nuisance and pollution caused by the noise of distressed animals penned up and being loaded and unloaded by HGV's, together with the odour of slurry and flies, does not meet the needs of the area nor improve the economic, social and environmental conditions.
- It does not respect the needs of local businesses or the community and will have a permanent negative impact upon them and the natural environment and general amenity of the area.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

- 1. Need and size of the development**
- 2. Highways**
- 3. Visual Impact including upon the Grand Western Canal Conservation Area**
- 4. Impact on landscape character**
- 5. Impact upon neighbouring properties and uses**

## **6. Other matters**

### **1. Need and size of the development**

The site is located in the open countryside where COR18 seeks to control development but permits appropriately scaled employment and farm diversification schemes and agricultural buildings. COR4 seeks to encourage measures to diversify the agricultural and rural economy whilst protecting the character of the countryside. DM22 of Mid Devon Local Plan Part 3 (Development Management Policies) permits agricultural development where it is reasonably necessary to support the farming activities of the immediate agricultural community provided it doesn't affect the living conditions of residents and does not have any unacceptable adverse impact on highway network, environment and character and appearance of area.

The proposal is to serve an existing livestock transfer business which is based at Middle Rill Farm, Shillingford. There are rules regarding the amount of space cattle being housed at a transfer station must have and these provide for increased space standards over and above those used at traditional livestock markets. It is asserted that the previously permitted transfer station at the site was designed using livestock market pen details and not those for transfer stations.

Since the original permission was granted in 2010, the applicant's business has seen an increase in the number of cattle being moved through the existing transfer station at Middle Rill Farm, Shillingford. In the period October 2010 - April 2011 there were 3,226 cattle moved through the station, compared to 5,974 cattle in the period October 2013 - April 2014. This represents a 46% increase in the number of cattle being processed through the site over the three year period.

The applicant has advised that the majority of his business would move to the proposed site, with only a small number of animals continuing to pass through the Shillingford site, serving those farmers who are based in the Exmoor area and who bring their livestock directly to the site as opposed to having them collected.

Although it is not proposed to revoke the existing planning permission at the Shillingford site, the predominant relocation of the business from the Shillingford site will result in a reduction in the number of large vehicles using the narrow roads to access it. The current site is accessed from a single carriageway lane onto the main Bampton - Wivilescombe road either via Petton Cross or via a junction just past the local village hall. In particular the access near the village hall is particularly poor. The removal of the vast majority of vehicles associated with the business from using these roads would be welcomed.

From the letters of support received, it would appear that there is a need for this facility and indeed that need was accepted in determining the previous application on this and the adjacent site. Although the development now seeking consent is significantly large than the earlier approval, this application now includes provision for storage facilities for feed, bedding and machinery and also provide pens for a larger number of animals, taking into account the growth of the business since 2010. In this respect, the application is considered to comply with policies COR4 and 18 of the Core Strategy. The application is also considered to comply with policy DM22 a) in that it is considered to support agricultural activity in the immediate agricultural community, as well as those further afield.

### **2. Highways**

COR9 of the Core Strategy relates to access proposals and seeks a co-ordinated approach with a need to assess transport impacts of significant developments and to provide necessary infrastructure where necessary. The application was accompanied by a Transport Assessment which has been considered by Devon County Highways. In their consultation response, they have referred back to comments made on previous applications, which were as follows: "A similar proposal on an adjacent site has previously been approved, with conditions, and therefore there is no objection to the principle of this proposal. The agent has acknowledged, within the Design and Access Statement, that it will be necessary to carry out minor off-site works to the roundabout to the north of the site. As with the similar approval on an adjacent site that required the same works (06/1364) full details of those proposals will need to be submitted, for written approval, and carried out at the developer's expense prior to any other works being carried out on site. This will ensure that there is an adequate access to the site for both the construction traffic and the subsequent traffic generated by the proposal. These works, as they are on the public highway, will need to be covered by a Grampian Condition and subsequent Section 278 Agreement. I therefore recommend conditions as previously set out' and 'The Highway Authority recommends that the condition 6 of consent 10/01363/Full is not removed as works to the offsite roundabout are still required.

However, the Highway Authority is minded to amend the condition following the swept path demonstration by the applicant. The extensive works initially identified and in need of a section 278 agreement is no longer required but should be amended to allow for a rubbing strip to the Eastern entrance to the roundabout and some maintenance of the existing Highway Vegetation. This work can be accommodated under a Highway Licence and the Grampian style condition amended to necessitate the works prior to occupation and not prior to commencement. Therefore the condition should read as follows

1. No part of the development shall be occupied until the off-site highway works for the provision of a rubbing strip to the Eastern entrance North of the A361 to the roundabout and landscaping works have been constructed and made available for use. REASON: To minimise the impact of the development on the highway network

Therefore they have raised no objection to the current proposal and their recommended condition has been attached to the officer recommendation. The proposal is therefore considered to comply with COR9 of the Mid Devon Core Strategy (Local Plan Part 1) and policy DM22 of Mid Devon Local Plan Part 3 (Development Management Policies).

