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PLEASE NOTE: Members of the public wishing to speak to a planning application are requested to contact the Committee Administrator before the meeting starts.

MID DEVON DISTRICT COUNCIL

PLANNING COMMITTEE

A MEETING of the **PLANNING COMMITTEE** will be held in the Phoenix Chamber, Phoenix House, Tiverton on Tuesday, 17 December 2019 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 15 January 2020 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

STEPHEN WALFORD

Chief Executive
9 December 2019

Councillors: Mrs F J Colthorpe (Chairman), Mrs C P Daw, Mrs C Collis, R F Radford, E J Berry, L J Cruwys, S J Clist, F W Letch, E G Luxton, D J Knowles and B G J Warren

A G E N D A

MEMBERS ARE REMINDED OF THE NEED TO MAKE DECLARATIONS OF INTEREST PRIOR TO ANY DISCUSSION WHICH MAY TAKE PLACE

- 1 **APOLOGIES AND SUBSTITUTE MEMBERS**
To receive any apologies for absence and notices of appointment of substitute.
- 2 **PUBLIC QUESTION TIME**
To receive any questions relating to items on the Agenda from members of the public and replies thereto.

Note: A maximum of 30 minutes is allowed for this item.
- 3 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT**
Councillors are reminded of the requirement to declare any interest, including the type of interest, and reason for that interest at each item.
- 4 **MINUTES OF THE PREVIOUS MEETING** (*Pages 5 - 20*)
Members to consider whether to approve the minutes as a correct record of the meeting held on 20 November 2019.

- 5 **CHAIRMAN'S ANNOUNCEMENTS**
To receive any announcements the Chairman may wish to make.
- 6 **DEFERRALS FROM THE PLANS LIST**
To report any items appearing in the Plans List which have been deferred.
- 7 **THE PLANS LIST** (*Pages 21 - 156*)
To consider the planning applications contained in the list.
- 8 **APPEAL DECISIONS** (*Pages 157 - 158*)
To receive for information a list of recent appeal decisions.
- 9 **APPLICATION 19/00118/MOUT OUTLINE FOR THE ERECTION OF UP TO 105 DWELLINGS, ASSOCIATED LANDSCAPING, PUBLIC OPEN SPACE AND ALLOTMENTS TOGETHER WITH VEHICLE AND PEDESTRIAN ACCESS FROM SISKIN CHASE AND PEDESTRIAN ACCESS FROM COLEBROOKE LANE - LAND AT NGR 301216 106714 (WEST OF SISKIN CHASE), COLEBROOKE LANE, CULLOMPTON** (*Pages 159 - 198*)
Following an appeal to the Planning Inspectorate against non-determination; to consider a report of the Head of Planning, Economy and Regeneration requesting that members advise how they would have determined the application.

The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. The reports within this agenda have been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.

Anyone wishing to film part or all of the proceedings may do so unless the press and public are excluded for that part of the meeting or there is good reason not to do so, as directed by the Chairman. Any filming must be done as unobtrusively as possible from a single fixed position without the use of any additional lighting; focusing only on those actively participating in the meeting and having regard also to the wishes of any member of the public present who may not wish to be filmed. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chairman or the Member Services Officer in attendance so that all those present may be made aware that is happening.

Members of the public may also use other forms of social media to report on proceedings at this meeting.

Members of the public are welcome to attend the meeting and listen to discussion. Lift access to the first floor of the building is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available. There is time set aside at the beginning of the meeting to allow the public to ask questions.

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If you would like a copy of the Agenda in another format (for example in large print) please contact Sally Gabriel on:

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MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 20 November 2019 at 2.15 pm

Present

Councillors

Mrs F J Colthorpe (Chairman)
Mrs C P Daw, Mrs C Collis, R F Radford,
E J Berry, L J Cruwys, S J Clist, F W Letch,
E G Luxton, D J Knowles and B G J Warren

Also Present

Councillor(s)

R M Deed, R J Dolley, C J Eginton,
T G Hughes and J Wright

Present

Officers:

Maria Bailey (Interim Group Manager for Development), Kathryn Tebbey (Group Manager for Legal Services and Monitoring Officer), Alison Fish (Area Team Leader) and Sally Gabriel (Member Services Manager)

75 APOLOGIES AND SUBSTITUTE MEMBERS

There were no apologies.

76 PUBLIC QUESTION TIME

Mr Sauer referring to item 10, Silverdale, stated that I am the owner of the land next to Silverdale. To enable the development of the neighbourhood plan, Silverdale, the Parish Council made requests for land with potential for housing and I presume this included affordable housing. I was asked by the person co-ordinating the plan to send in details of land a Silverdale. This land was subsequently refused because I had sent in a scanned copy of the documents and it became too late. However, my question is how do Silverton Parish Council and Mid Devon District Council, who are both committed to providing affordable housing, intend to satisfy the requirement for affordable housing in Silverton which was identified by the housing needs assessment as significant and supported by 86% of the parishioners who responded to the Neighbourhood Plan request?

Mr Campbell stated in relation to item 10, Silverdale, If this proposed plan was approved it would be a major development where there is no development planned for within the adopted plan or the emerging plan. So why would it even be considered?

Mrs Campbell also referring to item 10 stated that I think you can see from the people behind me that have come from Silverton how strongly we feel about this. If members refuse the application as they were minded to do last month and the Mid Devon Local Plan is adopted between now and any potential appeal can you confirm which policies the appeal, would be determined against? It is my understanding that when the local plan is adopted that any potential appeal would be refused because the site is outside the settlement area.

Mr Berry referred to the development at Post Hill in item 9 and stated in principle I have nothing against the use and it would fit well in that location however, I am very concerned that Post Hill has a particular character and is visible for a long way heading east up Blundells Road to Post Hill with houses set well back from the road and a green corridor vista up to the tree top of Post Hill. From what I can see of the application houses 1 and 2 will stick out from a long way up Blundells Road and will be completely at odds with the local character that currently exists. I was minded to have a quick look at the design guides, specifically for this area, and I'll quote page 27, some of the natural features that inform the design guide include:

- a. Existing site boundaries
- b. Vistas towards the North from the North East; and
- c. A sensitive edge treatment between development landscape

Page 37, this is achieved by adhering to the structure imposed by the existing landscape considering the topographical constraints and upholding qualities and characteristics of the rich landscape setting to the east of the town.

Page 54, to this end the..... existing characteristics should be designed as a green boulevard the highest hierarchical new street typology. The buildings typology on the North side of the proposed green boulevard reflect the grandeur of a green boulevard whilst respecting the existing neighbourhood Post Hill properties. The existing mature trees are a valuable asset to the site, these are to be retained".

Therefore my question, bearing in mind the character of that particular location and the views coming up Blundells Road, the main artery out of Tiverton I would ask why the plan has put houses 1 and 2 right out on the highway where they will be completely visible in the landscape all the way up Blundells Road towards Post Hill? My question is why can't those houses be pushed just a little bit back further from the road so you will maintain that green vista boulevard feeling as you go up through the road? I've put together some slides which show the building line and which show that houses 1 and 2 are well ahead of the building line and with the visibility, you will be looking towards the top of the hill at two new houses. I'll leave that for the consideration of the committee but my question is can the design be changed to push houses 1 and 2 further back into the development, away from the road?

Peter Dumble stated he had 5 questions in relation to agenda item 8, Sampford Peverell:

Could planning officers confirm whether any prior consultation took place with the applicant before submission of the planning application (as would be normal)?

Could planning officers explain to the committee and to members of the public why this application, which is identical, to that refused by the planning committee in July and currently subject to an appeal has been allowed, when there are powers under section 70B of the Town and Country Planning Act to refuse to accept the application in these circumstances?

Could Planning officers confirm that they took legal advice in relation to making the decision to validate the application and if so, from whom was this advice received and when? And if not, why not?

Could planning officers confirm that the decision on this application will be referred to committee?

Conservation interests are a vital consideration in this new application. An invitation to visit and view from inside 44 Higher Town (Grade II listed farmhouse within the village conservation area) has been issued in a letter from the owners and which is available to view on-line as a comment to the planning application.

This invitation has been offered many times but it has been ignored. Equally, a properly constituted site visit has never taken place. This should involve the applicant, the parish council and a representative from objectors. It is about time this process was carried out transparently, fairly and correctly.

It really is very important that you at least see inside no 44 Higher Town to fully appreciate the harm to amenity that will be caused by the development. Could I therefore ask Councillors to insist this invitation is taken up?

Cllr Melville from Silverton Parish Council, referring to item 10, Silverdale, stated that the views of the parish Council and our lack of support for this application are well known and rehearsed previously. Today I want to bring a specific question for you. In the last few months Devon County Council Highways we have noticed have been inconsistent in their submissions which would involve vehicles entering the A396 from the side roads along this section. On one day it is deemed safe and on another it is unsafe only 4 days ago at 6.10pm in the evening, 3 cars collided on this very stretch on the A396 Tiverton Road where vehicles from this proposed development will be emerging if it's approved. One of the vehicles plunged 15 feet down into a field trapping the occupant, closing the road for several hours, requiring the air ambulance to be deployed, alight in Silverton and then convey the casualty who suffered head injuries. My question, will Councillors balance the advice they receive from Highways, with their own observations from their site visits, local knowledge and our live experiences as residents of Silverton because this stretch of road with its limited view junction is not suitable for a 20 property housing development.

Cllr Wright, Ward Member, addressed the committee on item 10 and stated that I could not attend the previous meeting but my views haven't significantly changed even with the implications report. I still think as the Ward Member the views against this development outweigh it but I do have 2 particular questions:

It's about the benefits and the tilted balance, they have to significantly and demonstrably outweigh the adverse impacts and I think we've heard a lot about the adverse impact of this to our community. My question is who do the Councillors on this committee feel is going to benefit from this development. We know that we have

got significant housing supply in the whole of Mid Devon, there's lots of properties for sale and quite a wide range of properties in our village so I would interested to know who the benefactors are?

The other one is a more technical one and I don't know enough about planning law to know whether it applies. I was trying to find out where tilted balance would apply through internet research and there seems to be an awful lot of case law which talks about this 5 year supply of land. I found one case, Green Lane Chertsey Developments Ltd vs SSHCLG, this is a 2019 case and it says 'further the court even went so far as to suggest that in light of the wording of paragraph 11 the tilted balance should have been treated as being engaged in a case unless there was positive evidence of a 5 year housing land supply so as to justify its disapplication'. So I do believe that at the end of the impact report it does talk about a 7 year housing supply? I just wondered if this case is applicable because we clearly have quite a large housing supply in Mid Devon.

Jenna Goldby also referring to item 10 on the agenda stated she wanted to ask a question regarding the 20 dwellings in Silverton. My question is regarding the traffic and the parking issues at that end of the village and I want to know what time and what day the surveys have been carried out on the traffic and the parking in that area. We have recently had some near miss accidents which I know have been reported on the Mid Devon Website and we've recently had an incident where a fire engine was unable to reach that end of the village. The parking issues are now actually starting to put people's lives in danger at that end. Development of 20 more houses is going to increase the parking and the traffic significantly in this area so my question is what days have the surveys been carried out and also will further consideration be put in place since the recent issue of the fire engine.

The Chairman indicated that answers to questions would be given when the items were debated.

Mr Dumble would receive a written response.

77 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT

Members were reminded of the need to declare any interests when appropriate.

78 MINUTES OF THE PREVIOUS MEETING (00-20-03)

Subject to replacing the word 'not' with 'nor' in the resolution under Minute 70 (a), the minutes of the meeting held on 23 October were approved as a correct record and signed by the Chairman.

79 CHAIRMAN'S ANNOUNCEMENTS (00-21-18)

The Chairman welcomed Mrs Maria Bailey (Interim Group Manager for Development) to the meeting.

80 MEETING MANAGEMENT

The Chairman indicated that she intended to take Item 10 (Silverdale, Silverton) as the next item of business, this was **AGREED**.

81 **APPLICATION 18/02019/MOUT - OUTLINE FOR THE ERECTION OF UP TO 20 DWELLINGS AND ASSOCIATED ACCESS - LAND AT NGR 295508 103228 (SILVERDALE), SILVERTON (00-22-15)**

The Committee had before it * a report of the Head of Planning, Economy and Regeneration regarding the above application which at the Planning Committee meeting on 23rd October 2019, Members had advised that they were minded to refuse the above application and invited an implications report for further consideration.

The Interim Group Manager for Development outlined the contents of the report by way of presentation highlighting the site location plan, the proposed access onto the site, the indicative site layout, the highways and access plan which identified the proposed footways and shared surfaces and provided photographs from various aspects of the site. She walked through the implications report highlighting the reasons for refusal that members had identified at the previous meeting:

The Local Plan Review is at an advanced stage and neither the adopted Local Plan nor the Local Plan Review allocate this site which lies outside of the settlement limits of Silvertown for housing development.

She explained that the policies within the existing Local Plan were out of date and not in accordance with the NPPF, therefore those policies had limited weight. Limited weight should also be given to the emerging Local Plan as it had not been adopted, therefore the tilted balance had to be applied.

The Council considers that it is able to demonstrate a 7.43 year housing land supply without the development site and there is no need for this further housing.

She explained that the authority did have a 7.43 year housing land supply but that the Local Plan policies were out of date, therefore the tilted balance had to be applied and that limited weight should be given to policies COR3, COR 17 and COR 18. She also outlined the housing need identified within the report.

The development would have an unacceptable visual impact.

She explained that the proposed development site was surrounded by modern development with the western site looking onto open countryside, the presence of the new dwellings would sit within the existing landscape and that it was not accepted that this would impact on the visual amenity.

Unacceptable harm would arise as a result of the proposed access arrangements and traffic generation arising from the development.

She explained that the Highway Authority were the expert consultees and that the Highway Authority did not agree that unacceptable harm would arise as a result of the proposed access arrangements and that the proposal was in accordance with the NPPF.

If granted the development would have an unacceptable cumulative impact with other housing granted in the village.

She explained that 20 additional dwellings in the village was only an increase of 2.2% in dwellings, this was not considered unacceptable.

Providing answers to questions posed in public question time, the Interim Group Manager for Development stated that she had answered the question of the housing need and affordable housing through her presentation, there was no development plans for the site, so therefore the tilted balance within the NPPF would be applied. The letter from the objectors had been distributed to the committee and any appeal would consider which policies to apply. If an appeal took place and the Local Plan had been adopted, then yes the new Local Plan policies would apply. If not then the existing policies would apply and these were out of date. The highway representations had been received from the Highway Authority who were the expert consultees for the application. With regard to the tilted balance within the NPPF, this had been explained.

Discussion took place regarding:

- Within the reasons for refusal at 3.1 of the report, there was no mention of COR17 or COR 18 within the existing Local Plan or policies S13 and S14 within the emerging Local Plan, it was felt that these policies had limited weight and should be included within the reasons for refusal.
- The site was not included in either the existing or emerging Local Plans and that 61 houses were for sale within the village and whether there was a need for the additional housing.
- People were being encouraged to walk or cycle to work, but there was no regular bus service in the village.
- The highway surveys that had taken place.
- The need to identify material planning considerations for any refusal.
- Road safety issues onto the Exeter road.

It was therefore

RESOLVED that the application be refused on the following grounds:

The development is for the erection of up to 20 dwellings outside the settlement limit boundaries of Silverton and represents a major residential proposal on a site for which there is no development planned for within either adopted or emerging policy and for which there is no current need as the Council can demonstrate a 7.43 year housing land supply without this site. The Local Planning Authority consider that the proposed unplanned development would have an unacceptable visual impact, would cause unacceptable harm as a result of the proposed access arrangements and traffic generation arising from the development and would have an unacceptable cumulative impact on Silverton when taking into account other housing granted in the village. When tested against Paragraph 11 of the National Planning Policy Framework the Local Planning Authority consider that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole as well as being contrary to Policy COR1, COR2 and COR9 of the Mid Devon Core Strategy (Local Plan Part 1) and Policies DM1 and DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies) and policies COR17 and COR18 of the Mid

Devon Core Strategy (Local Plan Part 1) and policies S13 and S14 of the emerging Local Plan Review.

(Proposed by Cllr B G J Warren and seconded by Cllr Mrs C A Collis)

Notes:

- i) Cllr Mrs C P Daw declared a personal interest as she was a trustee of a horse sanctuary in the village of Silverton;
- ii) A proposal to approve the application was not supported;
- iii) Cllrs Mrs F J Colthorpe and D J Knowles requested that their vote against the decision be recorded;
- iv) Cllrs Mrs C A Collis, R F Radford and B G J Warren would represent the Council should the application be appealed;
- v) *Report previously circulated, copy attached to minutes.

82 DEFERRALS FROM THE PLANS LIST

There were no deferrals from the Plans List.

83 THE PLANS LIST (00-51-01)

The Committee considered the applications in the plans list *.

Note: *List previously circulated; copy attached to the signed Minutes.

- a) No 1 on the Plans List ***(19/00718/MOUT – Outline for the erection of 26 dwellings – land at NGR 270904 112818 (The Barton), Belle Vue, Chawleigh).***

The Area Team Leader informed the meeting that the application had been considered at the previous meeting and it had been resolved to defer the application to allow officers to negotiate with the developer with a view to reducing the number of dwellings on the site to 20 in total. Officers had met with the applicant who did not wish to amend the number of dwellings sought and thereby wished the application to be determined on the basis of 26 dwellings.

He outlined the contents of the report by way of presentation identifying the site location plan, the access to the site and the indicative layout of the proposed dwellings and provided photographs from various aspects of the site. He highlighted the Highways Authority's updated view within the update sheet with regard to the number of dwellings being proposed for the shared highway surface. He explained the allocation of the site within the emerging Local Plan, the lack of objection from the Lead Local Flood Authority and the Highway Authority and the need for affordable housing in the village.

Further consideration was given to:

- The views of the applicant with regard to the allocation within the emerging Local Plan for a minimum of 20 dwellings on the site with 30% affordable housing, the lack of objection from consultees and that the internal layout of the site would be dealt with under reserved matters.
- The views of the Parish Council with regard to the number of dwellings proposed on the site and that 20 dwellings had been agreed with the Parish Council, however there had been no further dialogue with regard to the increase in the number of dwellings.
- The views of the Ward Member with regard to the increase in the number of dwellings on the site above the number within the allocation and whether this would set a precedent across the district.
- The proposed project within the parish for the public open space contribution.
- Any reserved matters application would deal with the detailed proposals.
- The allocation had outlined a minimum of 20 dwellings on the site.

It was therefore:

RESOLVED that the application be deferred to allow a site visit to take place by the Planning Working Group to consider:

- The impact of the traffic from the 6 additional dwellings
- The site access
- Possible road safety issues
- The impact of the development on the living conditions of neighbouring properties
- The impact of the development on heritage assets

(Proposed by Cllr F W Letch and seconded by Cllr Mrs C A Collis)

Notes:

- i) Cllr C J Eginton made a declaration in accordance with the Protocol of Good Practice for Councillors in dealing with Planning Matters as he had been involved in discussions with the Parish Council, the applicant and objectors to the application;
- ii) Cllr B G J Warren made a declaration in accordance with the Protocol of Good Practice for Councillors in dealing with Planning Matters as he had received a letter from the agent
- iii) Mr Turner (Applicant) spoke;
- iv) The Chairman read a statement on behalf of the Chairman of Chawleigh Parish Council;
- v) Cllr C J Eginton spoke as Ward Member;
- vi) A proposal to grant permission was not supported;

- vii) The following late information was reported:

Highway Authority - 15th November 2019

The above application was deferred by the planning committee for a review of the development, and the applicant has requested that the Highway Authority clarify its position in relation to the quantum of Housing being proposed from a shared surface road. In the initial response the Highway Authority commented on the delivery of 28 dwellings, but referred to the Design guide numbers and the previously agreed figures with the Parish council. The applicant subsequently reduced these numbers to 26. The design guide recommends 25 from a straight Cul-de-sac and turning head and up to 50 for a crescent. The application combines a straight Cul-de-sac (the existing) with a crescent (proposed). The Highway Authority advised that the 25 figure was flexible. Therefore the Highway Authority would raise no objection to the provision of 26 units on top of the existing from a shared surface road given the combination of the two types and the minimal increase above the lower figure. This position is subject to the conditions previously recommended.

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

- b) No 2 on the Plans List *(17/02020/MFUL – Erection of building comprising 44 retirement apartments with associated communal lounge, manager's officer, guest suite, rechargeable electric buggy store, car parking, substation and landscaping – Astra Printing and Crown Works site, Willand Road, Cullompton).*

The Area Team Leader outlined the contents of the report by way of presentation explaining the site location plan which highlighted that the site was outside of the conservation area, the site was currently covered with existing buildings and that there was a full demolition programme due to take place. She identified the surrounding houses and explained that the current access to the site would remain and that parking would be retained to the north of the site. She outlined the proposed floor plans for the development, the proposed elevations and photographs taken from various aspects of the site.

Consideration was given to:

- The lack of a Section 106 agreement
- The views of the agent with regard to the local need for retirement accommodation in the town, the NPPF which outlined the need to provide retirement accommodation, the pedestrian crossing which was part of the application which would give access to the bus stop, the release of family homes in the town, employment opportunities and new homes on a brownfield site.
- The sensitive design which was thought to be in keeping with the surrounding area

RESOLVED that planning permission be granted subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by Cllr Mrs C A Collis and seconded by Cllr L J Cruwys)

Notes:

- i) Mr Bendinelli (Agent) spoke;
- ii) The following late information was provided:

Please note the following amendment:

- a) The description should read 43 apartments not 44 – this is the case also where reference is made in the report to 44 apartments, this should be 43
- b) The number of parking spaces is 41 not 39
- c) No update to the drainage information has been provided but given that the LLFA satisfied that an ‘overall improvement to the surface water drainage system is being proposed’ it is considered that this can be dealt with via condition
- d) The balancing summary on page 69 should be amended to delete ‘That benefit would be added to here by an off-site monetary contribution to affordable housing in the district’
- e) Local finance considerations on page 70 should be amended so that it reads ‘With the introduction of the Localism Act 2011, the receipt of New Homes Bonus is a material consideration in the determination of planning applications although it carries limited weight.’
- f) Condition 10 should be amended so that the last sentence reads, ‘The approved scheme shall be implemented in accordance with the agreed details’
- g) The reason for Grant of Consent should be amended so that it reads, ‘The proposal would provide 43 additional apartments, thereby contributing appreciatively towards the supply of housing in an accessible location which is well positioned, with good pedestrian access to local shops, services and public transport links. As such, the Council attach significant weight to this consideration in the overall balance.’

The proposed development would provide specialist accommodation for older people, for whom, according to the Planning Practice Guidance (PPG), the need to provide housing at a national level is ‘critical’. Evidence of a need for additional housing for older people in Cullompton has been presented by the applicant and the Council have no sound basis to challenge this. The Council is also mindful that the occupation of apartments would also free up a mix of housing for others. Therefore, the Council attribute significant weight to the benefits of providing housing to meet current and future demographic trends.

It is accepted by the Council that there is a significant need and policy requirement for the provision of affordable housing. However the applicant has been able to

successfully demonstrate that the scheme would be unviable with such contributions.

The Framework states that significant weight should be placed on the need to support economic growth. The construction of the proposed apartments would generate employment and the expenditure associated with the provision of 43 new units would benefit local shops and services.

In addition, paragraph 67 of the Framework also seeks to boost significantly the supply of housing. The Council places some weight on such considerations.

The Council have found no harm in respect of the effect of the proposed building on the Conservation Area, nor any material harm to views or the wellbeing of trees which contribute positively to the character of the Conservation Area that could not be mitigated through condition.

The benefits the development would bring, including housing for older people can reasonably be considered public benefits, and that these are substantial. The application proposal would accord with the development plan when taken as a whole. Accordingly, in the absence of any other harm, and taking into account all other matters raised, the application should be granted.

c) No 3 on the Plans *List (19/00794/FULL – Erection of dwelling and double garage, formation of vehicular access and associated renewable energy systems and landscaping – land at NGR 308470 112426 (Craddock Lodge), Craddock).*

The Area Team Leader outlined the contents of the report explaining that the proposed single dwelling was not within the settlement limit in the Local Plan, the site was also adjacent to the conservation area. She highlighted by way of presentation the existing and proposed site plan, floor plans, elevations and photographs from various aspects of the site which included the proposed access and highlighted neighbouring properties.

Consideration was given to:

- The views of the representative for the objectors with regard to the impact of the development on the neighbouring properties, the site was in the open countryside and there was a need to protect the countryside against development, he felt that the proposed visibility splay was inadequate, there would be an impact on the heritage assets and impact on wildlife and biodiversity.
- The views of the applicant who was very disappointed with the officers recommendation, he felt that the principle of development should be supported, the settlement limit was out of date and that the proposal would not cause any harm to the setting of the listed building, he felt that the proposal was infill, was of good design and would enhance the collective character of the houses in the area.

- The view of Uffculme Parish Council who felt that the proposal was an extensive building in the open countryside, there was no link to agriculture and was outside the settlement limit and not in the Local Plan.
- One of the Ward members stated that this was a proposed retirement home and the applicant was looking to downsize and the proposal was of good design.
- Caselaw with regard to the term 'isolated' infill and the fact that Craddock was not a settlement and that approval would be setting a precedent.

RESOLVED that planning permission be refused as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by Cllr F W Letch and seconded by Cllr Mrs C P Daw)

Notes:

- i) Cllr F W Letch declared a personal interest as one of the objectors was known to him;
- ii) Cllrs S J Clist made a declaration in accordance with the Protocol of Good Practice for Councillors in dealing with Planning Matters he had received emails and phone calls with regard to the application;
- iii) Cllr L J Cruwys made a declaration in accordance with the Protocol of Good Practice for Councillors in dealing with Planning Matters as he had spoken to the objectors;
- iv) Mr Dent spoke in objection to the application;
- v) Mr Marchmont (applicant) spoke;
- vi) Cllr Kingdom spoke on behalf of Uffculme Parish Council;
- vii) Cllr T G Hughes spoke as Ward Member;
- viii) Cllrs E J Berry and Mrs C A Collis requested that their vote against the decision be recorded;
- ix) Cllr E J Berry left the meeting at this point.
- x) The following late information was reported:

The reason for refusal on page 87 should be amended as follows:

1. National and local planning policy states that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances to justify an approval. The Local Planning Authority consider the proposals, do not offer a truly outstanding or innovative

architectural design, or reflect the highest standards in architecture and result in harm from the development in respect to the local distinctiveness and character of the area, setting of designated heritage assets including Craddock Conservation Area and immediate listed building. The proposal is considered to represent an unsuitable and unsustainable development that harms these material considerations, and fails to meet the required economic, environmental and social objectives. On this basis the proposals are considered to be contrary to the following development Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1), Policies DM1, DM2, DM14 and DM27 of Mid Devon Local Plan Part 3 (Development Management Policies) and the relevant National Planning Policy Framework.

d) No 4 on the Plans *List (19/00210/MFUL – Demolition of buildings and erection of 18 dwellings and associated works, including vehicular access, garages, parking and landscaping – 36 Post Hill, Tiverton).*

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the site location plan, the inclusion of the site within the Tiverton Eastern Urban Extension, associated Tiverton EUE Masterplan and Design Guide and the sites proximity to the development at Braid Park (under construction). She highlighted an aerial photograph of the site, the existing properties, the established building line, the proposed site plan and preferred vehicular access connecting to Braid Park and beyond. She also highlighted the junction of the preferred route with Post Hill and the relationship of plots 1 and 2 with Post Hill properties. She explained that the redundant buildings would be removed and there was a tree removal plan for the site. She also explained the vacant building credit in relation to affordable housing provision, the planting plan for the development and highlighted the elevations for plot 1 which was to be a landmark building designed to turn the corner and plot 2 which did sit forward but did pick up the building line with the existing dwellings in Fairway. Members were also provided photographs from various aspects of the site. The officer also stated that answers to questions posed in public question time had been covered in her presentation.

Consideration was given to:

- The number of trees to be removed and the general tidying up of the site
- The access to the site and possible visibility issues when turning right onto Post Hill
- The number of parking spaces available in the parking court and their association to the dwellings
- The location, height and size for the units on plots 1 and 2
- The traffic calming in the area
- The views of the agent who referred to the road, cycle and footpaths link through the site into the wider Eastern Urban Extension, the extant planning permission for a care home on the site, that the site was proposed to be developed to a high quality and would deliver a link to the Eastern Urban Extension. Plots 1 and 2 were thought to be good urban design and had been proposed in line with the Design Guide.

- Whether plots 1 and 2 should be set back further into the site

RESOLVED that the application be deferred to allow for further discussions between officers and the developer to take place with regard to the siting of plots 1 and 2 and to consider specifically the height of plot 2.

(Proposed by Cllr L J Cruwys and seconded by Cllr Mrs C P Daw)

Notes:

- i) Cllr B G J Warren and R F Radford made declarations in accordance with the Protocol of Good Practice for Councillors in dealing with Planning Matters as they had been contacted by an objector;
- ii) Mr Frost (Agent) spoke;
- iii) The following late information was reported:

Proposed condition:

Condition 18

The occupation of any dwelling in any agreed phase of the development shall not take place until a minimum of two (2) electric vehicle charging points have been installed into two properties. The properties to receive the charging points shall be identified, for approval in writing, by the Local Planning Authority.

REASON: In the interests of proper planning in compliance with Policy DM8 of the Local Plan Part 3.

The report for 36 Post Hill makes reference (Page 105, para 3) to 'a separating distance of some 25m between No. 26 Mayfair and Unit 1'. Unfortunately this measurement did not take into account the carriageway and pavement of Post Hill road itself. The sentence in the report should read:

'...a separating distance of some 37m between No. 26 Mayfair and Unit 1'.

The 37m distance takes into account 20.5m (approx.) from the rear elevation of No. 26 Mayfair to edge of carriageway, 5m set back from edge of pavement for Unit 1 and approximately 11.5m for Post Hill carriageway, pavement and verge.

- e) No 5 on the Plans *List (19/00924/HOUSE – Erection of an extension and alterations to roof to include first floor accommodation and former window – 7 Rackenford Road, Tiverton)*.

The Interim Group Manager for Development outlined the contents of the report by way of presentation highlighting the existing and proposed plans, the existing and proposed roof plans, proposed floor plans and elevations and photographs from various aspects of the site. She informed the meeting of the history of the site and that the application before them was much smaller than originally received and that the proposal was virtually within the limits of Permitted Development Rights

Consideration was given to:

- Whether there were all bungalows in the area of the proposal
- The dormer was no higher than the ridge
- The views of the objector who had concerns of overlooking into the principle rooms of another property, the scale and impact of the proposal and whether obscure windows could be added to the dormer.
- The views of the local Ward members with regard to the impact on No 9 Rackenford Road, there was no lack of housing in the area but there was a shortage of bungalows and whether the garage would be lost
- What would be allowed under Permitted Development Rights

RESOLVED that planning permission be granted subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by Cllr F W Letch and seconded by Cllr C P Daw)

Notes:

- i) Mr Lavery spoke in objection to the application;
- ii) Cllrs R J Dolley and E G Luxton spoke as Ward Members;
- iii) Cllrs E G Luxton and B G J Warren requested that their vote against the decision be recorded.

84 **MAJOR APPLICATIONS WITH NO DECISION (3-29-00)**

The Committee had before it, and **NOTED**, a list * of major applications with no decision.

It was **AGREED** that:

Application 19/01839/MOUT (Colebrook Lane, Cullompton) be brought before committee for determination

Application 19/01836/MOUT (Higher Town, Sampford Peverell) be brought before committee for determination

Note: *List previously circulated; copy attached to the Minutes

85 **APPEAL DECISIONS(3-30-45)**

The Committee had before it and **NOTED** a list of appeal decisions * providing information on the outcome of recent planning appeals.

Note: *List previously circulated; copy attached to Minutes.

86 **PLANNING PERFORMANCE 2019/20 - QUARTER 2 (3-32-54)**

The Committee had before it and **NOTED** a *report of the Head of Planning, Economy and Regeneration regarding information on the performance of aspects of the planning function of the Council for Quarter 2 2019.

The Interim Group Manager for Development outlined the contents of the report stating that targets were being met with some areas outperforming the targets. There had been a backlog of applications that required decisions but this was being dealt with.

Consideration was given to the enforcement statistics and questions raised with regard to whether any monies had had to be repaid due to being determined beyond the 26 week period allowed and how many appeals there had been for non determination in the statutory time and if they were related to the applications for return of fees. The Interim Group Manager for Development stated that she did not have that information to hand but would find out and report back to the committee.

Note: *Report previously circulated, copy attached to minutes.

(The meeting ended at 6.15 pm)

CHAIRMAN

PLANNING COMMITTEE AGENDA - 17th December 2019

Applications of a non-delegated nature

<u>Item No.</u>	<u>Description</u>
01.	<p>19/01189/OUT - Outline for the erection of 2 dwellings (Revised Scheme) at Land at NGR 307538 116626 (North of Town Farm), Burlescombe, Devon.</p> <p>RECOMMENDATION Grant permission subject to conditions and the signing of a S106 agreement to secure.</p>
02.	<p>19/00210/MFUL - Demolition of buildings and erection of 18 dwellings and associated works, including vehicular access, garages, parking and landscaping at 36 Post Hill, Tiverton, Devon.</p> <p>RECOMMENDATION Grant permission subject to conditions and the signing of a S106 agreement to secure.</p>
03.	<p>19/00718/MOUT - Outline for the erection of 26 dwellings at Land at NGR 270904 112818(The Barton), Belle Vue, Chawleigh.</p> <p>RECOMMENDATION Grant permission subject to conditions and the signing of a S106 agreement to secure.</p>
04.	<p>19/01132/MFUL - Erection of 20 dwellings with associated access, parking and landscaping at Land at NGR 283153 99974, Barn Park, Crediton.</p> <p>RECOMMENDATION Grant permission subject to conditions and the signing of a S106 agreement to secure.</p>
05.	<p>18/01966/TPO - Application to part dismantle 1 Holm Oak tree, protected by Tree Preservation Order 10/00005/TPO at Land at NGR 284218 100950 (Between Old Tiverton Road & Pedlerspool Lane), Crediton, Devon.</p> <p>RECOMMENDATION Refuse consent TPOs</p>
06.	<p>19/01608/HOUSE - Erection of single storey extension and separate garage/annex/workshop accommodation at Tanglewood, Dukes Orchard, Bradninch.</p> <p>RECOMMENDATION Grant permission subject to conditions.</p>

Application No. 19/01189/OUT

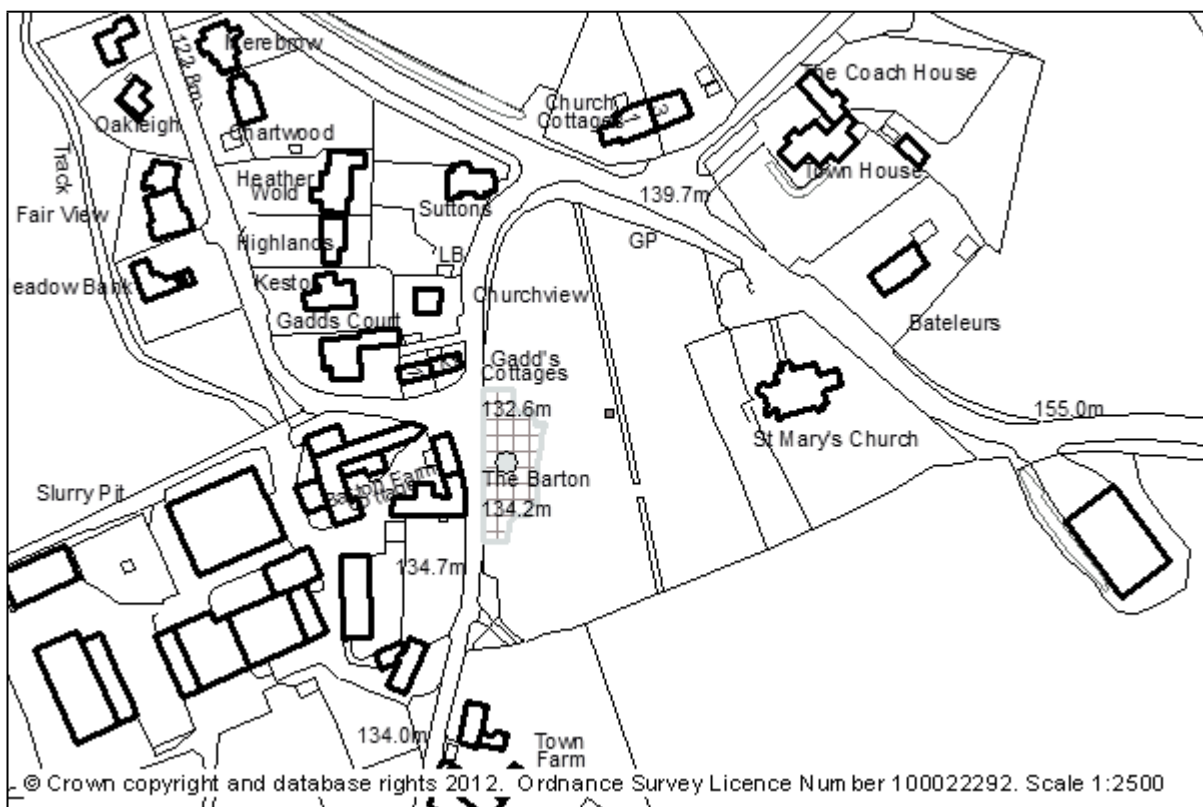
Grid Ref: 307538 : 116626

Applicant: Mr A Lehner

Location: Land at NGR 307538 116626 (North of Town Farm)
Burlescombe
Devon

Proposal: Outline for the erection of 2 dwellings (Revised Scheme)

Date Valid: 11th July 2019



APPLICATION NO: 19/01189/OUT

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

Outline for the erection of 2 dwellings (Revised Scheme)

APPLICANT'S SUPPORTING INFORMATION

Application Form
Site Location Plan and Site Layout
Indicative Site Sections
Wildlife Checklist
Tree Constraints Plan
Tree Schedule and Impact Assessment
Drainage Strategy
Ecological Appraisal
Heritage Impact Assessment
Archaeology Report
Design and Access Statement

RELEVANT PLANNING HISTORY

96/01294/OUT - WD date 20th November 1996
Outline for residential development; new access to be formed off Class 3 road adjoining site to the west
03/05567/PE - REC date
Proposed land uses at Burlescombe
08/00251/PE - REC date
Proposed development
10/00242/PE - CLOSED date 17th February 2010
Proposed affordable housing
18/00504/OUT - REFUSE date 28th June 2019
Outline for the erection of 2 dwellings
19/01189/OUT - PCO date
Outline for the erection of 2 dwellings (Revised Scheme)

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 – Sustainable Communities
COR2 – Local Distinctiveness
COR8 – Infrastructure Provision
COR9 – Access
COR12 – Development Focus
COR17 – Villages

Mid Devon Allocations And Infrastructure Development Plan (Local Plan 2)

AL/IN/3 - Public Open Space

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development

DM2 - High Quality Design

DM3 – Sustainable design

DM8 – Parking

DM14 - Design of housing

DM15 - Dwelling Sizes

DM27 - Development affecting Heritage Assets

National Planning Policy Framework

CONSULTATIONS

HISTORIC ENGLAND - 1 August 2019

Historic England Advice

Historic England has been consulted on various iterations of this scheme to construct a number of dwellings within the field due west of the Grade I listed church of St Mary, Burlescombe. The outline application has now been resubmitted following the refusal of the previous scheme. Our initial comments on the previous application expressed concerns about the impact that a housing development in this location would have on the significance which this highly significant church derives from its setting. This was both in terms of long and short range views but also importantly in relation to the loss of the rural and tranquil agricultural character of the immediate landscape. Subsequent revisions to the scheme significantly reduced the impact of the development by scaling back the access and parking arrangements and reducing the number of dwellings to two and consequently Historic England accepted that the impact of the scheme on the setting of the church would be such that the harm would no longer justify an objection on heritage grounds.

This new application has increased the scale of the parking and turning area from that previously considered, thereby encroaching further into the field, requiring much greater levels of excavation and consequently increasing the visual impact of the development on the setting of the adjacent Grade I church. We have expressed concerns about the level of infrastructure associated with the housing previously, and whilst the current scheme is not as extensive as some of the earlier iterations, the larger parking and turning area would result in a more suburban character in this highly rural location than that of the previous design.

Central to our consultation advice is the requirement of the Planning (Listed Buildings and Conservation Areas) Act 1990 in Section 66(1) for the local authority to "have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses". When considering the current proposals, in line with Para 189 of the National Planning Policy Framework (NPPF), the significance of the asset's setting requires consideration. Para 193 states that in considering the impact of proposed development on significance great weight should be given to the asset's conservation and that the more important the asset the greater the weight should be. Para 194 goes on to say that clear and convincing justification is needed if there is loss or harm. When considering development that has the potential to affect setting Historic England's Advice Note 3, the Setting of Heritage Assets should be referred to.

Recommendation

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 38(6) of the Planning and Compulsory Purchase

Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

Your authority should take these representations into account in determining the application. If there are any material changes to the proposals, or you would like further advice, please contact us. Please advise us of the decision in due course.

HISTORIC ENVIRONMENT TEAM - 24/07/19

I refer to your recent re-consultation on this application for the construction of two new dwellings and the receipt of the revised scheme.

The Historic Environment Team has no additional comments to make and would reiterate its previous advice, namely:

With regard to the heritage assets with archaeological interest I would reiterate the HETs previous advice that given the presence of post-medieval archaeological deposits within the application area that the impact of the proposed development upon these heritage assets should be mitigated by a programme of archaeological fieldwork to investigate and record the archaeological deposits prior to any development commencing here.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets and archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2018) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013), that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason

To ensure, in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

I would envisage a suitable programme of work as taking the form of the archaeological excavation of the footprint of the proposed development prior to development commencing to ensure an appropriate record is made of the heritage assets prior to their destruction by the proposed development. The results of the fieldwork and any post-excavation analysis undertaken

would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>

BURLESCOMBE PARISH COUNCIL

Burlescombe Parish Council gave consideration to all objections on the Mid Devon District Council website and those raised by residents of the parish and concluded the following:

Planning application 19/01189/OUT is practically identical to planning application 19/00504/MOUT which was rejected by Mid Devon District Council (MDDC) on grounds raised by Highways, that is, "the proposed development does not make adequate provision for the manoeuvring of vehicles within the site and would therefore be likely to result in vehicles reversing onto or manoeuvring on the highway, with consequent risk of additional danger to all users of the road contrary to the National Planning Policy Framework and policy COR9 of the Mid Devon Core Strategy (Local Plan Part 1) and policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies)." A revised application has been amended to partially accommodate and reflect these comments. However, having revised one area they have fallen foul of other areas previously raised ie mass and scale.

Regarding the application's design issues, the Council maintains the view that the application's developments will still be visible from the Church of St Mary and, moving forward, form part of the Church's scene. This would cause significant and material harm to the Church and its setting as the Church is a focal point in the local area and can be seen from a great distance across the parish. It is also noted by the Council that no mention of the proposed development's style or considered materials is made raising questions about their aesthetic, with regards to the local character, and their quality. The application also appears to encompass the prospect of future development by means of making access readily available and expandable which would only amplify the aforementioned detriment that would be caused.

On the matter of privacy, it cannot go unsaid that both existing residents and future residents would suffer infringement. The developments proposed in the application contain bedrooms which are either at ground level next to the highway, meaning bathrooms would be visible from the roadside by passers-by or on the first floor, enabling developments opposite to view the bedrooms of those residents who would be opposite to them.

Further to this, any growth in population directly leads to growth in other factors, including, though not limited to, those relating to pollution. With new residents it is likely we would see an increase in complaints about noise pollution from new residents concerning pedestrians, roadside traffic, or farm vehicles in the active farms beside and directly opposite the developments.

Considering pedestrians further for a moment, it would be superfluous for the developers to pave next to the highway of the developments for at present Burlescombe has no other footpaths along the lane alluded to and primary access is proposed from behind the properties anyhow. However, what would be necessary is a sustainable drainage system. Though one has been suggested, not one specific proposal has been detailed. If this unit, for lack of better wording, would be above ground there would be a further impact on the landscape within the area of the Church, which is a

Grade I (1) listed building, and its setting. It is also accompanied by the Grade II (2) listed north gate and adjoining boundary of the Church yard's wall as well as a ten-strong list of other Grade II (2) listed headstones and tombs.

The application, with reference to the National Planning Policy Framework, Section 16, Paragraph (192), Section (C), 'The desirability of new development making a positive contribution to the local character and distinctiveness.', does not positively contribute to the village and is most obviously out of character and is liable to breach the peaceful setting of the Church and its surroundings. With further reference, specifically to the National Planning Policy Framework, Section 16, Paragraph (194), 'any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from a development within its settings) should require clear and convincing justification.', the Council fails to see the detailed criterion being met by this application. The design has not been created in keeping, within the Church setting and the applicants also have not mentioned any construction materials to be used in the creation of the new properties, which may visually impact the area even more.

Burlescombe is a village with a population of 982 residents according to a recent census. At present it bears no local amenities: no shops, no local pub, no regular bus services and even lacks footpaths in a great number of locations, including at the site of the proposed development. In fact, on the matter of Public Rights of Way, the development would, in fact, impact 'footpath 18'. We do not see this being remedied anytime soon and so too the case for this application not being one of sustainable development must be made.

Further thoughts to the recommendation of a program that investigates any archaeological remains on the site prior to any development commencing must also be seriously given consideration.

It is, therefore, the view of the Council that Mid Devon District Council should reject the Application.

PUBLIC HEALTH

Contaminated Land: No objection to this proposal. (24.7.19).

Air Quality: No objection to this proposal. (17.7.19).

Environmental Permitting: No objection to this proposal. (17.7.19).

Drainage: No objection to this proposal. (24.7.19).

Noise & other nuisances: No objection to this proposal. (24.7.19).

Housing Standards: No comment. (29.7.19).

Licensing: No comments. (17.7.19).

Food Hygiene: Not applicable. (18.7.19).

Private Water Supplies: If a private supply is to be used by more than one property or has a commercial function, The Private Water Supply (England) Regulations 2016 as amended will apply. A risk assessment and sampling regime will be necessary. The supply must not be used until the Local Authority (Mid Devon District Council) is satisfied that the supply does not constitute a potential danger to human health, including single domestic use.

Please contact Public Health at Mid Devon District Council on completion of proposal.
If mains water is to be used, would have no comment. (17.07.19).

Health and Safety: No objection to this proposal enforced by HSE. (18.7.19).

NATURAL ENGLAND - 30 July 2019

Natural England has no comments to make on this application.

Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

Natural England and the Forestry Commission have also published standing advice on ancient woodland and veteran trees which you can use to assess any impacts on ancient woodland.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>

HIGHWAY AUTHORITY - 8th August 2019

The applicant has taken on board the Highway Authority observations from the previous application and based upon Drawing number 17.103.01H being conditional of any consent the Highway Authority would make no further observations.

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

1. The site access road shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 6.00 metres back from its junction with the public highway

REASON: To prevent mud and other debris being carried onto the public highway

2..In accordance with details that shall previously have been submitted to, and approved by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway

REASON: In the interest of public safety and to prevent damage to the highway

HISTORIC ENVIRONMENT TEAM - 1 August 2019

I refer to your recent re-consultation on this application for the construction of two new dwellings and the receipt of the revised scheme.

With regard to the heritage assets with archaeological interest I would reiterate the Historic Environment Team's previous advice that given the presence of post-medieval archaeological deposits within the application area that the impact of the proposed development upon these heritage assets should be mitigated by a programme of archaeological fieldwork to investigate and record the archaeological deposits prior to any development commencing here.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets and archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2018) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013), that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

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Reason

To ensure, in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

I would envisage a suitable programme of work as taking the form of the archaeological excavation of the footprint of the proposed development prior to development commencing to ensure an appropriate record is made of the heritage assets prior to their destruction by the proposed development. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>

ENVIRONMENT AGENCY - 12 August 2019

Natural England has no comments to make on this proposal.

Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

Natural England and the Forestry Commission have also published standing advice on ancient woodland and veteran trees which you can use to assess any impacts on ancient woodland.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>

REPRESENTATIONS

22 Letters of objection received throughout the planning process, for the current scheme for two dwellings. In addition 26 letters of objection were received for the previous refused application 18/00504/MOUT these objections received are as summarised as follows:

- The proposed development would impact on views to and from the ancient grade I listed church which would be spoilt forever.
- It would compromise the setting of a historic and ancient monument and potential archaeological site.
- The Church of St. Mary, Burlescombe was undoubtedly built on a hill to make a statement. It is now floodlit at night to make it a beautiful landmark sight at night from miles around.
- NPPF – 16 – 192 states that *a new development should make a positive contribution to local character and distinctiveness*. The proposed development of two houses would not do that and more-over be very visible from the village and obstruct this view.
- The development would be out of character for the area and would have an adverse effect on the visual amenity of the area as a whole. No other property in the locality shares the features of the proposed development and the majority of the existing properties are more than 100 years old representing the vernacular for the area.
- The development would increase traffic to this area making it more dangerous to walk on this already busy narrow road.
- The road is already congested with cars, there are no pavements and it is dangerous for people including children walking.
- The farm house and surrounding buildings/houses would be overlooked by the development.
- The community does not wish for this development only the applicant.
- This land should be preserved as a green space and never built on.
- The development would impact on wildlife such as bats.

- There are many plots within the village which are owned by the same applicant that are much more suitable and would come up against much less objection.
- A scheme of 2 properties would still impact on views to the Grade I Listed Church.
- The access to both properties is dangerous. Both come on to a small road which is used as a rat run and used by very large agricultural machinery.
- Plot 1, the access looks very tight and if a large car/van was to wish to park in this space, coming from the property onto this small road may be a massive issue.
- The access to plot 2 is directly opposite an already dangerous turning as visibility is not great.
- The houses will overlook an existing property and in turn the occupiers of the proposed houses would be overlooked.
- Whilst the development has reduced in number, if approved, further development would follow.
- Houses being dug into the landscape, being upside down houses in design and right on the road would encourage antisocial behaviour.
- This beautiful village has no public house, shop or substantial bus service. As one of the younger people to live in the village, this is difficult. People moving here may find this hard, therefore the houses may be difficult to sell and remain empty.
- Concern that these houses would be bought as holiday/short term lets even though the site is within the Uffculme School catchment area.
- Further houses are needed to keep the school and surrounding businesses in trade but not on this site and with a development happening for 6 affordable houses further down the hill, does this village really warrant 10 more new houses at this time?
- The proposed development for two dwellings would result in a significant amount of hedgerow to the detriment of the amenity of the area.
- The recently planted leylandii hedge planted across "the churchyard field" must be removed as it is now totally out of control and is obscuring the views across the valley. It is an absolute eyesore. It does not specify within the application, what is going to happen to the hedge or who is responsible for the maintenance of the hedge or proposed community orchard.
- The drainage of the site would be seriously hazardous to the T Junction, in freezing weather conditions.
- The development is 150m above sea level +/- 10m and as such is colder than the surrounding area. This has meant that on many occasions there is freezing conditions on the lane when Tiverton and Wellington positive temperatures.
- The development would create a Dam for all rain waters from the field behind the 2 homes and drives which have retaining walls. Due to the contour of the roads and landscape the flood waters will go down the centre of the t junction, creating an extreme hazard if it was to freeze.
- The highways agency or Mid-Devon do not grit the lane or the junction.
- The developers have still described the single track lane as the main road, when it is not the main road through Burlescombe, it is still a 7,5 tonne restricted road.
- The removal of the leylandii hedge is being used as a bargaining tool to obtain development.

Most recent comments associated with this application are summarised below:

- The application has already been refused why the applicant doesn't appeal it.
- The application is still in the same location and impacting on the church.
- How can you and the MDDC allow this to happen there are narrow roads?
- Objections set out in previous application are still valid.

- There will be harm to the grade 1 Church and the land is integral to the setting of the church
- The houses will be visible from the church
- It will introduce an inappropriate urban look to one of the oldest parts of Burlescombe
- The visibility splays required by Highways will also create an inappropriate urban appearance.
- The location of the housing, close to the edge of a lane used by private and large farm vehicles and proximity to a T junction creates road safety issues.
- Most local authorities aim for the conservation of foliage and animal habitat, yet the entrances and visibility splays for these 2 dwellings will lead to the loss of 137 metres plus of native hedging.
- There is no intrinsic change to the previous.
- The road to the front is not a main highway but a country lane.
- Drainage is a concern especially in the winter months.
- Old documents re-submitted.
- Evidence suggests that there are bats within the vicinity.
- No advantages to the village from the building of these houses.
- The visibility splays required by Highways, the significant loss of native hedging, and new large modern housing with a high level of parking infrastructure means that Old Road would take on an inappropriate - and undesirable – urban appearance
- There is no housing need.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

The main issues with this application relate to:

1. Previous Planning Application reason for refusal
2. Whether the application site is an appropriate location for new housing having regard to the provisions of the development plan;
3. Whether development on the site has an impact on the character and appearance of the area including the Grade I Listed Church on the hill to the east;
4. Highways matters of access and park and highway safety;
5. The living conditions of neighbouring properties and the living conditions of the occupants of the proposed dwellings;
6. S106 obligations; and
7. Other issues including previous refused application on site.

1. Previous Planning Application reason for refusal

Application 18/00504/OUT was refused on one reason

The proposed development does not make adequate provision for the manoeuvring of vehicles within the site and would therefore be likely to result in vehicles reversing onto or manoeuvring on the highway, with consequent risk of additional danger to all users of the road contrary to the National Planning Policy Framework and policy COR9 of the Mid Devon Core Strategy (Local Plan Part 1) and policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

As this proposal relates to a revised proposal to overcome this reason for refusal the Authority are unable to consider any other aspects of the development that was previously considered under 18/00504/OUT, unless the changes made to overcome this reason for refusal cause additional harm to the surrounding area and the heritage assets.

The proposed alteration to the parking and turning area is considered to overcome the previous concerns and so there are no other issues which have not been previously considered within 18/00504/OUT to recommend refusal of the proposal.

2. Appropriate location/policy considerations

The Development Plan in force consists of the Mid Devon Core Strategy 2007, adopted July 2007, the Allocations and Infrastructure DPD (2010) and LPP3 (DM policies). The site does not sit within a Neighbourhood Plan area. The NPPF requires that applications be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration. In relation to this current proposal, significant weight is given to the relevant policies produced by Mid Devon District Council.

This is a proposal for the erection of two new dwellings within the settlement boundary of Burlescombe, a recognised settlement in the Mid Devon Local Development Framework. Policy COR 17 of the Core Strategy allows for minor residential development within the defined settlement boundary for Burlescombe.

COR17 - Villages states:

'The following rural settlements with some local facilities and employment and access to public transport will be designated as villages: Bow, Bradninch, Burlescombe, Chawleigh, Cheriton Bishop, Cheriton Fitzpaine, Copplestone, Culmstock, Halberton, Hemyock, Kentisbeare, Lapford, Morchard Bishop, Newton St Cyres, Sampford Peverell, Sandford, Silverton, Thorverton, Uffculme, Willand and Yeoford.

Development will be limited to minor proposals within their defined settlement limits and to allocations for:

- a. affordable housing meeting a local need;
- b. small scale employment and tourism;
- c. services and facilities serving the locality; and
- d. other very limited development which enhances community vitality or meets a local social or economic need.'

Following on from the Written Ministerial Statement (2014), it is the case that a Local Planning Authority cannot request affordable housing on residential developments of below 5 dwellings and only a financial contribution towards the provision of affordable housing off-site would be required for residential developments of between 6 and 10 dwellings. The Written Statement was found to have more weight than Core Strategy Policies and as such the principle of a residential development for open market dwellings on a site such as this within a settlement limit would be supportable under COR17.

However, whilst the above policy would be supportive of residential development, this is not to say all residential development on a site within a settlement limit would be acceptable as S.38[6] of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The National Planning Policy Framework (the Framework), published by the Government and revised in 2019, is noted as one such material consideration.

Of interest is the matter that there is the proposal within the emerging Local Plan for the deletion of the Settlement Limit, therefore as a result there would be no policy which would directly allow for small scale open market residential development on this field. The emerging local plan policy S14 – Countryside states that:

'Development outside the settlements defined by Policies S10-S13 will preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. Detailed development management policies will

permit agricultural and other appropriate rural uses, subject to the following criteria:

- a) Affordable and low cost housing to meet local needs, residential conversion of appropriate existing buildings, replacement dwellings, housing essential to accommodate a rural worker and accommodation ancillary to a dwelling;
- b) Appropriately scaled retail, employment, farm diversification, tourism and leisure related development (including appropriate conversion of existing buildings);
- c) Appropriately scaled and designed extensions and other physical alterations to existing buildings;
- d) Agricultural and equestrian development;
- e) Community facilities, such as educational facilities, buildings associated with public open space, transportation and infrastructure proposals (including green infrastructure); and
- f) Renewable energy and telecommunications.'

However whilst the above emerging policy outlines the direction of travel, the emerging local plan is still to be adopted and therefore has little weight attributed to it.

3. Whether development on the site has an impact on the character and appearance of the area including the Grade I Listed Church on the hill to the east.

A key issue of any proposal in this location relates to the potential impact on the setting of the Grade I Listed Church and the general character of the area. The application site is a field set lower down than the church with a high leylandii hedge along the boundary separating another field which adjoins the grounds of the church. The proposed dwellings would be two storey fronting the highway which would mean building into the existing bank removing a long stretch of hedgerow and stone wall banking.

3.1 Impact on Church

As can be seen from the consultee responses received from both the Council's Conservation Officer and Historic England, concerns were raised to the development of dwellings within the field identifying the harm to the setting of the listed St Mary's Church. The NPPF outlines that 'When considering the impact of the proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation'. There is also the duty of a Local Planning Authority under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which states that 'In considering whether to grant planning permission or permission in principle for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'

Historic England have stated that this new application has increased the scale of the parking and turning area from that previously considered, thereby encroaching further into the field, requiring much greater levels of excavation and consequently increasing the visual impact of the development on the setting of the adjacent Grade I church. However following negotiation with the applicant this aspect of the application has been modified to reduce the impact of the proposed turning area by incorporation a roof over the turning area and introducing a grassed area over this to lessen the impact. We have expressed concerns about the level of infrastructure associated with the housing previously, and whilst the current scheme is not as extensive as some of the earlier iterations, the larger parking and turning area would result in a more suburban character in this highly rural location than that of the previous design.'

The Authorities Conservation officer has also re-assessed the application and has stated Applications for consent that affects a heritage asset must be able to justify their proposals. The NPPF says that the LPA should require an applicant to describe the significance of any heritage asset affected including any contribution made to their setting. This should be sufficient to

understand the potential impact of the proposal on its significance. As a minimum the Heritage Environment Record should have been consulted and the building assessed using appropriate expertise where necessary. When considering the impact of development, great weight should be given to the asset's conservation. Any harm or loss should require clear and convincing justification from the applicant. Any harm should be judged against the public benefit, including securing the optimum viable use. (The optimum use is the one that causes the least harm to the significance of the asset).

This approach is reinforced by policy DM27 LP3 and it requires development proposals likely to affect heritage assets and their settings, including new buildings, alterations, extensions, changes of use and demolitions to consider their significance, character, setting and local distinctiveness, and the opportunities to enhance them. It also goes on to state that where a development proposal would lead to less than substantial harm, that harm will be weighed against any public benefit.

The conservation Officers comments are set out below

I note in my comments from 19th of August I stated

This is a revised application after a previous refusal. It is noted that the Heritage Impact Assessment has not been updated. The Design and Access statement has been updated but does not consider the setting of the Church. I note the comments of Historic England and agree them.

The parking area is on the main view up the hill towards the Church tower. The extended parking area dug into rising ground with retaining wall would draw the eye and compete with the vista of the Church formed from opening up the hedge. Whilst the last scheme was acceptable in my view, this additional depth and height of the rear wall is harmful and is not acceptable

Whilst we have amended plans we do not have any amendments to the Design and Access Statement, and to that extent they do not put forward their case with regard to the setting of the church.

I remain of the view that this proposal is mainly without issues. However I do feel it is balanced with regard to the experience of the Church, principally looking up the road towards the Church tower opposite the north end of the proposal. This amendment looks to reduce the impact of the depth and height of the parking area, but this would rely on that area being unlit, uncluttered and plain and with no domestic paraphernalia on the raised land above. If we are of the view that this can be successfully conditioned, along with control of the materials/construction as raised by Historic England, then, on balance, I would not object with regard to the experience of the view from this viewpoint.

3.2 Impact on area and street scene

Another aspect has been raised with regard to the loss of the hedge and stone retaining wall which runs along the road side of the proposed development site.

The proposal requires the removal of approximately 55m of hedge and wall to facilitate the required visibility and frontage to the site. The road is an unclassified rural road and its appearance at present shows this clearly, although slightly overgrown the hedge and wall provide a suitable boundary to the existing field. This boundary forms part of the historic settlement boundary in addition the whereabouts of the Domesday settlement cannot be identified with any certainty but the open area next to church is likely to have formed an original focus. Manor was held by wulfgeat before 1066 and shown in the DCC HER's mapping system. It is evident that the fields and associated area has some significance with regard to the development of Burlescombe, and

the undertaking of any development in this area must be undertaken carefully. The loss of the wall and hedge is likely to severely impact on the character and setting of the oldest part of Burlescombe, and to lose the continuity of this ancient wall and hedge is considered in this instance not to be acceptable.

Therefore the development would be considered not to comply with policy DM27 and guidance within the NPPF. It is however important to note that this is a revised scheme where this element was not a reason for refusal previously so unfortunately we are unable to introduce such a reason for refusal now.

4. Highways matters of access and park and highway safety;

The proposed development is for two dwellings with access and parking to be located to either side of the dwellings. Policy DM8 of the Local Plan Part 3 (DMP) sets out that new development should provide a minimum of 1.7 car parking spaces per dwelling but allows for some variation on a case by case basis dependent upon the accessibility of the site and the type, mix and use of a site. The proposed development would meet the parking requirements.

However, the Local Highway Authority has noted that 'the applicant has indicated visibility splays measured to the centre of the carriageway. National Guidance is that visibility is measured to the nearside carriageway edge. However, the splays indicated are 43m which equates to 30mph. whilst this is the speed limit the actual speed of traffic is nearer to 20mph; drivers are either joining the road from the main Burlescombe road or approaching the junction with it, thus keeping speeds down. The indicated visibility available to the nearside edge is therefore acceptable in this instance.

Policy COR9 of the Core Strategy sets out the requirement to manage travel demand, reduce air pollution and enhance road safety through the management of car parking and traffic, whereas policy DM2 of the Development Management Policies identifies the requirement for the creation of safe and accessible places that also encourage sustainable modes of travel such as walking and cycling. Therefore the concerns of the Local Highway Authority mean that the development is contrary to these two policies.

As such the development is considered to be in conformity to policies COR9, DM8 and the National Planning Policy Framework.

5. The living conditions of neighbouring properties and the living conditions of the occupants of the proposed dwellings;

The NPPF states that planning policies and decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

In terms of the design of the development, DM14 (Design of housing) and DM2 (High Quality Design) are applicable. Policy DM14 outlines that 'New housing development should be designed to deliver:

- a) High quality local places taking into account physical context, local character, density and land use mix;
- b) Adequate levels of daylight, sunlight and privacy to private amenity spaces and principal windows;
- c) Suitably sized rooms and overall floorspace which allows for adequate storage and movement within the building together with external space for recycling, refuse and cycle storage;
- d) Adaptable dwellings that can accommodate a range of occupiers and their changing needs over time which will include the provision of a stairway suitable for stairlift installation or space for the provision of a lift in homes with more than one storey;
- e) Private amenity space that reflects the size, location, floorspace and orientation of the property;

f) Sustainable forms of development that maximise the natural benefits of the site through design, materials, technology and orientation;

g) On sites of 10 houses or more the provision of 20% of dwellings built to the lifetime homes standard;

h) Car parking in accordance with Policy DM8.

Policy DM2 of the Development Management Policies relates to high quality design for new development and states the following:

‘Designs of new development must be of high quality, based upon and demonstrating the following principles:

a) Clear understanding of the characteristics of the site, its wider context and the surrounding area;

b) Efficient and effective use of the site, having regard to criterion (a);

c) Positive contribution to local character including any heritage or biodiversity assets and the setting of heritage assets;

d) Creation of safe and accessible places that also encourage sustainable modes of travel such as walking and cycling;

e) Visually attractive places that are well integrated with surrounding buildings, streets and landscapes, and do not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses, taking account of:

i) Architecture

ii) Siting, layout, scale and massing

iii) Orientation and fenestration

iv) Materials, landscaping and green infrastructure

f) Appropriate drainage including sustainable drainage systems

(SUDS) and connection of foul drainage to a mains sewer where available.’

Therefore as outlined above, adopted policy requires new development should respect the privacy and amenity of neighbouring residents and also the occupiers of the development. Concerns have been raised from objectors that there will be overlooking from the new dwellings to the farmhouse and vice versa with the development fronting the highway allowing pedestrians to view into the properties.

It is noted that this is an outline planning application with appearance of the development being a reserved matter for later consideration. Given the site layout proposed it is considered that subject to final positioning of windows, a scheme could be submitted whereby overlooking would not occur. Adequate amenity area and parking would be provided for the occupiers of the development and therefore it is considered that the development could comply with policies DM2 and DM14 subject to approval of the final details.

6. S106 Obligations

Policy AL/IN/3 of the Allocations and Infrastructure Development Plan Document (AIDPD) seeks to provide at least 60 square metres of public open space for each new market dwelling. Where it would be more appropriate the policy provides a mechanism in accordance with the adopted Supplementary Planning Document (SPD) on this matter, for off-site financial contributions toward the provision and funding of public open space to be made. The applicant is intending to provide a unilateral undertaking and payment of the appropriate sums to the Authority.

7. Other issues raised In terms of ecology, an ecological appraisal was included with the application documents. The site is currently a field and recommendations to avoid harm to protected species (including badgers, great crested newts, dormice, reptiles and nesting birds) are included within the report, in addition to hedgerow protection measures. Recommendations for a sensitive lighting plan to avoid disturbance to bat species has also been provided.

It has been concluded that there are opportunities to enhance the site for biodiversity and that these include reinforcement planting of existing hedgerows and provision of bat tubes and bird boxes within new dwellings. Suggested measures to avoid, mitigate and compensate potential

impacts on habitats and species (and enhance the site for biodiversity in line with the National Planning Policy Framework) are included within a Conservation Action Statement.

SUMMARY

The application site is located within the current settlement limits of Burlescombe where small scale residential development would be acceptable in principle subject to being designed to be in accordance with adopted policy and with this being an outline planning application with matters of access, layout, landscaping and scale included for consideration, the proposed is on balance considered to be compliant with the Local Planning Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and Policy DM27 of the Local Plan Part 3 (Development Management Policies) and guidance within the National Planning Policy Framework.

CONDITIONS

1.CO1 Outline: Reserved Matters

No development shall begin until detailed drawings to an appropriate scale of the access, layout, scale and appearance of the building(s), the means of access thereto and the landscaping of the site (hereinafter called the Reserved Matters) have been submitted to and approved in writing by the Local Planning Authority.

RO1 TCP (DMP) Order 2010

The application was submitted as an outline application in accordance with the provisions of Articles 4 & 5 of The Town and Country Planning (Development Management Procedure) Order 2010.

2.CO2 Outline: Submission of Reserved Matters

Application(s) for approval of all the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

RO2 S 92(2) of TCPA 1990

In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004.

3.CO3 Outline: Commencement

The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the Reserved Matters which have been approved, whichever is the later.

RO3 Planning/Compulsory Purchase Act 2004

In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004.

4.CO6 additional matters

The detailed drawings required to be submitted by Condition CO1 shall include the following additional information: boundary treatments, hard and soft landscaping, existing site levels, proposed site levels, finished floor levels, materials, and surface water and foul drainage.

RO6 (amended) – To enable the LPA to consider the impact of the development particularly on the occupiers of the neighbouring properties in accordance with policy DM2 of the adopted Mid Devon Local Plan Part 3 (Development Management Policies).

5.No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority

To ensure, in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development

6. No development shall begin until a Method of Construction Statement to include details of:

- (a) parking for vehicles of site personnel, operatives and visitors
- (b) loading and unloading of plant and materials
- (c) storage of plant and materials

shall have been submitted to, and agreed in writing by, the Local Planning Authority. Only the approved details shall be implemented during the construction period.

To ensure the safety on the highway and to protect the privacy and amenities of neighbouring occupiers accordance with policies DM2 and DM14 of the LP3 DMP

7.CM1 materials: details/samples to be approved - amended

Prior to their use on site, samples of the materials to be used for all the external surfaces of the building and any retaining walls have been submitted to and approved in writing by the Local Planning Authority.

RM1 Ensure use of materials appropriate

To ensure the use of materials appropriate to the development in order to safeguard the character and appearance of the conservation area in accordance with
Mid Devon Core Strategy (Local Plan 1) COR2
Local Plan Part 3: (Development Management Policies) DM2, DM15.

8.CL3 Existing trees/hedgerows to be retained – (Outline only)

As part of the landscaping reserved matters, detailed drawings shall show which existing trees and hedgerows are to be retained on the site as part of the development.

RL3 Interest of the visual amenity of area

In the interest of the visual amenity of the area in accordance with policy DM2 of the Local Plan Part 3: (Development Management Policies)

9.No part of the development hereby approved shall be brought into its intended use until the access driveway and parking spaces have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times.

REASON: To ensure that adequate facilities are available for the traffic attracted to the site.

10.Construction works shall not take places outside 0800 hours to 1800 hours Mondays to Fridays and 0800 to 1200 hours (midday) on Saturdays and at no time on Sundays and Bank Holidays.

REASON- to protect the privacy and amenities of neighbouring occupiers accordance with policies DM2 and DM14 of the LP3 DMP

REASON: To ensure the provision of adequate facilities during the construction period and in the interests of highway safety.

11.CM13 Services underground

All telephone, electricity and mains gas services to the building shall be placed underground.

RM13 In order to safeguard visual amenity of area.

12.Prior to the first occupation of the dwelling details of refuse and recycling storage for the dwellings shall be submitted to and approved in writing by the Local Planning Authority hereby approved. Such approved refuse and recycling storage shall be retained thereafter.

Reason: To ensure adequate refuse and recycling facilities are provided for the dwelling in accordance with policy DM14 Local Plan Part 3 (Development Management Policies).

13.Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Classes A, B, C, D, E, F, G of Part 1, or Classes A, B, C of Part 2 of Schedule 2, relating to windows, doors, structures, means of enclosure , shall be undertaken within the application site without the Local Planning Authority first granting planning permission.

Reason

To safeguard the visual amenities of the area character and appearance of the listed building residential amenity of neighbouring residents in accordance with Mid Devon Core Strategy (Local Plan 1) policy COR2 Local Plan Part 3: (Development Management Policies) DM2,

14.The roofed over vehicle turning area associated with this application shall not be used for parking of vehicles, storage of any items and is not to have any lighting which will be visible from outside the site.

Reason to ensure there is no impacts from the proposal on the setting of the grade 1 church in accordance with DM27 of the Local Plan.

REASON FOR APPROVAL OF PERMISSION

This application seeks to ascertain whether the siting of residential development on this site is acceptable. The proposal is on balance acceptable in principle as the site is considered to be a sustainable location and will be within the present defined settlement limit of Burlescombe, where minor residential development is supported in accordance with policy. Whilst the site sits within a relatively close residential context, it is considered likely that two dwellings could be accommodated on the site at a density compatible with its surroundings. Furthermore the reserved matters application will ensure that the proposal would not result in harm to the character or appearance of the area, the amenity of neighbouring properties or any adverse impacts to the local highway network. The proposal is therefore in accordance with policies COR1, and COR2 of the Mid Devon Core Strategy (local Plan Part 1), together with policy AL/IN/3 of the AIDPD, policy DM1 DM2.

The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. This report has been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.