Policy DM8 of Mid Devon Local Plan Part 3 (Development Management Policies) sets out requirements for parking standards. On a B8 (warehouse and distribution use) building of this size, it would normally be expected that a maximum of 45 car parking spaces, 45 cycle spaces and 9 electric charging points would be supplied. However, employment with a development like this is low (6 full time and 7 part time staff) and therefore there is no need to provide parking to this level. There are no specific parking standards set out for a 'sui generis' use such as this proposed and the Highway Authority are satisfied that the parking requirements for the business can be adequately accommodated on site. The proposal does therefore comply with policy DM8 of Mid Devon Local Plan Part 3 (Development Management Policies).

### **3. Visual Impact including upon the Grand Western Canal Conservation Area**

COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and DM27 of Mid Devon Local Plan Part 3 (Development Management Policies) seek to preserve and enhance Mid Devon's historic environment with DM27 of Mid Devon Local Plan Part 3 (Development Management Policies) requiring that any harm is weighed against any public benefit. DM2 seeks high quality design and a limited impact on amenity of neighbouring properties. With regards to design, the building has a functional agricultural appearance being open sided, clad in profiled metal with a maximum height of 7.8m. The site has been excavated so that the building sits into the site. In terms of design, the application is considered to comply with policy DM2.

Due to the size and bulk of the building, there is no doubt that it will be visible from several vantage points. Of particular concern is the impact of this development on the Grand Western Canal Conservation Area. This lies to the north of the application site and some 230m away. The land rises between the site and the canal and the landscape proposals include planting along the northern side of the building on graded land. There is a TPO'd tree also to the north of the proposed building. Your officers including the Conservation Officer are of the view that the proposed roof and walling materials are appropriate and recessive in the landscape and the addition of landscaping along the northern side (comprising native hedge planting and 4 oak trees), together with setting the building down into the site, will all assist with minimising its impact on the Conservation Area to such an extent that it is considered that the views into and out of the Conservation Area will be largely preserved. The building will be visible from several other vantage points and planting will do little to screen it from view. However, given again that it is cut into the land, has a maximum height of 7.8m and is of appropriate materials, it is considered that this must be weighed against a need for the facility which has been clearly established. This is a locality which has already seen a number of developments including the A361, weighbridge, caravan park, transport yard etc. and therefore is considered to have capacity to accommodate this development without substantially detracting from the character of the area, not the canal and its setting, to the extent that a refusal could be justified. The Conservation Officer has expressed a desire for planting/tree planting at the site entrance to soften views on the approach to the site from Ayshford. An update on this situation will be provided at the Committee meeting.

As such the proposal is considered to comply with policies COR2 and DM27.

### **4. Impact on Landscape Character**

The application was accompanied by a Landscape Appraisal, which has been used to inform the proposed landscaping scheme. The site is located within the Mid Devon Landscape Type 3C 'Sparsely settled farmed valley floors'.



This landscape type is found on the flat or gently sloping valley bottoms associated with rivers and streams in the District and is characterised by pasture land and greater levels of enclosure than elsewhere due to woodland and rising landform. Transport routes are identified as being highly visible, including the mainline railway and prominent land uses such as the paper and feed mills at Thorverton, Cullompton and Uffculme are identified. In addition, the large-scale electricity pylons which run in the vicinity of the site are identified as adding to visual discordancy in the locality.

The location of the building is close by the A361 North Devon Link Road, M5 motorway and the mainline railway and also the large scale electricity pylons, all of which erode the special qualities of the landscape in this location by virtue of their scale and visibility and by the noise they generate, which detracts from the tranquil qualities of the landscape type. The development is proposed to be cut into the land which will help to reduce its impact upon the character of the surrounding landscape by lowering the extent of its visibility, including from the Grand Western Canal as previously discussed. As will be discussed in the following section, Environmental Health have raised no objections to the development on the grounds of noise or odour and it is not considered that any noise or odour arising from the site will be so significant so as to detract from the quality of the landscape character. As such the proposal is considered to comply with policies COR2, DM2 and DM27 in this respect.

A Tree Protection plan has been provided which shows the retention of the TPO'd tree and other trees and hedges and sufficient measures in place for their long term protection both during construction and afterwards. Development has been relocated on the site with this aim.

A full landscaping scheme has been provided and its implementation is covered by condition.

## **5. Impact upon neighbouring properties and uses together with nearby tourism and commercial interests**

Policy DM2 of Local Plan Part 3 (Development Management Policies) relates to the design of new development and seeks to ensure that development does not have an unacceptably adverse effect on the privacy or amenity of neighbouring properties and uses with policy DM7 of the same document stating that development will be permitted where the direct, indirect and cumulative effects of pollution will not have an unacceptable negative impact on health, the natural environmental and general amenity.