Application No. 19/00210/MFUL

Plans List No. 2

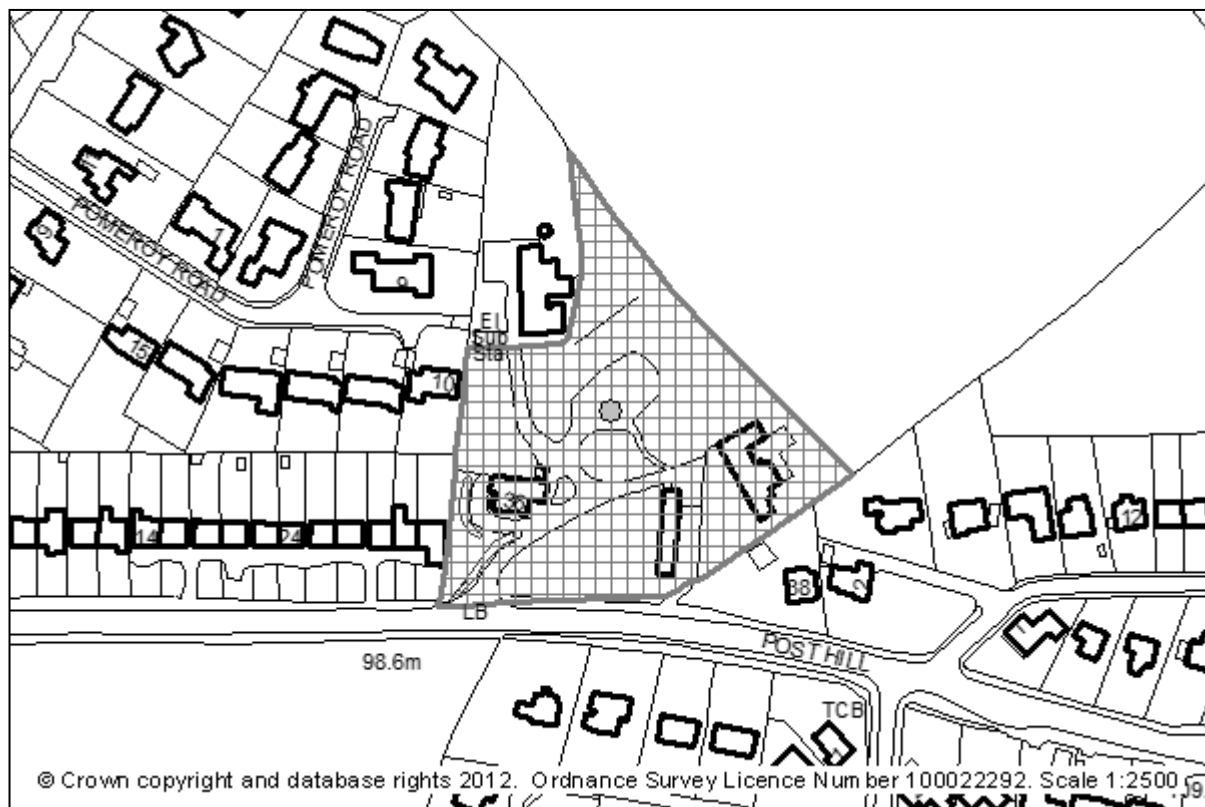
Grid Ref: 298519 : 113335

Applicant: Burrington Estate New Homes

Location: 36 Post Hill, Tiverton

Proposal: Demolition of buildings and erection of 18 dwellings and associated works, including vehicular access, garages, parking and landscaping.

Date Valid: 5th February 2019



Application No: 19/00210/MFUL

Application 19/00210/MFUL for the demolition of buildings and erection of 18 dwellings including vehicular access to secure the 'preferred vehicular link' to development to the north of the site, as defined in the Adopted Tiverton Eastern Urban Extension Masterplan SPD, was presented at Planning Committee 20 November 2019. Committee resolved:

'that the application be deferred to allow for further discussions between officers and the developer to take place with regard to the siting of Plots 1 and 2 and to consider specifically the height of Plot 2'.

Additional information has been submitted by the applicant, following Planning Committee, including revised plans as follows:

Site layout Plan (3841/001P): Changes include Plot 1 being moved 300mm north and Plot 2 1500mm north.

Comparative (before and after) Street Scene (3841/041A): street scene (C-C) illustrating the site entrance and Plots 1 and 2, fronting Post Hill Road with particular reference to:

- a) the effect of reducing the Finished Floor Level (FFL) for Plot 2 from 105.95 to 104.95 - a reduction in height of 1000mm.
- b) a reduction in roof pitch on Plot 2 from 45 degrees to 42.5 degrees reducing the overall height of Plot 2 by 320 mm.
- c) a reduction in ridge height for Plot 1 by 200 mm.

Comparative Street Scene (3841/041B): Street scene C-C (3841/041A) updated to include the outline of the previously consented care home under Application 19/00604/MFUL.

Elevations, Plots 1 and 2 (3841/005E & 007E): adjusted to reflect changes in ridge heights – Plot 1 reducing by 200mm and Plot 2 by 320mm.

Street Scene (3841/039C): B-B illustrating the street scene from Plot 6 to Plot 1 fronting the new vehicular route with particular reference to the adjustments to Plots 1 and 2 referred to above.

Street Scene C-C and Cross sections (Mayfair to Post Hill) (3841/042): showing street scene C-C as proposed (3841/041B) with cross sections through Plots 1 and 2 extending across Post Hill Road to No.s 26 and 28 Mayfair.

Infrastructure Design Strategy (3623 – PD01-05): updated to incorporate the latest layout and levels.

Whilst Members at Planning Committee on the 20 November gave particular consideration to a number of issues, of significance was the location and height of the proposed dwellings of Plots 1 and 2. The applicant, in discussion with the planning officer, has taken these concerns into consideration and made changes to the development proposal as referenced above. When combining the adjustments, of particular significance is the relocation of Unit 2, set back 1500mm from its original location and an overall reduction in ridge height of 1200mm.

The sum of the amendments illustrates a visible change; reducing the impact on neighbouring properties and perceived loss of amenity, properties set back and reduced in height to minimise their impact on the street scene and views east and west along Post Hill. The changes adhere to the principles of the Adopted Masterplan SPD and Tiverton EUE Design Guide.

For this reason, subject to conditions and an agreed S106 legal agreement to secure the provision of a through route to connect to the Braid Park development to the north of the site (in accordance with the Adopted Tiverton EUE Masterplan SPD) and agreed contributions for affordable housing, public open space and education, the development is considered acceptable and complies with Policies COR2 and COR7 of the Mid Devon Core Strategy and Policies DM2, DM3, DM4, and DM8 of the Local Plan Part 3.

**APPLICATION NO: 19/00210/MFULL – REPORT FROM PLANNING COMMITTEE
20 NOVEMBER 2019**

RECOMMENDATION

Approve subject to signing a S106 legal agreement and conditions set out in the report.

Section 106 to secure:

- Two, affordable rent, housing units to be provided on site at Plots 14 and 15;
- £77,085 financial contribution to Devon County Council Education (including legal fees) towards primary education and early years.
- £23,744 financial contribution towards Phase I of the refurbishment of Amory Park, Tiverton.
- Road connection built up to and including the boundary of the application site to connect to the road within the adjacent northern site currently under construction.

PROPOSED DEVELOPMENT

The planning application proposes the erection of 18 dwellings and associated works, including vehicular access, garages, parking and landscaping following the demolition of the three remaining buildings on the site which was formerly the Post Hill hospital complex.

APPLICANT'S SUPPORTING INFORMATION

Application form, site location plan, block plan (existing and proposed), floor plans and elevations.

Streetscene

Tree Removal Plan

Planting Plan

Concept Drainage Layout

Topo Survey

Geotechnical Investigation & Contamination Assessment (Parts 1-3)

Waste Audit Statement

Transport Statement

Reptile Survey Report

Planting Schedule

Planning Statement

Extended Phase 1 Habitat Survey Report

Ecological Impact Assessment

Design and Access Statement

Covering Letter

Bat Survey Report

Arboricultural Method Statement

Copy of Committee Report (14/00604/MFUL)

Infrastructure Design Statement

Viability Assessment Covering letter, Viability Assessment (Appendix1-3)

RELEVANT PLANNING HISTORY

04/00573/PE - REC date

Establishment of residential care home

05/00115/PE - REC date

Residential development

05/01505/PE - REC date

Erection of 6 bed nursing home

13/01079/MFUL - REFUSE date 22nd November 2013

Erection of care home and 12 apartments with associated access, parking and landscaping, following demolition of existing hospital buildings

14/00604/MFUL - PERCON date 20th April 2017

Erection of care home and 12 apartments with associated access, parking and landscaping, following demolition of existing hospital buildings (Revised Scheme)

18/01636/SCR - CLOSED date 1st November 2018

Request for Screening Opinion in respect of a Full planning application for the demolition of existing buildings, erection of 18 dwellings and associated works, including access, parking and landscaping

19/00210/MFUL - PCO date

Demolition of buildings and erection of 18 dwellings and associated works, including vehicular access, garages, parking and landscaping

13/01616/MOUT - PERMIT date 18th September 2015

Outline for the development of up to 330 dwellings together with public open space, associated infrastructure and other works including vehicular access, pedestrian/cycle links and highway improvements.

18/00133/MARM - PERCON date 29th August 2018

Reserved Matters application, pursuant to Outline application 13/01616/MOUT, for the construction of 248 dwellings, 3 Gypsy and Traveller pitches, public open space, landscape planting, pedestrian, cycle and vehicular links; and associated infrastructure

OTHER HISTORY

11/00125/PREAPP - CLO date 9th March 2011

PROTECT: Proposed redevelopment of former hospital site

18/01331/PREAPP - CLO date 20th September 2018

PROTECT - Erection of 18 dwellings

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 – Sustainable Communities

COR2 – Local Distinctiveness

COR4 – Meeting Employment Needs

COR5 – Climate Change

COR7 – Previously Developed Land

COR8 – Infrastructure Provision
COR9 – Access
COR12 – Development Focus
COR13 - Tiverton

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 – Presumption in Favour of Sustainable Development
DM2 – High Quality Design
DM3 – Sustainable Design
DM4 – Waste Management
DM5 – Renewable and Low Carbon Energy
DM8 – Parking
DM14 – Design of Housing
DM15 – Dwelling Sizes

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

AL/DE/3 – Affordable Housing Site Target
AL/DE/4 – Occupation of Affordable Housing
AL/DE/5 – Inclusive Design and Layout
AL/IN/2 – Development Without Community Infrastructure Levy
AL/IN/3 – Public Open Space
AL/IN/5 – Education Provision
AL/TIV/1 – Eastern Urban Extension
AL/TIV/2 - Eastern Urban Extension Transport Provision
AL/TIV/3 - Eastern Urban Extension Environmental Protection & Green Infrastructure
AL/TIV/5 - Eastern Urban Extension Carbon Reduction & Air Quality

National Planning Policy Framework (as amended Feb 2019)

Adopted Tiverton Eastern Urban Extension Masterplan SPD (Revised June 2018)

Technical Housing Standards – Nationally Described Space Standards (2015)

Refuse Storage for New Residential Properties SPD (Jan 2107)

The Provision of Funding of Open Space Through Development SPD (May 2008)

CONSULTATIONS

DCC Highway Authority (27 September 2019)

Observations:

The applicant has made available more information and made amendments to the plans. I have read the revised Infrastructure Design Statement and I am happy with the layout and strategies subject to approval of the drainage by the Lead Flood Authority. The Highway Authority would seek that Drawing XBUR3623/0100/Rev P3 is conditional of any consent and that the road as bounded by the section 38 red line up to and including the boundary and is built as part of the development and will be adopted by the Highway Authority. To this end a section 106 agreement or other legal agreement under the Town and Country Planning act should be sought to ensure

that the road is built up to and including the boundary, or connect to the road within the adjacent northern site if that road has been constructed.

Subject to the legal agreement the Highway Authority would raise no further observations and would recommend that the following conditions are imposed.

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

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

2. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out to the written satisfaction of the

Local Planning Authority:

- a) The spine road and cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
- b) The spine road and cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
- c) The cul-de-sac visibility splays have been laid out to their final level;
- d) The street lighting for the spine road and cul-de-sac and footpaths has been erected and is operational;
- e) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;
- f) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;
- g) The street nameplates for the spine road and cul-de-sac have been provided and erected.

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

3. Within twelve months of the first occupation of the first dwelling in an agreed phase of the development, all roads, footways, footpaths, drainage, statutory undertakers' mains and apparatus, junction, access, retaining wall and visibility splay works shall be completed to the written satisfaction of the Local Planning Authority.

REASON: To ensure that the access arrangements are completed within a reasonable time in the interests of safety and the amenity of residents

4. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:
- (a) the timetable of the works;
 - (b) daily hours of construction;
 - (c) any road closure;
 - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
 - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
 - (h) hours during which no construction traffic will be present at the site;
 - (i) the means of enclosure of the site during construction works;
 - (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site;
 - (k) details of wheel washing facilities and obligations;
 - (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
 - (m) Details of the amount and location of construction worker parking; and
 - (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

DCC Highway Authority (22 July 2019)

- Drawings 3841/001 Rev M and XBUR 3623 C1.3 should both reflect the changes made to XBUR3623 / 0100/P which is acceptable to show the alignment of the road through the boundary and connecting to the Barratt road.
- In relation to their design the gradient of their road at the centre line is designed at 1:100 on the boundary not 1:46 as shown by your plan.
- Their road is designed to be side hung where yours is centrally cambered and a transition from one to another will need to be taken into consideration.

Aside from these a closer Horizontal check will be required to satisfy the legal agreements which would need access to the Cad layout or co-ordinates at the tie in points and beyond to be certain.

The Highway Authority will seek the connection of your road to the Barratt road through a section 106 legal agreement and verification of all land ownerships will be necessary to confirm that the match the previous section 106 and abilities to deliver the connection.

DCC Highway Authority (13 May 2019)

The Highway Authority have no objections in principle to the proposed development And is junction and access road are acceptable up to a point. The access road is identified in the Master plan to access this site and connect to the Braid park development to the North. The timing of this application is such that the development will need to make that connection to the Barratt homes development, given that contracts and agreements have been completed on the land to the North and their road is under construction. In addition this will need to be shown on a plan. This should include long section traversing the boundary and showing the roads seem less connection and should be based on Topographic information. Barratt homes have indicated that they are willing to provide necessary details to the developer to ensure both sections of road meet up and the Applicants should contact Andrew Cattermole of Barratt homes. In addition to this the drainage will need to be approved by the lead flood authority. The applicant should demonstrate that they control all the land up to Barratt homes boundary to enable this work to be completed and it should fall within their red line of the application. Such land was shown in the section 106 agreed as part of the Hospital site application and should also be included as part of this application. Therefore the Highway Authority would seek a details design of the road connecting to the Barratt homes development which has been based on the previously agreed alignment of the Care home and shall include construction details, drainage, long sections and Cross sections upon receipt of these and the necessary land verifications The Highway Authority will comment further and consider Conditions. This development should be subject to a legal agreement under the Town and country planning act to secure the roads adoption, completion in a timely manner and its compliance to the Tiverton EUE master plan

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, IS LIKELY TO RECOMMEND REFUSAL OF PLANNING PERMISSION, IN THE ABSENCE OF FURTHER INFORMATION:

1. Adequate information has not been submitted to satisfy the Local Planning Authority that the proposal is acceptable in terms of

- A) access,
- B) road layout,
- C) road construction,

D) road gradients,
E) surface water drainage,
contrary to Tiverton Eue Master plan and National Planning Policy Framework.

Historic Environment Team (13 March 2019)

The Historic Environment Team had previously commented on an earlier application for the development of this site (ref: 14/00604/MFUL) and consent was granted conditional upon a programme of archaeological work being undertaken – Condition 16. The archaeological resource should therefore be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development. Any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

‘No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason

To ensure, in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development’

Devon and Cornwall and Dorset Police (13 March 2019)

The police have no objections in principle to the proposal. Site specific recommendations:

Iron railings are noted. These should also apply to frontage of plots 14 -17 (inc) and the indicated parking spaces for 14 & 15.

Open frontage, particularly but not exclusively, on corner plots, can for many reasons frequently lead to community conflict, for example, desire lines for pedestrians and cyclists are created, dog fouling, ball games and antisocial behaviour.

If existing or newly planted hedgerow is likely to comprise new rear garden boundaries, as appears to be the case, then it must be fit for purpose. They should be of sufficient height and depth to provide both a consistent and effective defensive boundary as soon as residents move in.

All rear boundary treatments must be 1.8m high, as a minimum requirement, and be solid and robust to prevent being breached. Close boarded fencing or walls would be deemed appropriate.

Additional defensive planting is recommended along the boundary fences of plots 6 & 18 where it is adjacent to the indicated open space

Tiverton Town Council (19 March 2019)

Whilst supporting this application there are some highway concerns as the site comes out onto a busy road with somewhat restricted view of approaching traffic.

Public Health (5 September 2019)

The wording (*of Condition 13, Application 14/00604/MFULL*) is still appropriate with the additional wording of:

Following the completion of the remediation works, a further validation report will need to be submitted to the Local Planning Authority for consultation with Public Health Services confirming the suitability of the 600mm of inert topsoil and subsoil used. Occupation on the site, shall not take place until the validation report has been approved in writing by the LPA.

Public Health (26 April 2019)

The receptors of residential properties are likely to use the amenity areas a lot more and for a greater number of different practises than residents of a care home. Therefore, I would recommend that the investigation and contamination assessment adequately covers the whole site. Plus now that the development layout is known, the additional testing can be targeted in the proposed amenity areas to plots 4, & 10 through to 17 to determine the levels of contamination in these areas and to see if any remediation is required in these areas.

Public Health (20 March 2019)

Contaminated Land: The site investigation and contamination assessment has confirmed the existence of contaminants at levels that are potentially harmful to human health. If left un-remediated they could potentially be harmful to the end users. However, this investigation and contamination assessment does not adequately cover the whole site. Now that the development layout is known, additional invasive contamination testing should be undertaken on the site in the proposed garden areas to plots 4, & 10 through to 17 to determine the levels of contamination and if further remediation is required. Where actual or probable significant pollutant linkages are found following the investigation and risk assessment, the applicant shall submit a remediation statement together with a timescale for completion of the required works for approval in writing by the LPA. Following completion of any works, a remediation validation report shall be submitted to the LPA for approval in writing. Occupation on the site, or parts of the site affected by land contamination, shall not take place until approval of the validation report has been granted.

Air Quality: No objection to this proposal

Environmental Permitting: No objection to this proposal

Drainage: No objection to this proposal

Noise & other nuisances: Before the commencement of development, a Construction

Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal

resulting from the site preparation, groundwork and construction phases of the development. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. Once approved the CEMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

Housing Standards: No comment

Licensing: No comments

Food Hygiene: Not applicable

Private Water Supplies: Not applicable

Health and Safety: No objection to this proposal enforced by HSE.

Informative: There is a foreseeable risk of asbestos being present in the structure. Please review the information in this link, so you are aware of the hazards, risks and your legal obligations with asbestos <http://www.hse.gov.uk/asbestos/> . If asbestos may be present a Refurbishment and Demolition Survey following HSG264 available at <http://www.hse.gov.uk/pUbns/priced/hsg264.pdf> should be carried out before work commences to identify precautions and legal requirements enforced by Health and Safety Executive (11.3.19).

Natural England (21 March 2019)

No comment

DCC Education (22 March 2019)

DCC has identified that 18 family type dwellings will generate an additional 4.5 primary pupils and 2.7 secondary pupils which would have a direct impact on primary schools in Tiverton and Tiverton High. In order to make the development acceptable in planning terms, a primary school education contribution to mitigate its impact is requested. The contribution sought is £72,085.00 (based on the DfE new build rate of £16,019 per pupil). This will relate directly to providing education facilities for those living in the development. A contribution to secondary school education will not be sought. However, a contribution towards Early Years provision is needed to ensure delivery of provision for 2, 3 and 4 year olds. This is calculated as £4,500 (based on £250 per dwelling). Any legal expenses incurred by DCC associated with a S106 agreement will also need to be recovered.

DCC Lead Flood Authority 17 September 2019)

Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that the following pre-commencement planning conditions are imposed on any approved permission:

1. No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent

surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Infrastructure Design Statement (XBUR3623-PD01; Rev. 04; dated September 2019). No part of the development shall be occupied until the surface water management scheme serving that part of the development has been provided in accordance with the approved details and the drainage infrastructure shall be retained and maintained for the lifetime of the development.

REASON: To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems.

2. No part of the development hereby permitted shall be commenced until the full details of the adoption and maintenance arrangements for the proposed permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority.

REASON: To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development. The REASON for being a pre-commencement condition:

These details need to be submitted prior to commencement of any works to ensure that suitable plans are in place for the maintenance of the permanent surface water drainage management plan, for the reason above.

3. No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes and quality of the surface water runoff from the construction site.

REASON: To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area. The REASON for being a pre-commencement condition:

A plan needs to be demonstrated prior to the commencement of any works to ensure that surface water can be managed suitably without increasing flood risk downstream, negatively affecting water quality downstream or negatively impacting on surrounding areas and infrastructure.

Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

Observations

Following my previous consultation response (FRM/MD/00210/2019; dated 2nd April 2019), the applicant has provided additional information in relation to the surface water drainage aspects of the above planning application, in an e-mail dated [DATE], for which I am grateful. If not already done so, the applicant should submit the following document to the Local Planning Authority:

Infrastructure Design Statement (XBUR3623-PD01; Rev. 04; dated September 2019)

The applicant has clarified that there will be a reduction in runoff flowing to the highway drainage system within Post Hill, and that the area draining to South West Water's surface water drainage system will be restricted.

At the next stage of planning, the applicant will need to confirm how the driveways and homezones shall be drained. The drainage consultant, acting on behalf of the applicant, has confirmed that further infiltration testing will be conducted to assess the suitability of permeable paving. Testing should be relevant to permeable paving (e.g. shallow, broad pits). If infiltration is not viable, then permeable paving could still be viable but an outflow from the permeable paving will be required.

At the next stage of planning, the applicant will need to confirm how exceedance flows will be managed safely.

DCC Lead Flood Authority (6 September 2019)

I cannot withdraw our objection to this planning application.

The applicant is proposing to drain the adoptable highway to the existing highway drainage system. However, this should be restricted (as noted within section 4.5 of the Infrastructure Design Statement; dated 1st July 2019) before being discharged to the highway system. The Highways Department should confirm that they will accept surface water drainage into their system.

The proposed attenuation tanks are located beneath the driveway of plot 10. Are Mid Devon content with this and the agreements/covenants that will need to be put in place? Who will be responsible for maintaining the tank?

Only the roofs have been accounted for within the calculations for the attenuation tank. However, the proposed permeable surfaces (driveways and private highways) are designed to 'back up' and flow into surrounding gullies. Further details of the highway drainage are needed.

DCC Lead Flood Authority (2nd April 2019)

At this stage, we object to this planning application because we do not believe it satisfactorily conforms to Policy DM2, specifically part (f), of Mid Devon District Council's Local Plan (Adopted October 2013), which requires developments to include sustainable drainage systems. The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

The applicant must submit details of the exceedance pathways and overland flow routes across the site in the event of rainfall in excess of the design standard of the surface water drainage management system. However, these underground systems cannot be considered as truly sustainable means of drainage because they do not provide the required water quality, public amenity and biodiversity benefits, which are some of the underpinning principles of SuDS. Consequently, above-ground SuDS components should be utilised unless the applicant can robustly demonstrate that they are not feasible; in almost all cases, above and below-ground components can be used in combination where development area is limited.

The applicant should also note that in accordance with the SuDS Management Train, surface water should be managed at source in the first instance. The applicant will therefore be required to explore the use of a variety of above-ground source control components across the whole site to avoid managing all of the surface water from the proposed development at one concentrated point (e.g. a single attenuation pond). Examples of these source control components could include permeable paving (which could be underdrained), formalised tree pits or other bioretention features such as rain gardens, as well as green roofs, swales and filter drains.

The applicant must submit information regarding the adoption and maintenance of the proposed surface water drainage management system in order to demonstrate that all components will remain fully operational throughout the lifetime of the development.

Where infiltration is not used, long term storage must be provided to store the additional volume of runoff caused by any increases in impermeable area, which is in addition to the attenuation storage required to address the greenfield runoff rates. Long term storage should therefore be included within the surface water drainage management plan to ensure that each element is appropriately sized, and this should discharge at a rate not exceeding 2 litres/second/hectare.