With regard to the noise levels generated by the proposed use, it is important to take account of the context. The site of the proposed building is less than 50 metres from the A361 North Devon link road, which is a major traffic thoroughfare generating a significant level of noise and disturbance, day and night. The A361 lies between the application site and the caravan park at Ayshmeade some 100 metres to the south. The noise generated by the proposed development will not present a significant nuisance over the noise generated by the traffic using the A361. The caravan park at Minnows lies some 175 metres to the north of the application site, directly abutting the A361 with the nearest caravan located approximately 95 metres from the A361. Between the application site and the Minnows caravan park, directly adjacent to the southeast boundary of Minnows, there is a public weighbridge that is used on a regular basis by VOSA and the Police to inspect vehicles ranging from small commercial vehicles up to full-sized articulated lorries. These vehicles, together with other local traffic, must pass directly adjacent to Minnows along the A361 slip road. In addition the site is approximately 550m to the north east of the mainline railway and 650m to the north east of the M5 and its Junction 27 and both of these routes also impact upon the current level of noise and disturbance.

Your officer has visited the applicant's existing livestock transfer station at Middle Rill Farm, Shillingford and witnessed two loads of cattle arriving at the station, being unloaded and the lorries being washed down. Whilst there was some noise associated with the cattle walking down the ramp off the lorry, this lasted only for a few minutes and was not particularly loud. Your officer was at the site for approximately an hour and a half and did not experience the cattle themselves making noises.

Your Environmental Health Officers have been asked to provide further clarification and justification of their consultation response indicating they had no objection on noise and other disturbance grounds. With regards to odour and fly issues, they have considered the applicants Construction Environmental Management, Waste Audit and Waste Management Plans which indicate that cattle slurry, manure, wash-down water from the livestock areas etc generated from the site will be drained into a below ground manure bunker. Bulk waste bedding would also be deposited here. The liquid element would be separated through a 'weeping wall' into a pumping chamber which transfers the materials into a sewage treatment plant which in turn discharges to an attenuation pond with the solid matter being removed as and when required.

As such, your Environmental Health Officers do not consider that an odour or fly nuisance would be generated from the site but they advise that if such were to occur, they would have powers under the Statutory Nuisance Legislation to deal with the matter. With regards to noise, your Environmental Health Officer advises that he knows the site well, and having spent several years as a meat inspector and living on a farm he has considerable experience of the loading and unloading of livestock. In his professional opinion, based on experience and a site visit he considers that the loading and unloading of cattle undercover should not cause a noise nuisance to the caravan park and therefore having considered the detail of the application together with the strong objections of the caravan park, he could not object to the proposal.

Several letters of objection and petitions against the proposal have been received from local businesses concerned about the effect of the development on their business. However, given that your Environmental Health Officers have been unable to identify any adverse impacts resulting from the development, it is not considered that this proposal would have an adverse impact on local trade and businesses, nor on the use of the canal as a country park or tourist attraction. Comments have been received from the Economic Development Manager who does not object to the scheme, finding that the site is well located for the type of operation proposed in so far as it is in good proximity to the main road network and has the potential to be well screened and that the concerns of the local businesses could be addressed in the design and management of the site. As discussed Environmental Health do not object to the scheme on the grounds of noise, odour or lighting, the building is set into the site and a landscaping scheme is proposed which the Conservation Officer does not object to.

The Economic Development Manager makes reference to the hours of operation of the business so as to minimise the impact of the scheme upon the neighbouring businesses and uses. Whilst this may be desirable, it is generally considered that it is not appropriate to impose such hours of operation upon businesses via the planning process as this would duplicate separate legislation and the powers available to Environmental Health; accordingly no such condition is recommended for imposition.

On this basis, the proposal is considered to comply with policies DM2 and DM7 of Local Plan Part 3 (Development Management Policies).

## **6. Other matters**

Carbon footprint reduction - Policy AL/IN/6 of the Allocations and Infrastructure Development Plan Document requires that new buildings over 1000sqm make provision for at least 14% of the energy to be used in the development to come from decentralised on-site renewable or low-carbon sources. The agent has advised that the building has been designed to accommodate solar PV panels at some point in the future but at the time of writing this report, had not provided sufficient information, including calculations of the energy requirements of the development and a demonstration of the methods proposed to be used to produce at least 14% of that total. It is recommended that a condition be imposed requiring the submission of a scheme to demonstrate compliance with this policy.

Drainage and surface water - Mid Devon Core Strategy (Local Plan Part 1) policy COR11 requires that the impact of flooding will be managed to ensure that development is guided to the most appropriate locations and does not increase flooding elsewhere. The application is accompanied by a SUDS design report which concluded that soakaways would not be appropriate for this site and therefore an attenuation pond is proposed to hold both surface water and the treatment plant discharge so that the water can dissipate away naturally. The EA have advised that conditions and informatives should be attached to deal with this aspect. They have raised no objections to the proposal. A condition is also recommended to be imposed to secure the final design of the SUDS scheme as no specific details regarding pipe sizes or the depth of the pond have been provided.

Difference between this and previous refused application - comments have been expressed that there is little difference between this application and the one refused back in 2010. However, your officers consider that there are differences between the two. Application 10/00047/FULL proposed a building roughly in the centre of the site, with access from the northern boundary and the closest part of the building was 160m away from Minnows. This current application proposes a building in the southern most half of the field, with access from the west and proposed planting along the northern boundary of the building, and a distance of 195m from the caravan site. Your officers consider that the differences are great enough, together with a change to Government policy since 2010 and a change in the business justifying the proposal that to recommend approval would not be considered perverse. Members are also reminded of an intervening planning approval (10/01365/FULL).

Ecology - The application is supported by an Ecological Assessment which states that the development will not further disturb protected species as the access to the site has already been constructed and the site surfaced. On this basis, Natural England has raised no objections to the scheme.

Inaccuracies in supplied information - Concerns have been expressed that some of the information supplied is inaccurate i.e. inaccurate measurements of distances between site and caravan park. Members are advised you're your officers have checked measurements and have referred to the correct distances in this report.

## **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. No works shall take place until such time that specific details of the proposed Sustainable Urban Drainage system have been submitted to and approved in writing by the Local Planning Authority, including the provision of a management plan for the system. The development shall also include additional gullies designed to intercept any overland flows that could occur during very intense periods of rainfall, which will drain safely into the attenuation features.

Prior to occupation of the site it shall be demonstrated to the satisfaction of the Local Planning Authority that relevant parts of the scheme have been completed in accordance with the details and timetable agreed. The scheme shall thereafter be managed and maintained in accordance with the approved details unless otherwise approved in writing by the Local Planning Authority.

4. No works for the construction of the development hereby approved shall begin until a scheme for the production of at least 14% of the energy requirements of the proposed development to come from renewable or low carbon technologies has been submitted to and approved in writing by the Local Planning Authority. Once approved the measures identified shall be incorporated into the development prior to its first use.
5. The measures shown on the approved plan 'Tree Protection & Remediation Plan, ref. D14 229 P1 received by the Local Planning Authority on 24th April 2014 shall be implemented in full prior to development beginning and shall be strictly adhered to for the duration of the construction period.
6. No part of the development shall be occupied until the off-site highway works for the provision of a rubbing strip to the Eastern entrance North of the A361 to the roundabout and landscaping works have been constructed and made available for use.
7. All planting, seeding, turfing or earthworks comprised in the approved details of landscaping as shown on the submitted plans, shall be carried out within 9 months of the substantial completion of the development and any trees or plants which, within a period of five years from the implementation of the scheme (or phase thereof), die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
8. No external lighting, other than that expressly shown on the approved drawings shall be provided within the site without details of the lighting first having been submitted to and agreed in writing by the Local Planning Authority.

## **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. To ensure the provision of adequate drainage facilities for the site, to prevent an additional risk of flooding arising as a result of the proposed development, in accordance with policies COR11 of Mid

Devon Core Strategy (Local Plan Part 1) and DM2 of Local Plan Part 3 (Development Management Policies).

4. In order to ensure that the development provides a reduction in carbon emissions in accordance with Policy AL/IN/6 of the Mid Devon Allocations and Infrastructure Development Plan Document (Local Plan Part 2).
5. To ensure that the protected and important trees on and adjacent to the application site are provided with adequate protection during the construction phase in the interests of visual amenity, in accordance with policy DM2 of Local Plan Part 3 (Development Management Policies).
6. To ensure that adequate facilities are available for the traffic attracted to the site.
7. To ensure that the development makes a positive contribution to the character and amenity of the area, in accordance with policy DM2 of Local Plan Part 3 (Development Management Policies).
8. To safeguard the amenities of nearby residents in accordance with policy DM2 of Local Plan Part 3 (Development Management Policies).

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

The proposed development serves a purpose associated with agricultural activities that would not be practical within a settlement, and is of a design typical of agricultural buildings in the district. The design of the new building will not harm the character or appearance of the surrounding area and its scale is justified having regard to the current operations of the applicant's business. A waste management plan has been submitted which demonstrates how waste arising from the site will be dealt with. The impact arising from potential light pollution can be managed through the requirement for a lighting plan. The impact arising from the noise generated by the operation of the site is considered secondary to the existing noise generated by the nearby A361 link road and existing land uses. Having given careful consideration to the nature and siting of the development, it is not considered that the impact on Minnows Caravan Park and Ayshmeade Caravan Park, or other nearby land uses will be so significant so as to merit refusal of the application. Visibility at the point of access is sufficient and enables two vehicles to stand by one another, which meets the requirements of Devon County Council Highway Authority. Having regard to all material considerations and representations received, the application is in accordance with Mid Devon Core Strategy (Local Plan Part 1) policies COR1, COR2, COR4, COR9, COR11, COR18, Allocations and Infrastructure policy Development Plan Document AL/IN/6, Local Plan Part 3 (Development Management Policies) DM2, DM7, DM8, DM22, DM27 and the National Planning Policy Framework.