The applicant will also be required to submit MicroDrainage model outputs, or similar, in order to demonstrate that all components of the proposed surface water drainage system have been designed to the 1 in 100 year (+40% allowance for climate change) rainfall event.

If the applicant is wishing to connect into the combined sewer, agreement in principle should be sought from South West Water.

REPRESENTATIONS

10 letters of objection have been received. The main points including:

1. House No.s 1 and 2 are proposed far too close to Post Hill Road. They are over dominant and will negatively impact on the character of Post Hill and the sight lines up Blundell's / Post Hill Road. They will not follow the building line of existing houses. If houses are built too close to Post Hill Road, the plan suggests c10m to 15m closer than the existing properties, it will significantly impact the character of this mature neighbourhood and negatively impact on visibility for a long distance up one of Tiverton's main arterial roads.
2. The land at 36 Post Hill is considerably higher than the road so the visual impact will be even more severe. Not only will Nos 1 & 2 stand out in front of the existing building line, they will also be much higher. This will impact on the privacy of neighbouring properties.
3. It is concerning that the site plans put forward for the development of the Post Hill Hospital site do not show a confirmed road link with the BDWH site.
4. Annotating the linking road as a 'potential link' only is not a commitment to deliver.
5. The road connection into the BDWH site to the north east is required by planning policy and has been secured in other planning applications. It's inclusion up to the site boundary is necessary.
6. The proposed site access on to Post Hill will be hazardous.
7. Proposed house No. 1 is a strange shape and not in keeping with the neighbourhood.
8. An Arboricultural Impact Assessment which considers the full extent of the link is required to ensure there are no adverse effects to retained trees from development on either side of the boundary and particularly associated with the construction of the linking road.
9. Whilst welcoming the Development and as directly overlooking the proposed site, I am concerned about the access to the main road by the increased traffic and feel that the

entrance needs to be widened. Also House no 1 will have to set back in order to achieve a wider street entrance for traffic. House No 2 should also be set back to come in line with the existing houses. At the current plan these 2 houses will have to suffer very heavy traffic noise, being so near the main road (this is from own experience when being in our garden shed).

10. The great majority of houses in the Post Hill area have been built since 1930 and while there are a variety of styles, both colours and materials need to be much more varied. The mock-Georgian style is both alien to the surrounding residential area and unimaginative.
11. A programme of screening is required particularly at Plots 2 & 5 to safeguard privacy for residents of Fairway.
12. Numerous trees along the front of Blundell's road which will be lost. Very mature trees will be lost within the site.

1 letter of support has been received. The main points including:

We need new homes in Tiverton because some of us can't afford to buy homes so we need more built for people like me to buy so we don't have to keep renting. I agree that they should be built.

1 general comment has been made. The main points including:

1. There appears to be no reference to the energy efficiency levels proposed for the dwellings. With the prominence in the press and Government proposals, MDDC should endeavour to ensure that ALL new housing achieves the best for the environment. Accordingly all housing should achieve Code Level 4 (Code for Sustainable Homes) at the least. An independent Assessor should be required to submit a detailed analysis for each dwelling type and certify its compliance on completion of build. It is notable that adjoining planning authorities are more likely to impose such levels than MDDC.
2. There is a policy in MDDC (not always enforced) that garages should comply with the following:
Single garage minimum 3m x 6m

Double garage 6m x 6m

This would ensure that off-street parking is achieved. A condition should be made that they cannot be converted to a use. The parking space for cars to be maintained plus the space for other storage.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The application site is a former hospital site which has been unused for a number of years.

The main material considerations in respect of this proposal are:

- 1) Principle of development in this location
- 2) Access, linking road and parking
- 3) Drainage and contamination
- 4) Design and layout and impact on the character and appearance of the surrounding area
- 5) Space standards
- 6) Bins
- 7) Ecological measures
- 8) Viability and Section 106 Obligations inc public open space, affordable housing and education

1. Principle of development in this location

The application site forms part of a larger area promoted for development and referred to as the Tiverton Eastern Urban Extension. This area, that includes the application site, is subject to an Adopted Masterplan SPD. The Masterplan SPD is a material consideration when assessing development within the masterplan area. Spatially the application site occupies approximately 0.6% of the total area covered by the urban extension masterplan area and 0.9% of the required residential development. This application is for 18 dwellings.

The role and purpose of a masterplan is to provide a comprehensive plan that sets out the principles for the way in which an area will be developed, coordinating policy and infrastructure requirements. It is common to utilise this approach for larger scale developments where there are multiple landowners / developers and there is a need to ensure development takes place in a comprehensive way to deliver common infrastructure, coordinate phasing and to resolve more complex planning issues. Masterplans will also set out key principles that planning applications will need to have regard to in order to be considered acceptable. This is particularly relevant as the Masterplan SPD identifies a preferred vehicular link through this application site – linking the development sites to the north of this application site to Post Hill and Blundell's Road; a principle vehicular route into Tiverton and beyond. This comprehensive approach to development with associated pedestrian and cycle links contributes to the reduction in carbon energy in support of climate emergency planning.

The application site that is occupied by three redundant buildings has been vacant for a number of years. Planning permission with signed S106 was granted in March 2017 (Application No.14/00604/MFUL). Although it included a care home, meeting the requirements of the Core Strategy, Policy COR4 and the Adopted Tiverton Eastern Urban Extension Masterplan SPD, it also included 12 open market apartments. A residential use of the site was not explicitly promoted as part of the Adopted Tiverton Eastern Urban Extension Masterplan SPD. However the 12 apartments were considered to be a compatible use bearing in mind existing residential development to the east and west of the site and recently approved residential development to the north (Application 18/00133/MARM now under construction). Any employment potential for the site is extremely limited by surrounding sensitive land uses.

In summary and in acknowledgement of the existing approved planning consent that includes residential development, the residential context of the application site and the provision of the preferred vehicular link, a solely residential development, in this instance, is considered acceptable.

2. Access, linking road and parking

Part 4.3 of the Adopted Tiverton Eastern Urban Extension Masterplan SPD identifies a number of new connections and works that will link the new masterplan neighbourhood to the surrounding area and wider town of Tiverton. One such connection is the 'preferred vehicular link', linking development to the north of the application site, through 36 Post Hill, to Post Hill Road. Its provision will go some way to reduce the impact of the Eastern Urban Extension and associated development. To ensure the preferred vehicular link extends to the red line boundary of the application site, aligning horizontally with that identified on the neighbouring development site

(Application 18/00133/MARM) a revised site plan has been submitted (Dwg No. 3841/001 O). This application will only be considered to be fully in accordance with the Adopted Tiverton Eastern Urban Extension Masterplan SPD if the through route is agreed and secured through the S106. Hence the recommendation to grant planning permission subject to a S106 as detailed above. In the absence of the provision of the linking road up to the boundary of the application site the proposal would not deliver the comprehensive, coordinated approach to the urban extension as required by the Masterplan SPD.

As regards to the application site vehicular and pedestrian access is achieved from Post Hill Road. The vehicular access from Post Hill provides adequate capacity for the expected volumes of traffic and adequate visibility splay, to the satisfaction of the Highway Authority. Access to the existing property of Pine Lodge to the north west of the site is provided within the scheme layout. Allocated on-site parking and turning is provided for a total of 37 cars which equates to 2.1 parking spaces per dwelling, thereby exceeding the minimum of 1.7 spaces per dwelling set out in Policy DM8 of the Local Plan Part 3. The vast majority of the parking spaces are located either on plot adjacent to the house they serve (26 spaces) or within a parking court (11 spaces). No dwellings are dependent on allocated on-street parking. Each parking court benefits from informal surveillance from those properties which it is serving.

In addition to on-plot and parking court provision a further 23 garages are proposed. All of the garages meet the internal space requirement of 3m x 6m for a single garage and 6m x 6m for a double. Whilst having regard to the fact that garages do not count towards parking standards it is acknowledged that the development has an acceptable level and distribution of parking to support the layout of the site in compliance with Policy DM8 Parking, of the Local Plan Part 2. A comment has been received that a condition should be imposed restricting the conversion of garages to a (residential) use. The planning officer would comment that such a condition would be overly restrictive, denying individuals the reasonable use of their properties when alternative parking provision meets policy standards.

It is therefore concluded that subject to a signed S106 legal agreement (including adoption of the highway between Blundell's Road and the red line boundary of the site with Braid Park (Application 18/00133/MARM)) the Highway Authority are satisfied with the proposals and would raise no further objections subject to a signed S106 and conditions.

3. Drainage and contamination

The application site is situated within Flood Zone 1, designating it as having a less than 0.1% or a 1 in 1000 probability of flooding. Site investigations undertaken as part of the application process indicate that the site is not suitable for conventional soakaway drainage. Further, the site has been identified as contaminated; evidence that soakaways would not be a feasible method of discharge. As such, a fully separate gravity system will be provided for the foul and surface water drainage. Highways will be drained via a separate system and into the existing highways drain in Post Hill. The development will discharge foul flows and roof runoff at a restricted rate into the existing SWW combined sewer at an agreed rate of 2l/s. Similarly, the adopted main access road will be discharged at a restricted rate. Discharge from un-adopted highway and private car parking areas will be dealt with on site including through permeable surfaces. The overall drainage scheme has

sought to provide a Sustainable Drainage Scheme (SuDS) that will provide betterment to the existing method of unrestricted surface water disposal.

Both the Lead Local Flood Authority and Public Health have confirmed that the proposal is to their satisfaction subject to conditions.

4. Design and Layout and Impact on the character and appearance of the surrounding area

Planning application 14/00604/MFUL gives consent for a 2 and 3 storey care home. Whilst significant effort was made to ensure the scale and massing sat comfortably within the setting, to ensure it did not have an overly dominant impact on the visual amenity of the area, it remains that it is a building of some significance. In addition, a 12 unit, 2 and 3 storey residential block was also approved, again of some significance in terms of scale and massing, with the 3 storey element being closest to Post Hill road. The application now presented proposes 14 detached residential units, set within generous plots and 4 semi-detached units. All are 2 storey in height, retaining glimpses and views between buildings of mature trees within and bounding the site. The application scheme retains the same trees (Arboricultural Report, Dec 2018) as those proposed through the consented care home scheme. In this way, the proposed scheme sits comfortably within the surrounding area, respecting the residential context and amenity of near neighbours. The application further reflects the urban grain of the existing neighbouring properties whilst being mindful of an efficient use of land. As such, this application presents an appropriate density of development. A number of concerns have nonetheless been expressed particularly regarding the siting of units 1 and 2, their proximity to Post Hill road, being overly dominant and impacting negatively on the character of Post Hill.

It is acknowledged that in the context of the surrounding area, Units 1 and 2 will be located closer to the frontage of Post Hill road. The care home would have been set 12m back from edge of pavement while Unit 1 is proposed to be set 5m back from edge of pavement. Whilst this is a change to the established building line, Unit 1 has been designed to provide a strong focal point at the entrance of the site with a frontage that 'turns the corner'. Unit 2 reflects the alignment of Unit 1, being some 6m back from the edge of pavement. A focal point building at the entrance of the site is an appropriate design rational particularly as the junction will be serving the principle route to the Braid Park development to the north and beyond (Application 18/00133/MARM). Whilst the property will be visible in views from the west (and to a lesser extent from the east), as are existing dwellings, these will be softened by existing and proposed planting (Drwg No. 3841-BBLA-SP-000-DP-L-210 D). In this respect, the proposed property is not out of keeping. As a scheme of largely detached units, the views and glimpses of the shrub and tree planting within gardens and beech hedging as detailed in Drawing No. 3841-BBLA-SP-000-DR-L210 D, provide some privacy protection, soften the scheme and the urban form akin to the surrounding area.

It is acknowledged that Unit 1 will occupy an elevated position being approximately 1.05m higher than the street level of Post Hill. It is also noted that, existing properties including 26 Mayfair (directly opposite Unit 1) are at an even greater height above street level and set back approximately 20.5m from the road frontage. There will be a separating distance of some 25m between No 26 Mayfair and Unit 1. The established recommended minimum distance is some

21m between the rear facing properties. The distances proposed are in excess of this and unlikely to result in a significant loss of privacy.

Comment has been received that the mock Georgian style is alien to the surrounding area and that the materials and colours need to be more varied. Whilst it is acknowledged that the architectural style may not be representative of that surrounding it meets with clear expectations in plan policies seeking to improve the character and quality of the area and the way it functions. The proposed materials palette offers a subtle touch to the building mass which accords with the requirements of the NPPF in many ways including the creation of a sense of place, function and innovation.

5. Space Standards

Nationally Described Space Standards for housing were introduced in 2015. Mid Devon District Council accordingly apply the standards. Following the submission of revised plans, each proposed dwelling meets the Nationally Described Internal Space Standard as defined by the level of occupancy. The accommodation schedule is available on drawing No. 3841/001O

6. Bins

Drawing No. C1.3A of the Infrastructure Design Strategy identifies the extent of the Adopted Highway. Acknowledging that Units 2,3,4 and 7 will not have refuse collection available direct from their plots, due to the extent of the un-adopted highway, a refuse collection point has been provided towards the rear of Plot 8 (Drawing No. 3841/001O). This provides a clearly defined collect point for all waste and recycling, falls within the distance householders may be required to wheel a bin and for operatives to collect as determined by Refuse Storage for New Residential Properties, Jan 2017).

7. Ecological Measures

This application has been the subject of an Environmental Impact Screening Assessment as required by Schedule 2 of the Town and Country Planning (EIA) Regulations 2017. Accordingly, the Local Planning Authority have considered the proposed development in the wider context of the Tiverton Eastern Urban Extension within which it falls. The Local Planning Authority concluded that whilst the physical scale of this proposal, when assessed as part of the wider urban extension will introduce a cumulative environmental impact, a screening for the delivery of 18 units over 0.9ha, when considered against Schedule 3 of the 2017 Regulations, would not introduce any additional environmental impact that has not already been assessed as part of the wider Eastern Urban Extension development and that cannot be dealt with as part of individual reports &/or planning conditions attached to any future planning application. This includes waste, pollution and nuisances (including traffic, emissions and noise) and surface water drainage. Given the previously developed nature of the Post Hill site, its largely urban context, the limited scale of development, the benefits it can bring as regards to improved vehicular connectivity, it was concluded that an Environmental Impact Assessment was not required.

As regards to the ecology on the site, an Ecological Report, Reptile Survey Report and Bat Survey Report were undertaken as part of Application 14/00604/MFUL and are required to be read in association with this application. An Updated Ecological Impact Assessment (Dec 2018) has also

been submitted. The Updated Ecological Impact Assessment recognises that the proposed works will result in the loss of one breeding roost and occasional roosting sites for at least three bat species with potential for further loss with the demolition of the bungalow and cubicle block (para 3.3.1). The Updated Ecological Impact Assessment recognises the need for two additional bat surveys during the months of May and August to inform a Natural England European Protected Species Licence. Para 5 details that 'given that the baseline conditions were not considered to have significantly altered since the production of the 2013 reports and the development extent and scale is largely consistent with the masterplan submitted with the original planning application, no significant change is considered to have occurred in relation to the predicted effects of the proposed development. The mitigation covered in the report (Acorn Ecology 2013a) is therefore largely suitable for the new application, with some minor refinements based on the detailed design'. It is the Officers recommendation that, should planning consent be forthcoming, that the Updated Ecological Impact Assessment is an approved document to ensure the recommended mitigation measures are in place as a requirement of the planning consent.

8. Viability and S106 Obligations

Public Open Space

Policy AL/IN/3 outlines that new housing developments will provide at least 60sqm of equipped and landscaped public open space per market dwelling, or a contribution per dwelling in accordance with The Provision and Funding of Open Space Through Development SPD. There is therefore a clear policy justification for this contribution. As such, a financial contribution of £23,744 has been requested in accordance with Policy AL/IN/3, for Phase I Refurbishment of Amory Park.

Affordable Housing 18.04.19

Policy AL/DE/3 of the AIDPD (2011) requires an affordable housing contribution on sites of 4 dwellings or more within Tiverton. However, the national 'small sites affordable housing contribution policy' introduced in November 2014, updated March 2019, introduces a national threshold of 10 units (or fewer) and or a maximum combined gross floor space of no more than 1,000sqm beneath which affordable housing contributions will not be sought. This site for 18 dwellings is required to make an affordable housing contribution.

The former NHS site has been vacant for a number of years and includes three vacant buildings totalling a gross internal floor area of 739sqm. National policy provides an incentive for sites containing vacant buildings. Where a vacant building is brought back into a lawful use or is demolished to be replaced by a new building, a financial credit, equivalent to the existing gross floorspace which is brought back into lawful use, is available (Guidance. Planning Obligations. March 2019). As such, the Local Planning Authority are required to offer a reduction in the affordable housing contribution equivalent to the existing gross floor space of the existing buildings.

Policy AL/DE/3 requires 35% of the development to be provided as affordable housing. Based on a development of 18 dwellings this equates to 6.3 dwellings. Application of the vacant building credit, however, provides the following:

Gross floor space of the vacant building(s) is: 739msq

The combined floor space of the proposed development is: 1608.76sqm

$1608.76 - 739 / 1608.76 = 0.54$ (or 0.5%).

Number of affordable houses that would have been required $(6.3) \times 0.5 = 3.15$ or 3 affordable dwellings.

Based on the information provided and taking account of the vacant building credit, 3 affordable dwellings are required.

The applicant in their Viability Assessment and covering letter (15 February 2019) assert that after factoring in the additional costs arising from the construction of the link road that the proposed residential scheme would not be able to afford any affordable housing or off-site contributions. The applicant asserted that no affordable housing, public open space or education contributions were capable of being made. Independent Viability Advice was sought and concluded that a scheme providing 3 x affordable units would be financially viable if the total required S106 financial contribution was reduced to £61,208. Alternatively, the full £100,829 S106 requirement could be provided and the number of onsite affordable rented units reduced to 2. The assessment was presented to the applicant who offered the full £100,829.00 contributions towards education and leisure and 2 x on-site affordable dwellings. They also commented that gaining interest from a Registered Provider for only 2 x affordable units on site would be unlikely and therefore offered the 2 units (Plot 14 (3 bed) and Plot 15 (2 bed)) as low cost market housing.

The planning officer accordingly approached MDDC property services and housing to enquire if MDDC would take on 2 x affordable units at Post Hill, if purchased at build cost. This was confirmed in principle with an affordable rent tenure, being the most required form of tenure. The planning officer offered this to the applicant who then requested to challenge the Independent Viability Advice. The challenge to the Independent Viability Advice did not on this occasion result in any change. It was accordingly confirmed (21 October 2019) by the applicant that two affordable rent units on site with financial contributions to the sum of (£100,829) was accepted. (It is noted at this stage that there is no agreement to the affordable housing units being transferred to the MDDC, this to be addressed in the S106 legal agreement).

Education

An education contribution of £77,085 has been requested to support primary school and early years education (and associated legal expenses incurred). Following detailed negotiations the full contribution has been agreed and will form part of the detail of the S106 legal agreement.

Summary

Conditional approval is recommended. The application for the erection of 18 dwellings (16 open market and 2 affordable) has been considered against national and local planning policy and is considered acceptable. Development of this previously developed site accords with the principles of sustainable development and Policy COR7 of the Mid Devon Core Strategy and Policy DM3 of the Local Plan Part 3. The design and setting of the development will not have an adverse impact on the street scene of Post Hill and will comfortably sit within the site. The design adheres to the principles of the adopted masterplan. It makes adequate provision for parking and waste management. The development will not have an unacceptable adverse effect on the residential

amenity of neighbouring occupiers. In this regard the proposal is in accordance with Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and Policies DM2, DM3, DM4 and DM8 of the Local Plan Part 3 (Development Management Policies). Any impact on the ecology of the site can be mitigated in accordance with Natural England guidance, compliance to the Updated Ecological Impact Assessment in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.

The application includes all the land required to enable the provision of a through road to connect to the Braid Park application site to the north, in accordance with the Adopted Tiverton Eastern Urban Extension Masterplan SPD. The provision of the land to ensure this through road can be provided is subject to agreement via a S106 with the applicant and is agreed in principle. While the parking provision and access to Post Hill are all acceptable and in accordance with Policies DM2 and DM8 of the Local Plan Part 2, if agreement cannot be reached regarding the provision of the land required to provide the through route, and other agreed contributions of affordable housing (Policy AL/DE/3 of the Local Plan Part 2), public open space (AL/IN/3 of the Local Plan Part 2) and education (AL/IN/5 of the Local Plan Part 2), then the application would not be in accordance with the comprehensive and coordinated approach to the development of the area as required by planning policy and the Adopted Tiverton Eastern Urban Extension Masterplan SPD. The application is therefore recommended for approval subject to conditions and signing of a S106 to secure the provisions set out in the recommendation.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three* years from the date of this permission.

REASON: In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.

REASON: For the avoidance of doubt and in the interests of proper planning.

3. All planting, seeding, turfing or earthworks comprised in the approved details of landscaping as shown on Drwg No. 3841-BBLA-SP-000-DP-L-210 D shall be carried out prior to the occupation of the development (or phases thereof) and any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species. The landscaping scheme shall be retained in accordance with the approved scheme.

REASON: To ensure that the development makes a positive contribution to the character and amenity of the area in accordance Policy DM2 of Local Plan Part 3 [Development Management Policies].

4. Prior to their use on site, samples of the materials to be used for all the external surfaces of the buildings have been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure the use of materials appropriate to the development in order to safeguard the visual amenities of the area in accordance with Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and Policies DM2 and DM14 of the Local Plan Part 3 (Development Management Policies).

5. No hard landscaping works in the areas shown on the approved plans shall begin until details of surfacing materials to be used in those areas have been submitted to, and approved in writing by, the Local Planning Authority. Such approved works shall then be carried out before the development hereby permitted is first brought into its permitted use (in any phase) and shall be so retained.

REASON: To ensure the use of materials appropriate to the development in order to safeguard the visual amenities of the area in accordance with Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and Policies DM2 and DM14 of the Local Plan Part 3 (Development Management Policies).

6. The development shall be carried out in accordance with the recommendations and mitigation measures set out in the Updated Ecological Impact Assessment (Dec 2018) and shall be approved by the Local planning Authority before construction begins.

REASON: To limit the impact on any protected species that may be present.

7. The development shall be carried out in accordance with the recommendations in the Geotechnical Investigation and Contamination Assessment Report (August 2012) submitted with the application. Following the completion of the remediation works, a further validation report will be submitted to the Local Planning Authority for consultation with Public Health Services confirming the suitability of the 600mm of inert topsoil and subsoil used. Occupation on the site, shall not take place until the validation report has been approved in writing by the Local Planning Authority.

REASON: In the interest of proper planning, public health and residential amenity

8. Before the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any

non-adopted highways. Once approved the CEMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

REASON: in the interest of proper planning and residential amenity

9. No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

REASON: To ensure, in accordance with Policy DM27 of the Local Plan Part 3 (Development Management Policies) and paragraph 199 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development.

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

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

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

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

12. Within twelve months of the first occupation of the first dwelling in an agreed phase of the development, all roads, footways, footpaths, drainage, statutory undertakers' mains and apparatus, junction, access, retaining wall and visibility splay works shall be completed.

REASON: To ensure that the access arrangements are completed within a reasonable time in the interests of safety and the amenity of residents

13. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:
- (a) the timetable of the works;
 - (b) daily hours of construction;
 - (c) any road closure;
 - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
 - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
 - (h) hours during which no construction traffic will be present at the site;
 - (i) the means of enclosure of the site during construction works;
 - (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site;
 - (k) details of wheel washing facilities and obligations;
 - (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
 - (m) Details of the amount and location of construction worker parking; and
 - (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

The development shall be carried out at all times in strict accordance to the approved CMP.

REASON: For the avoidance of doubt and in the interests of proper planning and maintaining residential amenity.

14. No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing, by the Local Planning Authority. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Infrastructure Design Statement (XBUR3623-PD01; Rev. 04; dated September 2019). No part of the development shall be occupied until the surface water management scheme serving that part of the development has been provided in accordance with the approved details and the drainage infrastructure shall be retained and maintained for the lifetime of the development.

REASON: To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems.

15. The full details of the adoption and maintenance arrangements for the proposed permanent surface water drainage management system shall be submitted to, and approved in writing by, the Local Planning Authority.