**Application No. 14/00476/FULL**

**Plans List No. 3**

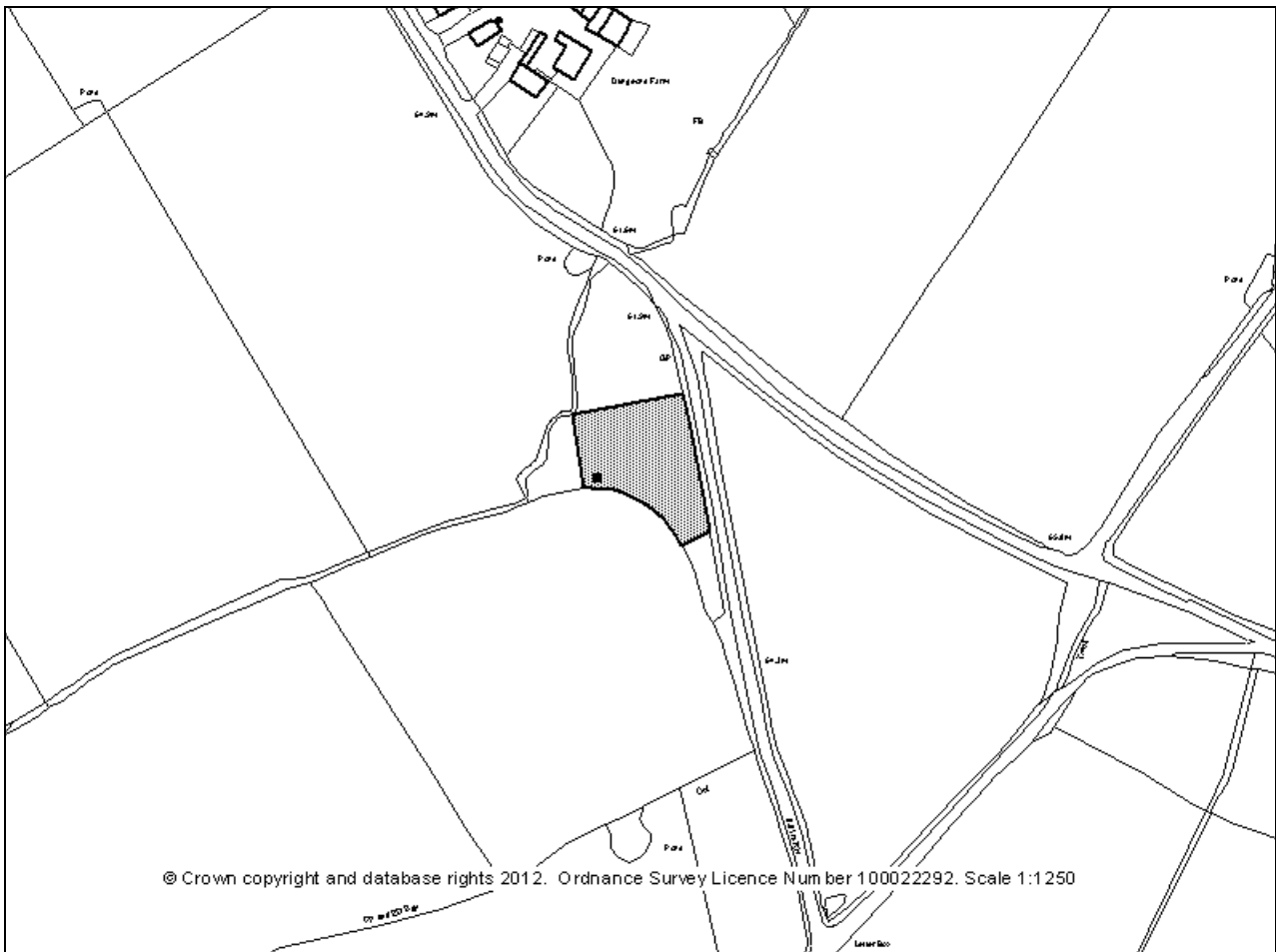
**Grid Ref:** 304548 : 104813

**Applicant:** Ms N Ryder

**Location:** Djangos Rest  
Cullompton Devon

**Proposal:** Change of use of land  
for 1 traveller pitch and  
associated works  
including 1 utility room  
and retention of  
hardstanding

**Date Valid:** 8th April 2014



## **Application No. 14/00476/FULL**

### **RECOMMENDATION**

Grant permission subject to conditions.

### **PROPOSED DEVELOPMENT**

This application relates to an existing site currently used as a gypsy and traveller pitch on a temporary basis with planning permission until June of this year. The application has been submitted as a full application rather than a removal of condition as the proposal now includes the erection of a utility/amenity building for use by the occupants of the site together with the retention of hardstanding areas on site.

Planning permission 07/02170/FULL was initially allowed at appeal in 2008, with the Inspector granting a temporary planning permission for a period of three years and restricting the site to occupation by the applicant and her children only. In 2011, the applicant made a further application to the Authority to remove these conditions, and the Authority granted a consent for use of the site by gypsy and travellers (i.e. removed the 'personal consent') but granted a further temporary consent for 3 years on the basis that the allocated pitches on the urban extension of Tiverton would be available by June 2014. This application seeks permanent consent for one pitch for any persons falling within the definition of gypsies and travellers as contained in Planning Policy for Travellers sites (PPTS).

The site comprises 2 static caravans, stationed toward the southern boundary of the site. In the decision letter in 2008 the appeal Inspector did not limit the type of caravans to be placed on the site, rather he imposed a condition requiring that the site has no more than two caravans placed on it which meet with the relevant definition; this would therefore allow for two static caravans to be stationed on the site.

In addition to the two caravans, a polytunnel has been erected parallel with the eastern boundary and to the north of the access to the site (planning consent for this was granted in 2009). Surrounding the polytunnel are a number of fruit and vegetable beds and tree planting has occurred at the northern end of the site in an attempt to better screen it from the public highway. The remainder of the site is predominately grassed, with the thin strip of land at the south eastern corner of the site having a hardcore base and being used to store the vehicles of the applicant.

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

Planning Statement  
Emails from agent

The following information has been held on a confidential basis and is not available for the public to view:  
Personal statement from the applicant.

### **PLANNING HISTORY**

07/02170/FULL Change of use from agricultural land to site 1 mobile home under gypsy status, refused  
APPEAL ALLOWED - 7th January 2008

09/00235/FULL Erection of 2 polytunnels, Permitted - 9th April 2008

11/00568/FULL Removal of conditions (1) and (2) of planning permission 07/02170/FULL to allow continued occupation of the site by persons falling within the definition of a gypsy and traveller, permitted with a temporary permission until June 2014 - 12th July 2011

### **DEVELOPMENT PLAN POLICIES**

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

COR1 - Sustainable Communities  
COR9 - Access  
COR12 - Development Focus  
COR18 - Countryside

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

AL/DE/7 - Gypsy and Traveller Pitches

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

DM3 - Sustainable design

## **CONSULTATIONS**

### **HIGHWAY AUTHORITY - 17th April 2014**

Standing advice applies please see Devon County Council document <http://www.devon.gov.uk/highways-standingadvice.pdf>

### **CULLOMPTON TOWN COUNCIL - 9th May 2014**

Recommend approval.

### **ENVIRONMENTAL HEALTH - 28th April 2014 –**

Contaminated Land - No objections.

Air Quality - No objections.

Drainage - No objections.

Noise and other nuisances - No objections.

Housing Standards - Any accommodation that is to be lived in as a main residence needs to comply with the principals of the Housing Health and Safety Rating System, as defined by the Housing Act 2004. Please contact the Private Sector Housing Team for more information.

Licensing - If this application is granted then under the Caravan Sites and Control of Development Act 1960 the applicant must apply for a caravan site licence. Please contact the Licensing Team for further information.

Food Hygiene - Not applicable.

Private Water Supplies - No objection.

Health and Safety - No objections.

## **REPRESENTATIONS**

None received at time of writing report.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

This application seeks planning permission the permanent retention of the site as a gypsy and traveller pitch (not time limited) and to allow occupation by any persons falling within the definition of a gypsy and traveller as contained in Government Circular 01/06.

### **The primary material considerations in the determination of this application are:**

- 1. Policy**
- 2. Sustainability of the site and its location**
- 3. Need and availability of gypsy and traveller pitches in Mid Devon**
- 4. Personal circumstances**
- 5. Utility building**
- 6. Other matters including visual impact and highway implications**

### **1. Policy**

The Development Plan in force consists of the Mid Devon Core Strategy (Local Plan Part 1), Mid Devon Allocations and Infrastructure Development Plan Document adopted in October 2010, and the Local Plan Part 3 (Development Management policies) adopted October 2013. The Development Plan sets out the following policies in respect of Gypsy/Traveller sites and development in the countryside:

The Mid Devon Core Strategy (Local Plan Part 1), in its Policy COR1, sets the distribution of new development to meet sustainability objectives; with Policy COR12 concentrating development principally on the 3 main towns within the District and Policy COR9 seeking to ensure that new development reduces the need to travel by car. Development outside recognised settlements is further strictly controlled by Policies COR13 to COR17: Policy COR18 ('Countryside') provides a list of appropriate rural developments which are subject to detailed criteria-based development control policies, and which are set out more fully in policy AL/DE/7.