REASON: To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development. The REASON for being a pre-commencement condition:

These details need to be submitted prior to commencement of any works to ensure that suitable plans are in place for the maintenance of the permanent surface water drainage management plan, for the reason above.

16. The detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction shall be submitted to, and approved in writing by, the Local Planning Authority. Any temporary surface water drainage management system must satisfactorily address both the rates and volumes and quality of the surface water runoff from the construction site.

REASON: To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area. The REASON for being a pre-commencement condition:

A plan needs to be demonstrated prior to the commencement of any works to ensure that surface water can be managed suitably without increasing flood risk downstream, negatively affecting water quality downstream or negatively impacting on surrounding areas and infrastructure.

Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

17. The occupation of any dwelling in any agreed phase of the development shall not take place until the Local Planning Authority have agreed in writing the boundary treatment to all plots.

REASON: For the avoidance of doubt and in the interests of proper planning and maintaining residential amenity.

INFORMATIVES

1. There is a foreseeable risk of asbestos being present in the structure. Please review the information in this link, so you are aware of the hazards, risks and your legal obligations with asbestos <http://www.hse.gov.uk/asbestos/>
If asbestos may be present a Refurbishment and Demolition Survey following HSG264 available at <http://www.hse.gov.uk/pUbns/priced/hsg264.pdf> should be carried out before work commences to identify precautions and legal requirements enforced by Health and Safety Executive

The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. This report has been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.

Application No. 19/00718/MOUT

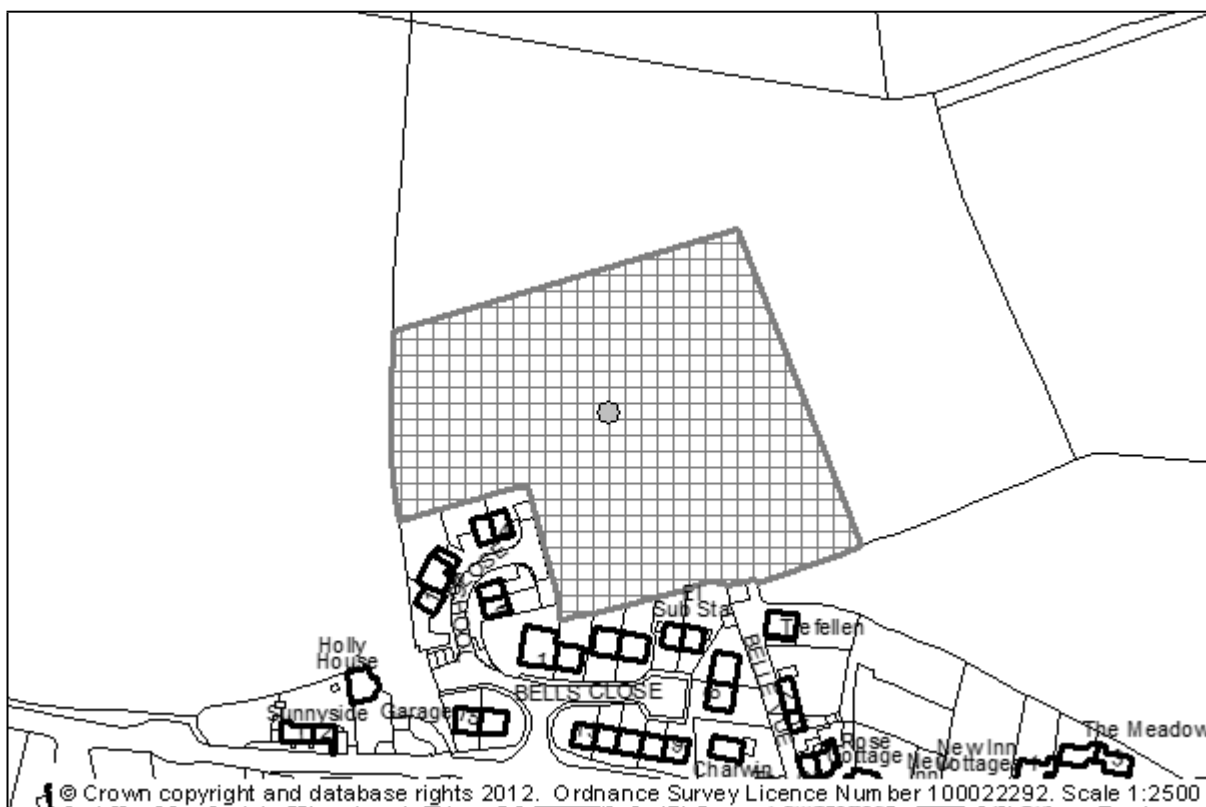
Grid Ref: 270924 : 112888

Applicant: Mr & Mrs Turner

Location: Land at NGR 270904 112818(The Barton)
Belle Vue
Chawleigh
Devon

Proposal: Outline for the erection of 26 dwellings

Date Valid: 25th April 2019



APPLICATION NO: 19/00718/MOUT

Update.

This application was considered on the 20th November 2019 where it was resolved that the application be deferred to allow a site visit to take place by the Planning Working Group to consider:

- The impact of the traffic from the 6 additional dwellings
- The site access
- Possible road safety issues
- The impact of the development on the living conditions of neighbouring properties
- The impact of the development on heritage assets

At the earlier meeting of the Planning Committee of the 23rd October 2019 it was resolved to defer the application to allow officers to negotiate with the developer with a view to reducing the number of dwellings on the site to 20 in total. It was subsequently confirmed that the applicant does not wish to amend the number of dwellings sought, thereby wishing the application to be determined on the basis of 26 dwellings. The site visit of the Planning Working Group has now taken place with the minutes notes taken as follows:

PLANNING WORKING GROUP – 29 November 2019

Application 19/00718/MOUT – Outline for the erection of 26 dwellings – land at NGR 270904 112818 (The Barton), Belle Vue, Chawleigh

There were 4 Members of Planning Working Group present.

Also present – the agent, an objector, a representative of the Parish Council, the Ward Member, the Case Officer and a representative from the Highways Authority (Ian Sorenson).

The Chairman indicated that the Planning Working Group had been requested to visit the site to consider:

- The impact of the traffic from the 6 additional dwellings
- The site access
- Possible road safety issues
- The impact of the development on the living conditions of neighbouring properties
- The impact of the development on heritage assets

The Chairman welcomed everyone to the site visit and introductions took place.

The Area Team Leader outlined the application for 26 dwellings on the site, the access via School Close and an indicative layout of how the 26 dwellings could be achieved on the site.

The Group moved to the access via Bells Close and onto the main highway through the village, they viewed the visibility splay onto the main highway and discussed the fact that there were no parking restrictions in the area and none were proposed; consideration was also given to obstructions that could take place in Bells Close and School Close.

A representative of the objectors explained that the close was quiet at the present time, but in the morning and at teatime and at weekends there were parked cars everywhere and traffic had to weave its way through into School Close. Delivery vehicles were also known to block access to the dwellings in School Close. He also stated that although the bin lorry could access the site, it

rarely did and that access to emergency vehicles could be delayed by parked cars. He was not happy with the 20 dwellings let alone an additional 6.

Mr Smith (Agent) spoke stating that the land in question was an allocated site for a minimum of 20 dwellings within the emerging Local Plan Review. The proposal was for 26 dwellings, therefore 6 additional dwellings and it was the impact of the additional 6 dwellings that was in question. He felt that there was no technical reason for refusal as none of the main consultees had raised objections to the proposal and he also felt that any parking issues that had been raised would be managed.

Cllr Mrs Falvin (Representative of Chawleigh Parish Council) spoke stating that the major concern of the Parish Council was the access and safety issues. She felt that there would be additional traffic in the area and problems with access for emergency vehicles. She highlighted where the footpath ended on the main road through the village and raised concerns with regard to more people trying to walk to the amenities in the village without a footpath.

Cllr C J Eginton (Ward Member) stated that he agreed with the concerns of the Parish Council, parking increased in the area later on in the day and parked cars caused obstacles for those accessing the Bells Close and onto School Close with the road becoming a chicane. He also stated that whilst 6 additional dwellings may not seem many, it was an increase of 37%. He spoke of the call for sites (for the Local Plan Review) in 2014 and that the people of Chawleigh were happy with a proposal for 20 dwellings on the site.

Before Members walked back through Bells Close and into School Close, they discussed the position of the church and the conservation area with regard to the development site and received clarity with regard to the designated school bus that took the children to school in Chumleigh, although many parents did drive to the school in cars.

Further discussion took place with regard to:

- the design of the road through Bells Close and into School lane which had been designed to reduce speed
- Whether 20 dwellings on the site would be 'a given' seeing that it was allocated within the emerging Local Plan and the weight that could be given to the plan
- The views of the Highways officer with regard to the calculation of vehicles for the 6 additional dwellings
- The Highway Act and parking on the roadside
- Construction traffic and how it would enter the site, the group were advised that a haul road could be constructed through the neighbouring field
- The metre of grass verge in front of the dwellings in School Close which was part of the highway and could be used as such.

Members agreed that they would voice their views regarding the application at the next meeting of the Planning Committee.

.....

RECOMMENDATION

Grant permission subject to conditions and the prior signing of a s106 agreement to secure the following:

1. 30% affordable housing in accordance with a scheme to be agreed with the Local Planning Authority.
 2. 5% self build as serviced plots.
 3. A financial contribution of £67,497.00 towards primary school transport costs due to the development being further than 1.5 miles from Chulmleigh Primary. This figure arising from a development of 26 dwellings resulting in 7 primary pupils with the calculation as follows:
 $\text{£7.25 per day} \times 7 \text{ pupils} \times 190 \text{ academic days} \times 7 \text{ years} = \text{£67,497.00}$
 4. A financial contribution of £31,330 towards public open space provision in the Parish of Chawleigh, which this figure based on an outline application for 26 dwellings.
-

MEMBER CALL-IN

This application has been called in by Councillor Eginton in order for Members to consider the views of Chawleigh Parish Council

PROPOSED DEVELOPMENT

This is an outline application for the erection of 26 dwellings on land at NGR 270904 112818 (The Barton), Belle Vue, Chawleigh with the matter of access included for consideration at this stage. The access into the site would be via School Close with an indicative plan having been submitted to identify how 26 dwellings could be accommodated on site.

This application has been submitted to establish the principle of development on the site, with all matters such as appearance, landscaping, layout and scale reserved for future consideration within any reserved matters application. The original submission was for 28 dwellings to be provided on site but this was later amended down to 26 dwellings following concerns raised on the grounds of potential overdevelopment of the site.

The site is a field located to the north west of Chawleigh, which is currently outside of the settlement limits for the village but the site is allocated within the emerging local plan under policy CH1 which outlines a site of 1.25 hectares at the Barton, allocated for a residential development of 20 dwellings with 30% affordable housing with the access to be achieved off School Close.

APPLICANT'S SUPPORTING INFORMATION

Application Form, Location Plan, Site Layout Plan, Design and Access Statement, Draft Heads of Terms Agreement, Ecological Report, Flood Risk Assessment, Geophysical Report, Planning Statement, Transport Statement, Waste Audit Statement

RELEVANT PLANNING HISTORY

05/02092/FULL - REFUSE date 30th November 2005
Change of use of agricultural land to residential curtilage

06/01780/FULL - PERMIT date 2nd November 2006
Erection of 6 no. dwellings to include road improvements and the change of use of agricultural land into garden

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities
COR2 - Local Distinctiveness
COR3 - Meeting Housing Needs
COR5 - Climate Change
COR8 - Infrastructure Provision
COR9 - Access
COR11 - Flooding
COR12 - Development Focus
COR17 - Villages
COR18 – Countryside

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

AL/DE/3 - Affordable Housing Site Target
AL/IN/2 - Development Without Community Infrastructure Levy
AL/IN/3 - Public Open Space
AL/IN/4 - Green Infrastructure
AL/IN/5 - Education Provision

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development
DM2 - High quality design
DM7 - Pollution
DM8 - Parking
DM14 - Design of housing
DM15 - Dwelling sizes
DM27 - Development affecting heritage assets

Local Plan Review 2013 - 2033

Policy CH1 - Barton, Chawleigh

A site of 1.25 hectares at the Barton is allocated for residential development, subject to the following:

- a) 20 dwellings with 30% affordable housing;
- b) Access to be achieved off School Close;
- c) Design solution which respects the setting of the conservation area and listed buildings; and
- d) Archaeological investigation and appropriate mitigation measures.

CONSULTATIONS

Chawleigh Parish Council – 1st June 2019

Chawleigh Parish Council objects to the outline planning application for the erection of 28 dwellings at The Barton based on the following material considerations:

1. The emerging Local Plan details the allocation of a site of 1.25 hectares at the Barton for residential development for 20 dwellings, including 30% affordable housing. This is consistent with the response provided by Chawleigh Parish Council to the Mid Devon Local Plan Review in March 2014, following a public meeting attended by 32 members of the public. The outline proposal is for 28 dwellings which is significantly higher and the scale of the development is not consistent with local planning policy.
2. There is a concern that the design of the development with the large plots shown on the outline plan would provide an opportunity for additional dwellings being built at a later date, which would increase the number of dwellings above the agreed number set out in the Local Plan.
3. The Council supports the policy requiring the target of 30% affordable housing on sites with six dwellings or more and would therefore expect to see at least six affordable houses on a development of 20 dwellings.
4. The Council would like to see the design of the development to include a number of 2-bedroom bungalows as a previous housing needs survey showed that this was needed for the community and to encourage people to stay in the village.
In addition, there is no need for large houses as 2 or 3-bedroom properties would be sufficient.
5. There is a significant concern about the highways access to the development. Although the entrance to Bells Close is wide, School Close is a narrow lane with very tight bends and this is the only access to the development site. This has adverse implications during the building works as it is likely that the lorries will damage the existing pavements.
Once the development has been built, the access will still be poor. There is a concern about access for emergency vehicles and other large vehicles, both via Bells Close and School close and then around the development site itself.
6. There is a concern about the number of vehicles that will be parked along the road once the development has been finished and the residents are in place as there could be at least another 56 vehicles or more. There is already an issue with the number of parked cars in School Close as on one occasion 17 cars were counted, as well as a further 12 cars in Bells Close. Although the dwellings appear to have garages attached, people often use their garage as a storage space and park their car(s) outside the house and/or on the street.
The design of the development has set aside an area of central parking, presumably for visitors and any overflow. This would not be not large enough for all the residents' cars, as some residents will have more than two cars and there does not appear to be any space set aside on the development's roads for parking or for houses to have driveways.
7. The design of the development does not take into account the future policy for electric cars as there is no consideration for the future needs of electric car charging points. In principle, based on at least two cars per household, the cars would need to be parked in the garage or on a driveway next to each house with access to an electric car charging point.
8. The capacity of the physical infrastructure, e.g. the sewage system, in Chawleigh is already under significant pressure which will be made worse with the addition of 28 dwellings. There are

also concerns about potential drainage problems as surface water already comes off the fields causing flooding on Barton Lane and onto the churchyard.

The Council would expect to see local financial considerations offered, such as a Section 106 agreement, Community Infrastructure Levy or similar, to support the improvements to the village's physical infrastructure such as the sewage and surface water systems. This could include the development of a footpath/pavement from the development site to the Playing Field, which is the nearest open space.

9. With regard to social facilities, there will be a significant impact on the local GP services and the dentist's services as they have limited or no places available on their lists. Similarly, access to the local primary and secondary schools may be limited.

10. There are very limited employment opportunities in the village and surrounding area, so the residents on the development will need to work outside the area. While the train service is good, transport is needed to get to the nearest station. The public bus service to Exeter is currently good but there is a limited bus service to Barnstaple.

11. The development's impact on the landscape will be significant and it will be necessary to ensure the site is screened with trees and other plants to reduce the visual impact, to increase the biodiversity and have a positive impact on climate change.

The Council has noted the comments made by other organisations, including the security concerns raised by the Police.

Chawleigh Parish Council – 15th August 2019

Chawleigh Parish Council (the Council) OBJECTS to the outline planning application based on the following material considerations:

1. The Council welcomes the change to the proposed car parking arrangements in response to the security concerns raised by Devon, Cornwall and Dorset Police so that cars will be parked on driveways adjacent to individual dwellings. However, based on an estimate that there would be at least two cars per household, the driveways would need to be large enough for two cars.

2. In accordance with the local parking standards for residential developments set out in the National Planning Policy Framework (para. 105), there should be adequate provision of spaces for charging plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations. The revised site layout does not show any such locations.

3. The Mid Devon District Council (MDDC) Local Plan (Policy DM 8) states that new developments should provide an adequate level of parking that takes into account the accessibility of the site, including availability of public transport. Although there are good public transport services to Exeter, they are more limited to Barnstaple. This supports the likelihood that residents of the new development will have at least two cars per dwelling.

As a result, there is a concern about the number of vehicles that could be parked along the road once the development has been finished and the residents are in place. This concern has been resolved in part by the revised proposals for driveways, however there remains a concern relating to overflow parking, such as visitors' parking, on the development as no additional parking space is available. The overflow will extend along the roadway or in the adjoining streets, resulting in congestion and possible unsafe parking on narrow footways. There is already an issue with the number of parked cars in School Close as on one occasion 17 cars were counted, as well as a further 12 cars in Bells Close.

4. The Barton site in Chawleigh has been identified as a location suitable for a limited level of development to meet local needs (MDDC Local Plan, Policy S 13). The Council noted the reduction in the number of dwellings from 28 to 26 in the revised site layout. However, this number of dwellings is still not consistent with the MDDC Local Plan (Policy CH 1) for 20 dwellings with 30% affordable housing on the 1.25 hectares site at the Barton. This figure had been agreed with Chawleigh Parish Council in March 2014, following a public meeting attended by 32 members of the public. In addition, the planning application's Transport Statement (para. 338) submitted on 30 May 2019 states that the road capacity should limit the development to 20 dwellings.
5. The Council supports the MDDC Local Plan (Policy COR 3, para 7.9) requiring a target of 30% affordable housing on sites with 6 dwellings or more and would therefore expect to see proposals for 6 affordable houses and 14 private houses on a development of 20 dwellings.
6. As set out in the National Planning Practice Guidance (para. 040: Housing Design Issues), the Council would expect that the affordable housing will not be distinguishable from the private housing by its design, nor will it be located on the least attractive part of the site. The Council would expect the developer to mix the affordable housing amongst the private housing.
7. The Council is pleased that the design of the development includes a number of 2-bedroom bungalows as a housing needs survey showed that this was needed for the community and to encourage people to stay in the village. However, compared with the original site layout (Drawing No. 18000_SK100), the revised site layout shows a reduction in the number of 2-bedroom dwellings (from 12 to 10), a reduction in the number of 2.5-bedroom dwellings (from 10 to 9) and an increase in the number of 3-bedroom dwellings (from 6 to 7). The Council would be concerned if the proportion of 2-bedroom dwellings is reduced further if the plans are revised again.
8. At this stage, it is not clear whether the dwellings are houses or bungalows. The development would be enhanced by including a mix of different types of houses to cater for a range of demographic groups, especially families and older people, as set out in the National Planning Practice Guidance (Para. 014: Planning should promote cohesive and vibrant neighbourhoods). This also supports the provision of smaller dwellings, with maximum affordable housing provision as set out in the balanced growth strategy alternative in the MDDC Local Plan (para 5.9).
9. There remains a concern that the design of the development with the large plots shown on the revised site layout would provide an opportunity for additional dwellings being built at a later date, which would increase the number of dwellings above the agreed number set out in the MDDC Local Plan (Policy CH 1).
10. In accordance with MDDC Local Plan (COR 8, para. 7.27), the provision of infrastructure should be in step with the development, taking into account existing provision. The capacity of the physical infrastructure, e.g. the sewage system, in Chawleigh is already under significant pressure which will be made worse with the addition of 26 dwellings. There are also concerns about potential drainage problems as surface water already comes off the fields causing flooding on Barton Lane and onto the churchyard. The Council would expect to see local financial considerations offered, such as planning obligations (S106), Community Infrastructure Levy or similar, to support the improvements to the villages physical infrastructure such as the sewage and surface water systems. This could include the development of a footpath/pavement from the development site to the Playing Field, which is the nearest open space.
11. In Chawleigh, there are long-term problems of flooding during heavy showers, e.g. on the main street outside Butts Cottage, a lake of water regularly appears as the surface water drainage pipes are inadequate for the flow. The Council supports the Local Flood Authority's comments regarding the pre-commencement conditions to ensure the surface water run off is appropriately managed

both during the construction and for the lifetime of the development (National Planning Policy Framework, para.165). This would also ensure compliance with the MDDC's Local Plan (Policy DM 2) which requires developments to include suitable drainage systems.

12. There is a significant concern about the highways access to the development. Although the entrance to Bells Close is wide, School Close is a narrow lane with very tight bends and this is the only access to the development site. This has adverse implications during the building works as it is likely that the lorries will damage the existing pavements. The Council supports the Highway Authority's proposed construction management plan to ensure adequate onsite facilities are available for construction traffic in the interest of the safety of all users of the ongoing public highway and to protect the amenities of the adjoining residents.

13. Once the development has been built, the access will still be poor. In accordance with the National Planning Policy Framework (para. 110), the development should allow for efficient delivery of goods and access by service and emergency vehicles. There is a concern about lack of access for emergency vehicles and other large vehicles, both via Bells Close and School Close and then around the development site itself.

14. There are very limited employment opportunities in the village and surrounding area, so the residents on the development will need to work outside the area. While the train service is good, transport is needed to get to the nearest station. The public bus service to Exeter is currently good but there is a limited bus service to Barnstaple. The Council expects MDDC to continue to work in partnership to support public transport initiatives to maintain sustainable travel patterns (MDDC Local Plan, COR 9 para. 7.30), including the local train service (MDDC Local Plan, COR 10).

15. The development's impact on the landscape will be significant and it will be necessary to ensure the site is screened with trees and other plants to reduce the visual impact as well as to conserve or enhance biodiversity (National Planning Policy Framework, para.175).

16. The Council supports the comments from Historic Environment Team recommending a programme of archaeological work to investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the development (National Planning Policy Framework, para.199).

17. With regard to social facilities, there will be a significant impact on the local GP services and the dentist's services as they have limited or no places available on their lists. The Council has noted the comments and request for contributions to secure sustainable healthy communities from the Royal Devon & Exeter NHS Foundation Trust. Similarly, access to the local primary and secondary schools may be limited. The Council has noted the comments and request for contributions to support primary school transport costs from the Devon County Council Education. It should be noted that the Council is concerned that previous comments made at both the preapplication stage and at the planning application stage do not appear to have been addressed.

Highway Authority – 21st May 2019

Observations:

I have visited the site which is accessed from a shared surface road which it's self is accessed off the B3042 through Bells close an access road type construction. The adopted Devon design guide recommends that up to 25 dwellings can be accessed through a shared surface road. The development is proposing 28 Dwellings and combined with the existing 6 properties would provide 34 dwellings from this type of road. While the design guide is a recommendation and its upper limit flexible the previous village 30 year plan of 20 units from this road would be more in keeping with the shared surface recommendations that than of the 28. The Highway Authority has examined the

transport statement and is satisfied with its content. The parking provision is in keeping with the standards adopted by Mid Devon's and while this is an outline application with all matters reserved except access the centralisation of all parking rather than with individual properties does raise concerns. Previous developments with isolated parking gives rise to parking on street and obstruction of footways and carriageways. The Highway Authority would prefer to see parking spaces allocated to each plot or in such a manner that all properties can view their spaces and provided passive surveillance making their use more attractive and be of a number that is sufficient to deter parking on the road and verges. Therefore it is a matter for the Local planning Authority to consider the parking and the volume of the development against the recommended guidance. The access to the site and the volumes of traffic are acceptable to the Highway Authority and therefore should planning consent be granted the following conditions should be imposed, of which a construction management plan should be submitted and an alternative access to the site explored .e.g. via a haul road across adjoining controlled land rather than through the shared surface residential road

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

1. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:
 - (a) the timetable of the works;
 - (b) daily hours of construction;
 - (c) any road closure;
 - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
 - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
 - (h) hours during which no construction traffic will be present at the site;
 - (i) the means of enclosure of the site during construction works; and
 - (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
 - (k) details of wheel washing facilities and obligations
 - (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
 - (m) Details of the amount and location of construction worker parking.
 - (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;
2. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning

Authority in writing before their construction begins. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

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

3. No part of the development hereby approved shall be commenced until:

- A) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 metres back from its junction with the public highway
- B) The ironwork has been set to base course level and the visibility splays required by this permission laid out
- C) The footway on the public highway frontage required by this permission has been constructed up to base course level
- D) A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority

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

4. Within twelve months of the first occupation of the first dwelling in an agreed phase of the development, all roads, footways, footpaths, drainage, statutory undertakers' mains and apparatus, junction, access, retaining wall and visibility splay works shall be completed to the written satisfaction of the Local Planning Authority.

REASON: To ensure that the access arrangements are completed within a reasonable time in the interests of safety and the amenity of residents

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

REASON: To protect water quality and minimise flood risk in accordance with Flood Management act.

Highway Authority - 15th November 2019

The above application was deferred by the planning committee for a review of the development, and the applicant has requested that the Highway Authority clarify its position in relation to the quantum of Housing being proposed from a shared surface road. In the initial response the Highway Authority commented on the delivery of 28 dwellings, but referred to the Design guide numbers and the previously agreed figures with the Parish council. The applicant subsequently reduced these numbers to 26. The design guide recommends 25 from a straight Cul-de-sac and turning head and up to 50 for a crescent. The application combines a straight Cul-de-sac (the existing) with a crescent (proposed). The Highway Authority advised that the 25 figure was flexible.

Therefore the Highway Authority would raise no objection to the provision of 26 units on top of the existing from a shared surface road given the combination of the two types and the minimal

increase above the lower figure. This position is subject to the conditions previously recommended.

Recommendation:

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

DCC - Lead Local Flood Authority – 30th May 2019

Recommendation:

At this stage, we object to this planning application because we do not believe it satisfactorily conforms to Policy DM2, specifically part (f), of Mid Devon District Council's Local Plan (Adopted October 2013), which requires developments to include sustainable drainage systems. The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

The applicant should revise the attenuation strategy to incorporate above ground SuDS features in line with Devon County Councils discharge hierarchy. It is noted that impermeable area is proposed to be very low for a residential area. If this area increases then greenfield runoff rates and in turn storage volumes must be re-calculated to accommodate for this additional runoff. The applicant should clarify the position of the highway soakaway and whether it is located in an open green space or a back garden. Devon County Council do not recommend these being located within back gardens for maintenance reason so plans should be revised if this is the case. Clarification of the infiltration rates should be given. 1×10^{-6} is the rate that is generally accepted as giving suitable drain down times.

DCC - Lead Local Flood Authority – 25th June 2019

Recommendation:

Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that the following pre-commencement planning conditions are imposed on any approved permission:

- No part of the development hereby permitted shall be commenced until a programme of percolation tests has been carried out in accordance with BRE Digest 365 Soakaway Design (2016), and the results approved in writing by the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. A representative number of tests should be conducted to provide adequate coverage of the site, with particular focus placed on the locations of the proposed infiltration devices/permeable surfaces.

Reason: To ensure that surface water from the development is discharged as high up the drainage hierarchy as is feasible.

Reason for being a pre-commencement condition: This data is required prior to the commencement of any works as it will affect the permanent surface water drainage management plan, which needs to be confirmed before development takes place.

- No part of the development hereby permitted shall be commenced until the full results of a groundwater monitoring programme, undertaken over a period of 12 months, has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County

Council as the Lead Local Flood Authority. This monitoring should be conducted to provide adequate coverage of the site, with particular focus placed on the locations and depths of the proposed infiltration devices.

Reason: To ensure that the use of infiltration devices on the site is an appropriate means of surface water drainage management.

Reason for being a pre-commencement condition: This data is required prior to the commencement of any works as it could affect the permanent surface water drainage management plan, which needs to be confirmed before development takes place.

- No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The application for the detailed drainage should be submitted and agreed at the same time that the reserved matters for layout are submitted and agreed. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Flood Risk Assessment and Drainage Strategy (Report Ref. 19001, First Issue, dated April 2019). No part of the development shall be occupied until the surface water management scheme serving that part of the development has been provided in accordance with the approved details and the drainage infrastructure shall be retained and maintained for the lifetime of the development.

Reason: To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems.

Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

- No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site.

Reason: To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.

Reason for being a pre-commencement condition: A plan needs to be demonstrated prior to the commencement of any works to ensure that surface water can be managed suitably without increasing flood risk downstream, negatively affecting water quality downstream or negatively impacting on surrounding areas and infrastructure.

Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

- No part of the development hereby permitted shall be commenced until the full details of the adoption and maintenance arrangements for the proposed permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority.

Reason: To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development.

Reason for being a pre-commencement condition: These details need to be submitted prior to commencement of any works to ensure that suitable plans are in place for the maintenance of the permanent surface water drainage management plan, for the reason above.

Observations:

Following my previous consultation response FRM FRM/MD/00718/2019 dated 30th May 2019 the applicant has provided additional information in relation to surface water drainage aspects of the above planning application in an email dated 14th June 2019, for which I am grateful.

- Email from Jamie Law Trace Design to Poppy Millar dated 14th June 2019

The applicant has put forward a feasible surface water drainage solution in line with the surface water management hierarchy. Although infiltration testing has not yet been done a suitable attenuation strategy has also been proposed for if it is not possible to provide soakaways on site. It is understood that a relatively high rate of infiltration has been assumed. This should be updated in light of infiltration testing. The applicant must also revise Greenfield runoff and attenuation storage calculations if the proposed impermeable area increases.

Public Health – 13th May 2019

Contaminated Land: No objection to this proposal (07.05.19).

Air Quality: No objection to this proposal (30.4.19).

Environmental Permitting: No objection to this proposal (30.4.19).

Drainage: No objection to this proposal (07.05.19).

Noise & other nuisances:

Recommend approval with conditions:

Before the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. Once approved the CEMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority (07.05.19).

Housing Standards: No comment (11.5.19).

Licensing: No comments (30.4.19).

Food Hygiene: Not applicable (30.4.19).

Private Water Supplies: Not applicable (03.05.19).

Health and Safety: No objection to this proposal enforced by HSE (30.4.19).

Housing Options Manager – 10th May 2019

Please note current housing need for Chawleigh

Chawleigh	Banding				
Bedroom Size and Type	Band B	Band C	Band D	Band E	Grand Total
1		1	4	4	9
General Needs		1	4	3	8
Step Free				1	1
2		2		2	4
General Needs		1		1	2
Maximum of 3 Steps				1	1
Step Free		1			1
4	1	1			2
General Needs		1			1
Wheelchair Accessible	1				1
Grand Total	1	4	4	6	15

Devon, Cornwall and Dorset Police - 3rd May 2019

It is appreciated that at this time it is for outline only, as such I am unable to comment in depth as the available drawings do not reveal any details that would be of concern to the police. However, having reviewed the available proposed site layout (option 2) drawing 18000_SK100, which I accept may change, please note the following information, initial advice and recommendations from a designing out crime, fear of crime, antisocial behaviour (ASB) and conflict perspective.

Care is required when providing communal parking areas as experience shows they can become unofficial play parks and targets for crime, vandalism and anti-social behaviour, leading to residents to park on the street. The proposed parking court is not well overlooked, the spaces being disconnected from the associated dwellings. This places the burden of surveillance on the occupants of the closest dwellings, regrettably, there is overwhelming evidence to suggest that unless a crime directly involves a member of the public, many will not report it for fear of repercussions. Residents will also look to park as near to their choice of main access point, resulting in parking on footpaths and verge's, creating potential for community conflict between residents and motorists.

Best practice suggests cars should either be parked in locked garages or on a hard standing within the dwelling boundary. Where communal car parking areas are necessary they should be in small groups, close and adjacent to homes and must be within view of active rooms within these homes. The word 'active' in this sense means rooms in building elevations from which there is direct and regular visual connection between the room and the street or parking court. Such visual connection can be expected from rooms such as kitchens and living rooms, but not from more private rooms, such as bedrooms and bathrooms.

Likewise, rear car parking courtyards are discouraged for the following reasons:

- ' They introduce access to the vulnerable rear elevations of dwellings where the majority of burglary is perpetrated
 - ' In private developments such areas are often left unlit and therefore increase the fear of crime
 - ' Un-gated courtyards provide areas of concealment which can encourage anti-social behaviour
- Where rear car parking courtyards are considered absolutely necessary they must be protected by a gate.

Devon and Cornwall & Dorset Police – 23rd July 2019

Re 26 dwellings (Revised Drawings & Additional Information) The Barton, Belle Vue, Chawleigh, Devon - 23rd July 2019

From a crime and disorder perspective, the revised parking scheme (to on plot private drive) is noted and welcomed. Please do not hesitate to contact me if any clarification is sought or I can assist further.

Historic Environment Team - 14th May 2019

Comments from Stephen Reed, Senior Historic Environment Officer

Devon County Historic Environment Team ref: Arch/DM/MD/34144a

The geophysical survey of this site has identified archaeological features associated with the early enclosure of the land as well as the potential identification of pit-features may indicate the presence of archaeological activity on the site. As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with these heritage assets. The impact of development upon the archaeological resource here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2018) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013), that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason

To ensure, in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

I would envisage a suitable programme of work as taking the form of a staged programme of archaeological works, commencing with the excavation of a series of evaluative trenches to

determine the nature and significance of the anomalies identified by the geophysical survey and to test the efficacy of the survey itself. Based on the results of this initial stage of works the requirement and scope of any further archaeological mitigation can be determined and implemented either in advance of or during construction works. This archaeological mitigation work may take the form of full area excavation in advance of groundworks or the monitoring and recording of groundworks associated with the construction of the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>

Historic Environment Team – 2nd August 2019

I refer to the above application and your recent re-consultation. I have no additional comments to make to those already made, namely:

The geophysical survey of this site has identified archaeological features associated with the early enclosure of the land as well as the potential identification of pit-features may indicate the presence of archaeological activity on the site. As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with these heritage assets. The impact of development upon the archaeological resource here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2018) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013), that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason To ensure, in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

I would envisage a suitable programme of work as taking the form of a staged programme of archaeological works, commencing with the excavation of a series of evaluative trenches to determine the nature and significance of the anomalies identified by the geophysical survey and to test the efficacy of the survey itself. Based on the results of this initial stage of works the requirement and scope of any further archaeological mitigation can be determined and implemented either in advance of or during construction works. This archaeological mitigation work may take the form of full area excavation in advance of groundworks or the monitoring and recording of groundworks associated with the construction of the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>.

DCC – Education – 16th May 2019

Regarding the above application, Devon County Council has identified that the proposed increase of 28 family type dwellings would generate an additional 7 primary pupils and 4.2 secondary pupils which would have a direct impact on Chulmleigh Primary and Chulmleigh Community College.

In order to make the development acceptable in planning terms, an education contribution to mitigate its impact would be requested. This is set out below:

We have forecasted that there is currently capacity at the nearest primary and secondary school for the number of pupils likely to be generated by the proposed development and therefore a contribution towards education infrastructure will not be sought.

We will however require a contribution towards primary school transport costs due to the development being further than 1.5 miles from Chulmleigh Primary. The costs required are as follows: -

7 Primary pupils

£7.25 per day x 7 pupils x 190 academic days x 7 years = £67,497.00

All contributions will be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on 2015 prices.

The amount requested is based on established educational formulae (which related to the number of primary and secondary age children that are likely to be living in this type of accommodation) and the costs of transporting children from Chawleigh. It is considered that this is an appropriate methodology to ensure that the contribution is fairly and reasonably related in scale to the development proposed which complies with CIL Regulation 122.

In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement. Legal costs are not expected to exceed £500.00 where the agreement relates solely to the education contribution. However, if the agreement involves other issues or if the matter becomes protracted, the legal costs are likely to be in excess of this sum.

DCC – Education - 30th September 2019

The amount has not changed as the rounded up number of primary pupils is still 7. However, I have amended the response to clarify the correct number of dwellings.

Regarding the above application, Devon County Council has identified that the proposed increase of 26 family type dwellings would generate an additional 6.5 primary pupils and 3.9 secondary pupils which would have a direct impact on Chulmleigh Primary and Chulmleigh Community College.

In order to make the development acceptable in planning terms, an education contribution to mitigate its impact would be requested. This is set out below:

We have forecasted that there is currently capacity at the nearest primary and secondary school for the number of pupils likely to be generated by the proposed development and therefore a contribution towards education infrastructure will not be sought.

We will however require a contribution towards primary school transport costs due to the development being further than 1.5 miles from Chulmleigh Primary. The costs required are as follows: -

7 Primary pupils

£7.25 per day x 7 pupils x 190 academic days x 7 years = £67,497.00

All contributions will be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on 2015 prices.

The amount requested is based on established educational formulae (which related to the number of primary and secondary age children that are likely to be living in this type of accommodation) and the costs of transporting children from Chawleigh. It is considered that this is an appropriate methodology to ensure that the contribution is fairly and reasonably related in scale to the development proposed which complies with CIL Regulation 122.

In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement. Legal costs are not expected to exceed £500.00 where the agreement relates solely to the education contribution. However, if the agreement involves other issues or if the matter becomes protracted, the legal costs are likely to be in excess of this sum.

Royal Devon and Exeter NHS Foundation Trust – 21st May 2019

Please find attached our representations in respect of planning application 19/00718/MOUT - Belle Vue Chawleigh Devon.

Whilst writing we enclose updated Appeals list and associated bundle to assist you.

These are material planning considerations and a brief summary of key points is below:

In the case of the appeal decision of the Land North of Campden Road Reference APP/J3720/A/14/ 2221748 (tab 1 of the attached bundle), the Inspector erroneously thought that there was no shortfall in the funding because it was recovered retrospectively. As demonstrated in the evidence provided, the Trust will not recover the funding gap created by new development. This was also the case in relation to all of the appeals provided and has been accepted in the subsequent appeal decisions.

The appeal decision APP/U4610/W/18/3196439 in (Coventry) (tab 7) of the attached bundle) the inspector applied a pooling restriction. As explained the pooling restrictions do not apply. The relevant Trust involved was not aware of the appeal, and was not involved in the appeal process and did not challenge the decision for the same reason.

In a further appeal, decision Ref: APP/R3705/W/18/3196890 (Tamworth) (tab 8) all parties and the Inspector agreed that the NHS Trust request for contribution was 122 CIL Compliant. This decision is subsequent to the Coventry decision above and is the most recent one.

We would be grateful if you could please take these into consideration.

The Royal Devon and Exeter NHS Foundation Trust have provided a 20 page document outlining evidence for S106 Developer Contributions for Services which has been linked to the planning file and can be viewed on the council website. The Foundation Trust having undertaken an impact assessment formula outline the main finding and S106 requirement is as follows:

A development of **28 dwellings** equates 65 new residents (based on the current assumption of 2.33 persons per dwelling as per ONS figures). Using existing 2016 demographic data as detailed in the calculations in Appendix 5 will generate 130.57 acute interventions over the period of 12 months. This comprises additional interventions by point of delivery for:

- A&E based on % of the population requiring an attendance
- Non Elective admissions based on % of the population requiring an admission
- Elective admissions based on % of the population requiring an admission
- Day-case admissions based on % of the population requiring an admission
- Regular attendances based on % of the population requiring to attend regularly
- Outpatient attendances based on % of the population requiring an attendance
- Outpatient attendances based on % of the population requiring procedure
- Community health services based on % of the population requiring the delivery of Community based Services.

Formula:

Increase in Service Demand:

Development Population x % Development Activity Rate per head of Population x Cost per Activity = Developer Contribution

As a consequence of the above and due to the payment mechanisms and constitutional and regulatory requirements the Trust is subject to, it is necessary that the developer contributes towards the cost of providing capacity for the Trust to maintain service delivery during the first year of occupation of each unit of the accommodation on/in the development. The Trust will not receive the full funding required to meet the healthcare demand due to the baseline rules on emergency funding and there is no mechanism for the Trust to recover these costs retrospectively in subsequent years as explained. Without securing such contributions, the Trust would be unable to support the proposals and would object to the application because of the direct and adverse impact of it on the delivery of health care in the Trust's area. Therefore the contribution required for this proposed development of **28 dwellings** is **£36,979.00**. This contribution will be used directly to provide additional health care services to meet patient demand.

The contribution requested (see Appendix 5) is based on these formulae/calculations, and by that means ensures that the request for the relevant landowner or developer to contribute towards the cost of health care provision is directly related to the development proposals and is fairly and reasonably related in scale and kind. Without the contribution being paid the development would not be acceptable in planning terms because the consequence would be inadequate healthcare services available to support it, also it would adversely impact on the delivery of healthcare not only for the development but for others in the Trust's area.

Having considered the cost projections, and phasing of capacity delivery we require for this development it is necessary that the Trust receives 100% of the above figure prior to implementation of the planning permission for the development. This will help us to ensure that the required level of service provision is delivered in a timely manner. Failure to access this additional funding will put significant additional pressure on the current service capacity leading to increased delays for patients and dissatisfaction with NHS services.

REPRESENTATIONS

A total of 24 letters of representation have been received at the time of writing this report. One of the letters is a general comment and the rest are objecting to the proposal, the concerns raised can be summarised as:

- The number of dwellings proposed is more than is required in the village
- The general scale of the development
- In 2014 the parish council stated that the total number of new units on the site should not exceed 20
- The proposed access cannot sustain an increase in traffic
- Ease of access for emergency services
- Safety of access
- Increase in traffic could result in safety issues
- Greenfield site
- Not enough facilities/services in the village
- Strain on existing services such as GP surgery and dentist
- Lack of places at local schools
- Inadequate road and public transport infrastructure
- Proposal not in-keeping with the wider village
- Already adequate affordable housing in the village
- Parking concerns particularly around means of charging electric vehicles
- Potential increase in crime due to proposed parking provision
- Concerns whether sewerage system can sustain an increase in use

- Reliance on private cars
- Lack of variety in terms of types of homes particularly referring to lack of bungalows
- Impact on biodiversity
- Increase in pollution
- No children's play area within the development
- Overlooking of nearby residential properties
- Concerns around the potential to extend the new dwellings in the future
- Surface water concerns
- Waste collection
- Crowded layout of the site
- Impact of goods vehicles during construction
- Visual impact

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. Principle of development, planning policy and 5 year housing supply;
2. Highways and highway safety
3. Drainage and Flood Risk
4. Public open space and green infrastructure (GI)
5. Landscape and ecology
6. Living conditions of the occupiers of nearby residential properties
7. Impact on Heritage Assets
8. S106 Obligations and local finance considerations
9. Sustainable development balance.

1. Principle of development and 5 year housing land supply

The Mid Devon Core Strategy (Local Plan 1) was adopted in 2007 and sets out the growth strategy for the District that seeks to balance social, environmental and economic objectives. Policy COR12 focuses development in and around the main settlements of Tiverton, Cullompton and Crediton.

Policy COR1 seeks sustainable communities in which people want to live and work through provision of housing to meet the needs of all sectors of the community, providing access to education, jobs, community facilities and public transport, reducing the need to travel by car. Policy COR3 sets a target for the provision of new market and affordable housing with an appropriate mix of dwelling sizes and types.

Policy COR8 seeks to ensure that development is served by necessary infrastructure in a predictable, timely and effective fashion. Developers will be expected to contribute to, or bear the full costs of, new or improved infrastructure and facilities where it is appropriate for them to do so.

This is an outline planning application for the erection of 26 dwellings on a site currently outside by adjoining the settlement boundary of Chawleigh, a recognised settlement in the Mid Devon Local Development Framework. Policy COR 17 of the Core Strategy allows for minor development within the defined settlement boundary for Chawleigh but outside of the settlement limits, Policy COR18 would apply. COR18 does not support unrestricted dwellings in the countryside.

The emerging Mid Devon Local Plan Review (post examination)

It is noted that within the emerging local plan the site is allocated for housing but based on a total of 20 dwellings. Policy CH1 - Barton, Chawleigh outlines the following:

A site of 1.25 hectares at the Barton is allocated for residential development, subject to the following:

- a) 20 dwellings with 30% affordable housing;
- b) Access to be achieved off School Close;
- c) Design solution which respects the setting of the conservation area and listed buildings; and
- d) Archaeological investigation and appropriate mitigation measures.

Members will be aware that the Council is satisfied that it can currently demonstrate a 5 year housing land supply. The Forward Planning Team has advised *'The 2019 NPPF and updated planning practice guidance make clear the need to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against local housing need (based on the Government's standard method), where strategic policies are more than five years old. The approach takes account of the recently published Housing Delivery Test results.*

A 7.43 year housing land supply can be demonstrated against an annual housing need of 364 for the period 1 April 2018 to 31 March 2023. This takes account of the identified supply of deliverable sites and a 5% buffer based on the results of the Housing Delivery Test.

Notwithstanding that a 5 year supply requirement has been met, adopted Mid Devon Core Strategy Policies COR3, COR17 and COR18 are not consistent with relevant policies in the 2019 NPPF and therefore should be accorded limited weight in planning decisions until they are replaced. The tilted balance will continue to apply to the determination of planning applications concerning proposed housing development in Mid Devon.

Draft policies in the Mid Devon Local Plan Review, where relevant, will be material to the determination of planning proposals and weight given in accordance with paragraph 48 of the 2019 NPPF. The adoption of the Mid Devon Local Plan Review will establish a new housing land supply position and policies that will carry full legal weight for the determination of planning applications concerning proposed housing development in Mid Devon.

Other development plans, including the Devon Minerals and Waste Local Plans and Neighbourhood Development Plans (once 'made'), adopted masterplans and supplementary planning documents, where relevant, can also be material to the determination of planning proposals for housing development.'

As policies relating to housing delivery in the Core Strategy are considered to be out of date the tilted balance in the NPPF applies to the consideration of applications. Paragraph 11 of the NPPF 2019 states:

'Plans and decisions should apply a presumption in favour of sustainable development.

For decision-taking this means:

- c) *approving development proposals that accord with an up-to-date development plan without delay; or*
- d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
 - i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
 - ii. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'*

This does not mean that Mid Devon's policies must be cast aside, but the weight given to them is proportionate to their consistency with the NPPF. Housing applications need therefore to be considered in the context of sustainable development and planning permission granted unless the harm identified significantly and demonstrably outweighs the benefits. The planning balance in relation to this application is set out in section 10 of this report.

The Local Plan Review has been through examination with the main modifications now being consulted on, so the situation is that the Plan is yet to be adopted. At the time of writing this report, with the Planning Inspector having not raised any objection to the residential development allocation proposed in Chawleigh, The Local Plan Review is considered to carry some weight in consideration of this planning application.

The principle of developing the site for up to 26 dwellings and the proposed means of access to the site are the only issues for consideration through this application. The quantum of development proposed is slightly higher than the policy aspirations in the LPR which identifies a residential development of 20 dwellings primarily due to the highway access. An indicative layout has been provided to show how a layout for the residential development could be achieved. Whilst it may be the case that the layout shown would need to be approved upon, it does at least show that a scheme for 26 dwellings could be provided on site given the size of the site. Matters relating to architecture and design of all buildings, height, scale and massing of all buildings, design and layout of public and highway infrastructure within the site area, design and layout of open space areas and green infrastructure, design of other landscaped areas, drainage infrastructure and parking provision are all reserved for future consideration.

2. Highways and highway safety

Policy COR9 of the Mid Devon Core Strategy seeks to improve accessibility, reduce the need to travel by car, and increase public transport use, cycling and walking, manage travel demand, reduce air pollution and enhance road safety through management of car parking and traffic and investment in transport services. The NPPF states that transport issues should be considered from the earliest stages of planmaking and development proposals, so that potential impacts of development on transport networks can be addressed. The environmental impacts of traffic and transport infrastructure should be identified, assessed and taken into account, including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

With respect to emerging policy CH1 (Barton, Chawleigh) the supporting text outlines that 'the site comprises part of an agricultural field to the north of the village of Chawleigh. The south western corner of the field contains a completed rural exception site named School Close. Access can be achieved off the exception site but road capacity should limit development to a maximum of 20 dwellings.'