Policy AL/DE/7 of the Mid Devon Allocations and Infrastructure Development Plan Document sets out the situations in which applications for private gypsy and traveller pitches will be permitted. It states that pitches will be permitted provided that the need cannot reasonably be met on another site within Mid Devon which has consent or is allocated for gypsy and traveller pitches, that the site is within 30 minutes travel by means of public transport, walking and/or cycling of a hospital and secondary school and that occupation is limited to those meeting the definition of Gypsies and Travellers in the relevant national policy - currently Planning Policy for Traveller Sites (PPTS).

Policy DM3 of Local Plan Part 3 refers to development proposals involving the construction of new buildings seeking to achieve energy and water efficiency and overall sustainable design.

Relevant Government Guidance in this instance is the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS) both of which, together with LPP3 have been issued since the previous application in 2011. The NPPF states that it should be read in conjunction with the PPTS and the PPTS states that its aim is to 'ensure the fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interest of the settled community'. There is a further government document 'Designing Gypsy and Traveller sites; good practice guidance' which has been considered in relation to the proposed utility/amenity block.

## **2. Sustainability of the site and its location**

The planning Inspector who dealt with the appeal in 2008 dealt with the issue of the sustainability of the site in some detail. Overall he felt that the site did not score particularly highly in terms of accessibility and is not compatible with the principles of sustainability as espoused in local and national planning policy. Since that time, the Authority has adopted its Allocations and Infrastructure Development Plan Document (DPD), including policy AL/DE/7 as described in the policy section of this report. The Inspector's report into the soundness of this document found that the policy acts appropriately with the other allocations in the DPD to manage the location and impact of the required pitches and that the requirement that sites must be within 30 minutes non-car travel time from a hospital and secondary school is reasonable in the context of the District and consistent with sustainability principles.

In this instance, although travel to a secondary school could be made within 30 minutes (in Cullompton) by using the dedicated school bus, travel times to a hospital would exceed 30 minutes by non-car means. The nearest hospitals to the site are those in Tiverton, Exeter and Honiton; only that in Exeter offers a full range of services including an Emergency Department (the other two have Minor Injuries departments).

Buses to Cullompton from the nearest village of Plymtree run only twice a day (three times when including the school service) and when adding the time taken to get to hospitals in either Tiverton or Exeter by bus (having discounted cycling due to the distances exceeding the 5km maximum distance recommended in PPG13) the quickest journey would be 1hr 27minutes (Tiverton Hospital). Getting to Honiton Hospital would take a shorter amount of time but this is still in excess of 30 minutes by sustainable means. In any event, bus services from Plymtree are limited (one bus per day in each direction) and it would be more likely that one would travel by car to any of these hospitals. Accordingly, the application site fails to meet with the sustainability test in policy AL/DE/7.

## **3. Need for gypsy and traveller pitches in Mid Devon and current levels of supply**

Where a site is found to be unsuitable in terms of sustainability, it is necessary for the Local Planning Authority to go on to consider the need for and current levels of supply of pitches in the district. The last Gypsy and Traveller Accommodation Assessment (GTAA) was carried out was back in 2006 and demonstrated the need across the district until 2011. The Local Planning Authority do not have an up to date GTAA although work has been commissioned on one.



The Local Planning Authority have provided for further gypsy and traveller pitches within allocated sites in the Allocations and Infrastructure Development Plan Document and at the time of the previous application in 2011, it was anticipated that there was a reasonable prospect of the pitches being available, and hence a temporary consent was justified. The Tiverton EUE now has an adopted Masterplan and part of the site has progressed to application stage and therefore there is a reasonable prospect that gypsy and traveller pitches will be available within a further 5 years as set out in the Masterplan. There are no current alternative sites for the applicant to reside on.

#### **4. Personal circumstances**

The appeal Inspector (07/02170/FULL) accepted that the applicant is a New Traveller. She is considered to comply with the definition of gypsies and travellers within the DLLG 'Planning Policy for Traveller Sites'.

PPTS (para 11) states that Traveller sites should be 'sustainable economically, socially and environmentally' and therefore ensure that Local Planning Authority policies 'promote peaceful and integrated co-existence between the site and settled community ..... ensure that children can attend school on a regular basis .... provide a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment.....reflect the way in which traditional lifestyles can contribute to sustainability.'

It would suggest from the lack of objection letters that the applicant has successfully integrated herself into the local community, and it is understood that her children are now all regularly attending school. The Inspector found in 2008 no mitigating health or educational need of any of the family members to merit the granting of a permanent permission on the site and no supporting information has been provided to suggest that circumstances have now changed.

However, since the granting of the appeal in 2008 the applicant has established a low-impact lifestyle on the site and has made some investment in this by erecting a polytunnel on the land in which the applicant grows fruit and vegetables for consumption on site and has been establishing a business growing and selling flowers. It is understood that the applicant also intends to have a fully renewable power supply and they already harvest rainwater. Whilst there is no overriding need for it to occur on this land in particular, your officers are mindful of the fact that the applicant has now established a life on this site over a period of 7 or more years with peaceful and integrated co-existence between the occupants and the settled community. To grant a further temporary permission now would mean that at the end of that, the applicant would have been on site in excess of 10 years. Your officers are of the view that it would be unreasonable in this instance to grant consent subject to a further temporary period given that the applicant has resided on the site for a number of years, has established a way of life there and has integrated well into the community.

Therefore, the application is recommended for approval on a permanent basis.

#### **5. Utility building**

The applicant proposes erecting a utility/amenity building on site, in addition to the existing caravans on site.

The current plans show a circular building measuring 7m external diameter with a bathroom, kitchen, office and living area. The plans indicate this is to be located to the north of the caravans. It is proposed to construct the building from cob with a turf roof, obtaining all the materials locally. The thickness of the cob wall results in an internal floorspace of approximately 28 square metres. Para 7.17 of the Government document, 'Designing Gypsy and Traveller sites - good practice guide' states that 'It is essential for an amenity building to be provided on each pitch..... The amenity building must include, as a minimum: hot and cold water supply; electricity supply; a separate toilet and hand wash basin; a bath/shower room; a kitchen and dining area.' It also states that ' There is no one-size-fits-all measurement of a pitch'. The general appearance of the building is traditional and rural in character, and its location on site means that it will not be highly visible or intrusive in the landscape.

#### **6. Other matters including visual impact, highway implications and human rights**

The site is bound on all sides by relatively dense deciduous hedging and trees, which has been further enhanced by the applicant with the planting of a number of trees along the northern boundary with the highway.

Since the earlier application the applicant has allowed the hedges to grow up such that although there is more of a gap in the hedgeline along the northern boundary, during summer months when the boundary trees and hedging are in leaf only sporadic views of the site can be obtained by passing traffic, including those approaching from the north. Whilst these views may increase in winter months the resultant views of the caravans and other domestic paraphernalia on the land are from a short distance away and are not particularly prominent. No consultation response nor neighbour representation has been received which relates to the visual impact of the proposal and it is considered that the use of the site for a gypsy and traveller pitch does not adversely affect the character of the surrounding countryside or the amenity afforded to nearby properties.

The Highway Authority have advised that standing advice applies. They were consulted on the previous application and taking into account the findings of the earlier appeal Inspector, raised no objections to the proposal on the matter of highway safety. The site access itself is considered to have adequate width and visibility, with the gates having been set back from the highway to allow for vehicles to leave the carriageway prior to them being opened. In this regard the application is compliant with the requirements of standing advice.

Local Planning Authorities, as public bodies, are subject to duties imposed by the Human Rights Act 1998 and are therefore required to act compatibly with the rights conveyed by the European Convention on Human Rights (ECHR), which was enacted by the Human Rights Act 1998.

In particular, Article 8 of the Convention provides that:

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

These rights would be engaged should the application be refused or allowed only for a further temporary period. Article 8 relates to the right to respect for private and family life and as conferred in legal judgements, implies a balancing exercise at Article 8(2) to be weighed against the wider public interest.

There are no other material considerations to militate against the grant of planning permission and therefore conditional approval is recommended.

## **CONDITIONS**

1. The site shall not be occupied by any persons other than gypsies and travellers as defined in annex 1 of DCLG 'Planning Policy for Traveller Sites' as follows:  
Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
2. This permission shall provide only for one gypsy and traveller pitch to be occupied by a single family unit. No more than 2 caravan(s), as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time. Any caravans positioned on the site shall be capable of being towed on the public highway, in accordance with the relevant Highways Act legislation, without division into separate parts.

## **REASONS FOR CONDITIONS**

1. To concur with the nature of the application to ensure that the site meets the needs of only bona fide gypsies and travellers in accordance with government guidance.
2. For the avoidance of doubt and to concur with the nature of this application having regard to the submitted details and to minimise the visual impact of the development.

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

Whilst the site is not considered to be in a suitably sustainable location to merit the granting of a permanent planning permission in its own right, there are no other reasonably available sites within the District on which the applicant and her family could reside at present. It can be reasonably expected that pitches will be provided on either of the urban extensions within the district within 3 - 5 years. However, in this instance, the applicant and her family have already resided on the site in excess of 7 years, a further grant of temporary consent would take this to in excess of 10 years. They have established a sustainable lifestyle by growing fruit and vegetables on site, harvesting rainwater and have successfully integrated into the community. So having regard to all other material considerations, including the findings of recent appeal decisions, the applicant's human rights, highway safety and visual amenity the granting of a permanent permission is considered justified in this instance and the proposal complies with policies COR1, COR9, COR12, COR18 of Mid Devon Core Strategy (Local Plan Part 1), AL/DE/7 of Mid Devon Allocations and Infrastructure Development Plan Document and DM3 of Mid Devon Local Plan Part 3 (Development Management Policies).

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