It was noted that the Local Highway Authority Officer whilst not directly recommending refusal for a scheme of 28 dwellings, stated that *'I have visited the site which is accessed from a shared surface road which it's self is accessed off the B3042 through Bells close an access road type construction. The adopted Devon design guide recommends that up to 25 dwellings can be accessed through a shared surface road. The development is proposing 28 Dwellings and combined with the existing 6 properties would provide 34 dwellings from this type of road. While*

the design guide is a recommendation and its upper limit flexible the previous village 30 year plan of 20 units from this road would be more in keeping with the shared surface recommendations that than of the 28.'

As a result of concerns for a development of 28 dwellings, the applicant has reduced the proposal down to 26 dwellings. The Local Highway Authority have advised that they have no objection in terms of the volume of traffic generated by this development and using the proposed access off School Close, with a number of conditions recommended such as a Construction Management Plan.

Concerns have been received about the levels and location of parking provision proposed for the site including the means of charging electric vehicles. The current policy (DM8) requires 1.7 spaces per dwelling. The amount and location of parking will need to form part of the reserved matters application and does not fall to be considered under this application. Concerns have also been expressed about the quality of the road surface in and around the site for construction traffic but this is a maintenance matter for the Highway Authority and does not fall to be considered here. On balance, given that the Local Highway Authority have not raised an objection to the proposal on highway safety grounds, the development is considered to comply with policies COR9 and COR10 of the Mid Devon Core Strategy.

3. Drainage and flood risk

The NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from the lead local flood authority, have appropriate proposed minimum operational standards, have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and where possible, provide multifunctional benefits.

Policy COR11 of the Mid Devon Core Strategy guides development to locations with the lowest flood risk and seeks to ensure development does not increase the risk of flooding elsewhere. The application site is within flood zone 1. Therefore the main consideration relates to how foul drainage and surface water drainage would be dealt with.

The applicant has stated within the application form that foul sewage will connect to the mains sewer and surface water will be disposed of by way of a sustainable drainage strategy. The Environmental Health Department has raised no objection on drainage grounds at this stage. Policy AL/CU/3 of the AIDPD requires the provision of a Sustainable Urban Drainage Scheme (SUDS) to deal with all surface water from the development and arrangements for future maintenance. Policy DM2 of the LP3 DMP requires appropriate drainage including sustainable drainage systems and connection of foul drainage to a mains sewer where available. Policy DM29 of the LP3 DMP relating to green infrastructure requires major development proposals to demonstrate flood and water resource management.

The Lead Local Flood Authority (Devon County Council) initially raised objections to the development as it did not consider that the drainage issues at the site and in relation to the proposed development had been adequately addressed. The applicant has carried out further assessment work and provided further information during the course of the application, to address their concerns. The LLFA are now satisfied that with the provision of conditions attached to the planning permission, the development site can be provided with adequate drainage facilities such that it would not increase the flood risk elsewhere. The Environment Agency have to date raised

no objections to the proposed development. On this basis, the drainage strategy is considered to comply with policies COR11 of the Mid Devon Core Strategy, and DM2 and DM29 of the LP3.

4. Public open space and green infrastructure (GI)

Policy AL/IN/3 requires new housing developments to provide at least 60 square metres of equipped and landscaped public open space per market dwelling to include children's play areas, sports areas, informal open space and allotments with safe and convenient access on foot or cycle. Policy AL/IN/4 seeks to provide a network of green infrastructure with recreational, visual and biodiversity value, including sustainable drainage. The policy seeks protection and enhancement of public rights of way and new provision within development. The indicative plan identifies landscaping but no formal public open space within the site so a S106 agreement would outline the financial contribution required toward a public open space project in the Parish.

Policy DM29 of the LP3 DMP requires major development proposals to demonstrate that GI will be incorporated within the site to provide biodiversity mitigation, flood management, green corridors and public rights of way linking the site to the wider GI network, and new GI such as the creation of woodland. The NPPF states that planning decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users. The submitted layout plan is only indicative at this stage but does indicate areas of Green Infrastructure in and around the site. Given that its provision can be secured by way of submission of reserve matters application, it is considered that the policy requirement can be satisfied.

5. Landscape and ecology

The NPPF states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services. Development should minimise impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks. If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Planning decisions should seek to limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

The site is not located within a designated landscape although it has been noted that there is a conservation area further to the east and south east (over 150m away) where the development could be viewed from a number of heritage assets and therefore impact on the setting of these listed buildings/conservation area, but this is considered further a little later in this report.

In terms of this application site, it is an agricultural field on the outskirts of the village, to the northwest being a fairly level field. With reference to the Mid Devon landscape character assessment which was prepared in 2011, the Landscape Character Type (LCT) for this area is 3A Upper farmed and wooded valley slopes. The assessment outlined that there are extensive conservation areas covering the historic cores of many of the villages and settlements found within this landscape, that there are a high number of listed buildings, with some traditional farmsteads being intact and displaying fine examples of tradition Devon longhouses, linhays, barns and cobb or stone walls. I was also noted that there are a number of long distance views from one hilltop to another in this landscape. A future force for change has been recognised in development pressure from people moving to the area and in response to demand for affordable housing with modern housing development within and on the edges of historic settlements.

With respect to the proposed development, this is an outline application for up to 26 dwellings with details of layout, scale and appearance reserved for later consideration. However, an indicative plan has been provided to identify how 26 dwellings could be accommodated on site and it is noted that the properties along School Close and Bells Close are a mix of single storey and two storey which could be replicated on this site. Based on the site area the current scheme for 26 dwellings would represent 21 dwellings per hectare. The existing residential development of 22 dwellings on Bells Close and School Close represents 30 dwellings per hectare and the 13 dwellings of Butts Close a little further away when include the open space area would equate to 21 dwellings per hectare. Therefore it is considered that the proposal would not be overdevelopment of the site.

Policy COR2 of the Mid Devon Core Strategy seeks high quality sustainable design that reinforces the character and legibility of Mid Devon's built environment and landscape and creates attractive places. Members are advised that the landscape impacts of a development on the site would have been considered prior to allocating the site within the Local Plan Review and in any event, mitigation proposals would need to form part of the reserved matters application.

With regards to protected species and habitats, a Preliminary Ecological Appraisal has been submitted which shows the survey results for the site. No protected species were found on site but the survey indicates the use of the site for foraging by bats. The conclusions were that the proposed development will cause a limited extent of habitat loss during construction, and post occupation disturbance, for bat species (in flight feeding and/or dispersal), dormice (if present), nesting birds, amphibians and reptiles. Through implementation of ecology mitigation, compensation and enhancement measures, the proposal would represent a positive biodiversity gain.

Mitigation through provision of bat boxes and consideration within the scheme design to items such as lighting will need to form part of the reserved matters application. Subject these further assessments to inform reserved matters, it is considered that the landscape and ecology proposals are capable of complying with policy COR2 of the Mid Devon Core Strategy (LP1) and the provisions of the NPPF.

6. Living conditions of the occupiers of nearby residential properties

Paragraph 127 of the NPPF outlines that planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

This is reflected in policies DM2 and DM14 of the Local Plan 3 Development Management Policies which sets out that new development should respect the privacy and amenity of neighbouring residents. This is an outline application with matters of layout, landscaping, appearance and scale to be considered at a later date, but based on a development of 21 dwellings per hectare and the indicate layout plan provided, it is considered that a residential development could be designed which was in accordance with these two policies.

7. Heritage

Policy DM27 of the Local Plan 3 Development Management Policies states that where development proposals are likely to affect heritage assets and their settings, proposals should be assessed to take account of the significance of those assets. Where proposals would substantially harm heritage assets, public benefit must outweigh that harm. Where proposals would lead to less than substantial harm, the harm should be weighed against any public benefit.

Paragraph 189 of the NPPF requires developers to assess the significance of a proposal's impact on heritage assets and their settings. Where a proposal would lead to substantial harm, planning applications should be refused unless substantial public benefits outweigh that harm, and where proposals would lead to less than substantial harm, the harm should be weighed against public benefits. A balanced judgment should be made of the effect of loss of non-designated heritage assets (for example, archaeology), according to the significance of that asset. Developers are required to record and advance understanding of the significance of any heritage assets to be lost and to make this evidence publicly accessible.

With respect to emerging policy CH1 (Barton, Chawleigh) the supporting text outlines that *'the site is located in an area of archaeological potential and records indicate the presence of a prehistoric burial site. Therefore, archaeological investigation of the site will be required, and mitigation if necessary. Appropriate landscaping will be required to mitigate any potential impacts on the conservation area and listed buildings, including the grade I church which lies to the south east.'*

The Historic Environment Team at Devon County Council has noted that the geophysical survey of this site has identified archaeological features associated with the early enclosure of the land as well as the potential identification of pit-features may indicate the presence of archaeological activity on the site. As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with these heritage assets. The impact of development upon the archaeological resource here should therefore be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team. A condition has been recommended to this affect.

In terms of the potential for the development to impact on the nearby Conservation Area and listed buildings such as the grade I church, the Conservation Office has noted that this is an outline

application so whilst it is noted that the site is allocated within the Local Plan Review, the final details will be key in determining that there will not be significant harm to the setting of either the Conservation Area or listed buildings. Therefore subject to the imposition of their recommended condition for a WSI, and allowing for further consideration to the design of the houses and layouts at reserved matters stage, it is considered that a residential development could comply with policy DM27 of the Mid Devon Local Plan Development Management Policies and the requirements of the NPPF.

8. Section 106 obligations

The s106 requirements are set out in full at the start of this report.

The applicants are proposing 30% affordable housing with the s106 requiring submission of an affordable housing scheme setting out the mix and tenure to be agreed prior to provision on site. The Housing Options Manager is content that this will enable the actual need to be assessed at the time allowing the provision of units on site to accord with that need. The provision of affordable housing on site will be in accordance with triggers set out in the agreement.

The application has included an indicative plan which does not include the provision of public open space on site and therefore it would be necessary to secure a financial contribution towards off-site provision, which in this case would be £31,330 with the allocated project being the provision of trim trail equipment and associated paraphernalia for Chawleigh playing field and other public open space within the parish of Chawleigh. This would be secured by way of an s106 agreement.

The Education Authority have requested financial contributions towards education provision as Devon County Council has identified that the proposed increase of 26 family type dwellings would generate an additional 7 primary pupils and 4.2 secondary pupils which would have a direct impact on Chulmleigh Primary and Chulmleigh Community College. In order to make the development acceptable in planning terms, an education contribution to mitigate its impact would be requested which would amount to a contribution of £67,497.00.

The NHS have requested a financial contribution towards maintaining service delivery during the first year of occupation of each unit of the accommodation on/in the development. They advise that due to the payment mechanisms, constitutional and regulatory requirements the Trust is subject to, it will not receive the full funding required to meet the healthcare demand due to the baseline rules on emergency funding and they go on to advise that there is no mechanism for the Trust to recover these costs retrospectively in subsequent years. Without securing such contributions, the Trust advises that it would have a direct and adverse impact on the delivery of health care in the Trust's area. The NHS has outlined a contribution of £36,979.00 which would be used directly to provide additional health care services to meet patient demand.

However, in respect to the NHS request, this is an outline planning application and as such the residential development would be subject to the time condition that application(s) for approval of all the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and that the development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the Reserved Matters which have been approved, whichever is the later. On this basis, whilst the Trust outline that they are currently operating at full capacity in the provision of urgent and elective healthcare having plans to cater for the known population growth but cannot plan for unanticipated additional growth in the short to medium term the residential development associated with this application, it is noted that this development may not commence for a further five years and take longer still to be occupied and as such it would be difficult to argue that this would represent unanticipated short term or medium

term growth. As such at the current time, it is considered that this contribution should not form part of the S106 agreement but Members will be updated on any further recommendations in relation to this matter.

Therefore with the exception of the NHS request, Paragraph 204 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2011 (as amended) set tests in respect of planning obligations. Obligations should only be sought where they meet the following tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

It is considered that each of these obligations satisfies the relevant tests above.

10. Planning balance

As set out in section 1 of this report, the tilted balance in paragraph 11 of the NPPF applies to the determination of this application. The application should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF, taken as a whole.

The application is in outline and there are no technical reasons why the application should not be approved, subject to the required mitigation set out in the report above. Impacts on biodiversity, landscape and heritage assets can be adequately mitigated through appropriate final design, layout and landscaping, and the increase in traffic on the local road network is acceptable to the Highway Authority, subject to conditions.

The delivery of 26 new homes, including 30% affordable housing weighs in favour of approval of the application. Also weighing in favour of the approval is the financial contribution towards public open space and education services. There could also be some modest benefits to the local economy, arising from construction and sales and additional spending by local residents on local services and facilities. The site is identified for development within the Local Plan Review (draft policy CH1 - Barton, Chawleigh for 20 dwellings) and is located adjacent the existing settlement limit for the village within walking distance of the centre where existing facilities and services can be found.

Weighing against approval of the application is the fact that the application is not policy compliant in that the emerging local plan has not been adopted and can only be afforded some weight and also that the proposal is above the 20 dwellings specified in the policy requirements, a net increase of six residential units.

Taking all the above into consideration, and acknowledging that the tilted balance in the NPPF applies, your officers consider that the balance weighs in favour of approval of the application. Other matters put forward in favour of the development include an absence of harm to ecology, flooding, drainage and highway safety. Nonetheless, these are mitigating factors rather than benefits and the weight to be given to them is therefore limited.

CONDITIONS

1. CO1 Outline: Reserved Matters

No development shall begin until detailed drawings to an appropriate scale of the layout, scale and appearance of the buildings and the landscaping of the site (hereinafter called the Reserved Matters) have been submitted to and approved in writing by the Local Planning Authority.

2. CO2 Outline: Submission of Reserved Matters

Application(s) for approval of all the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

3. CO3 Outline: Commencement

The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the Reserved Matters which have been approved, whichever is the later.

4. CO6 Outline: additional matters

The detailed drawings required to be submitted by Condition 1 shall include the following additional information: boundary treatments, hard and soft landscaping, existing site levels, finished floor levels, external lighting, materials, and surface water drainage methods and foul water disposal methods.

5. CM1 materials: details/samples to be approved

Prior to their use on site, details or samples of the materials to be used for all the external surfaces of the buildings shall first have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved materials shall be so retained.

6. CL3 Existing trees/hedgerows to be retained – (Outline only)

As part of the landscaping reserved matters, detailed drawings shall show which existing trees and hedgerows are to be retained on the site as part of the development.

7. No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

8. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Environmental Management Plan (CEMP) including:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;

- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

The CEMP shall also identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. Once approved the CEMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

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

10. No part of the development hereby approved shall be commenced until:

- A) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 metres back from its junction with the public highway
- B) The ironwork has been set to base course level and the visibility splays required by this permission laid out
- C) The footway on the public highway frontage required by this permission has been constructed up to base course level
- D) A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority

11. Within twelve months of the first occupation of the first dwelling in an agreed phase of the development, all roads, footways, footpaths, drainage, statutory undertakers' mains and apparatus, junction, access, retaining wall and visibility splay works shall be completed to the written satisfaction of the Local Planning Authority.

12. No development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the County Planning Authority. Unless it is demonstrated that it is unfeasible to do so, the scheme shall use appropriate Sustainable Urban Drainage Systems. The

drainage scheme shall be designed so that there is no increase in the rate of surface water runoff from the site resulting from the development and so that storm water flows are attenuated. The development shall be carried out in accordance with the approved scheme.

13. No part of the development hereby permitted shall be commenced until a programme of percolation tests has been carried out in accordance with BRE Digest 365 Soakaway Design (2016), and the results approved in writing by the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. A representative number of tests should be conducted to provide adequate coverage of the site, with particular focus placed on the locations of the proposed infiltration devices/permeable surfaces.

14. No part of the development hereby permitted shall be commenced until the full results of a groundwater monitoring programme, undertaken over a period of 12 months, has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This monitoring should be conducted to provide adequate coverage of the site, with particular focus placed on the locations and depths of the proposed infiltration devices.

15. No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The application for the detailed drainage should be submitted and agreed at the same time that the reserved matters for layout are submitted and agreed. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Flood Risk Assessment and Drainage Strategy (Report Ref. 19001, First Issue, dated April 2019). No part of the development shall be occupied until the surface water management scheme serving that part of the development has been provided in accordance with the approved details and the drainage infrastructure shall be retained and maintained for the lifetime of the development.

16. No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site.

17. No part of the development hereby permitted shall be commenced until the full details of the adoption and maintenance arrangements for the proposed permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority.

18. The development hereby approved shall be carried out in accordance with the recommendations outlined within the Preliminary Ecological Appraisal Report prepared by EcoLogic dated March 2019.

REASONS FOR CONDITIONS

1. RO1 TCP (DMP) Order 2010

The application was submitted as an outline application in accordance with the provisions of Articles 4 & 5 of The Town and Country Planning (Development Management Procedure) Order 2010.

2. RO2 S 92(2) of TCPA 1990

In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004.

3. RO3 Planning/Compulsory Purchase Act 2004

In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004.

4. RO6 Enable Local Planning Authority to consider

To enable the Local Planning Authority to consider the proposed schemes details in accordance with Policies DM2, DM14 and DM27 of the adopted Mid Devon Local Plan Part 3 (Development Management Policies).

5. RM1 Ensure use of materials appropriate

To ensure the use of materials appropriate to the development in order to safeguard the visual amenities of the area in accordance with Mid Devon Core Strategy (Local Plan 1) COR2 and Local Plan Part 3: (Development Management Policies) DM2, DM14 and DM27.

6. Interest of the visual amenity of area in accordance with Policies DM2 and DM27 of the adopted Mid Devon Local Plan Part 3 (Development Management Policies)

7. To ensure, in accordance with Policy DM27 of the Local Plan Part 3 (Development Management Policies) and paragraph 199 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development

8. To ensure that the proposed development does not prejudice the amenities of neighbouring occupiers in accordance with Policies DM2 and DM14 of the Local Plan Part 3 (Development Management Policies).

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

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

11. To ensure that the access arrangements are completed within a reasonable time in the interests of safety and the amenity of residents

12. To protect water quality and minimise flood risk in accordance with Flood Management act.

13. To ensure that surface water from the development is discharged as high up the drainage hierarchy as is feasible.
14. To ensure that the use of infiltration devices on the site is an appropriate means of surface water drainage management.
15. To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems.
16. To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.
17. To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development.
18. To ensure the protection of endangered species, under the European Habitats Directive and the Conservation of Natural Habitats and of Wild Fauna and Flora [Council Directive 92/43/EEC] which is implemented in the UK by the Conservation [Natural Habitats & Conservation] Regulations 1994 [Statutory Instrument No 2716] amended in 2007 and in accordance with Policy DM2 of Mid Devon Local Plan Part 3 [Development Management Policies].

INFORMATIVES

1. The Lead Local Flood Authority advises the applicant to refer to Devon County Council's Sustainable Drainage Guidance.

REASON FOR APPROVAL OF PERMISSION

The principle of developing the site for 26 dwellings and the proposed means of access to service the site are the only issues for consideration through this application. The site is adjacent to the defined settlement limit of Chawleigh but would be within the defined settlement limit in the emerging local plan, with the site being allocated for residential development. The quantum and density of development proposed is slightly more than that of the policy aspirations identified within the land allocation for residential development within the emerging local plan policy. The access into the site to serve a development of 26 dwellings is considered acceptable to the Highway Authority. Matters relating to architecture and design of all buildings, height, scale and massing of all buildings, design and layout of public and highway infrastructure within the site area, design and layout of green infrastructure, design of other landscaped areas, drainage infrastructure and parking provision are all reserved for future consideration. Mid Devon District Council's policies for the supply of housing are considered to be out of date, despite the Council being able to demonstrate a 5 year housing land supply. Therefore, the tilted balance in paragraph 11 of the NPPF applies to the determination of this application. The application should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF, taken as a whole. The application is in outline and there are no technical reasons why the application should not be approved, subject to appropriate mitigation as proposed. Impacts on biodiversity and landscape can be adequately mitigated, and the access arrangement and increase in traffic on the local road network is acceptable to the Highway Authority. The delivery of 26 new homes, including 30% affordable housing weighs in favour of approval of the application as do S106 contributions towards public open space and education. Weighing against approval of the application is the fact that the application is not policy compliant in terms of this being a site currently outside of the settlement limit and providing more housing than stated within the emerging local plan policy. Taking all the above into consideration,

and acknowledging that the tilted balance in the NPPF applies, the application is considered to be acceptable. The application scheme is considered to meet the requirements of Policies COR1, COR2, COR8, COR9, COR11 and COR17 of the Mid Devon Core Strategy (Local Plan Part 1), Policies AL/IN/3 and AL/IN/5 of the Mid Devon Allocations and Infrastructure Development Plan Document (Local Plan Part 2) and Policies DM1, DM2, DM4, DM8 and DM27 of the Mid Devon Local Plan Part 3 (Development Management Policies), (as far as is relevant to the application details).

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons that could be affected by the development have been identified as sharing any protected characteristic.

The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. This report has been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.

Application No. 19/01132/MFUL

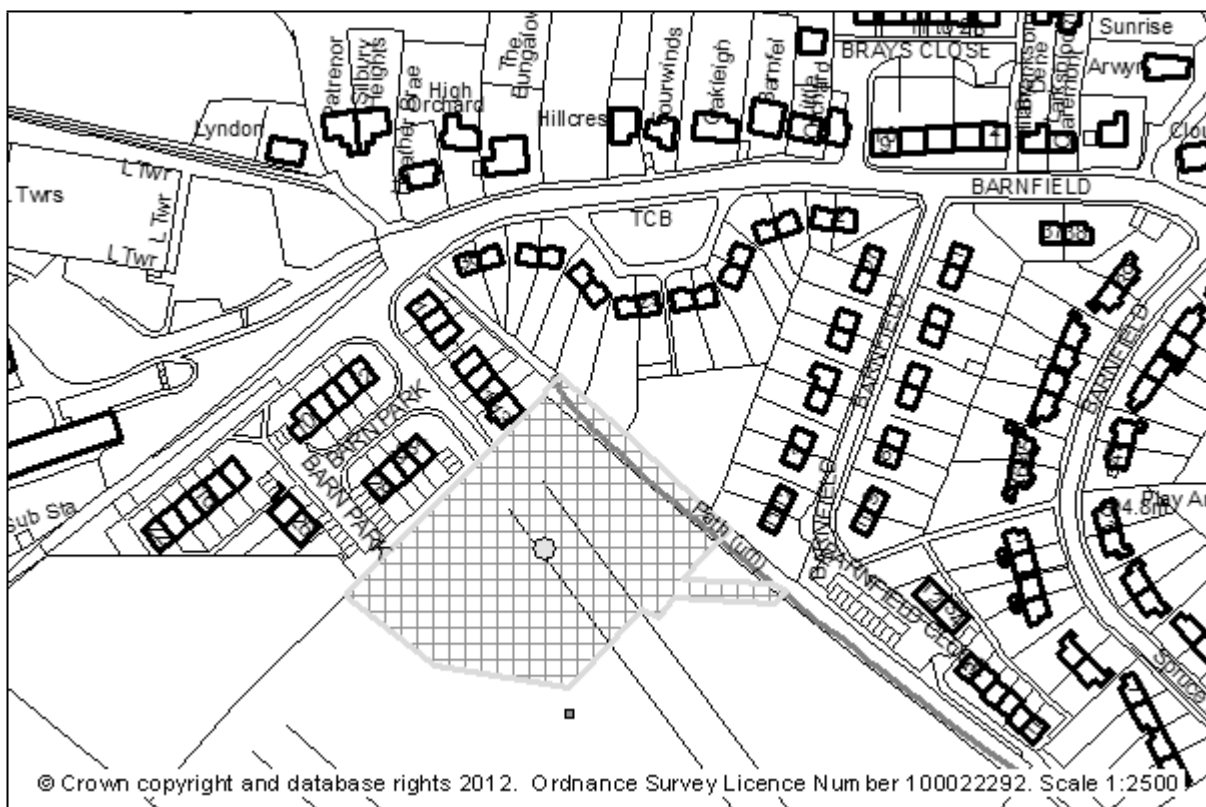
Grid Ref: 283161 : 99921

Applicant: Mr M Hourican, Live West Ltd

Location: Land at NGR 283153 99974
Barn Park
Credton
Devon

Proposal: Erection of 20 dwellings with associated access, parking and landscaping

Date Valid: 19th July 2019



APPLICATION NO: 19/01132/MFUL

MEMBER CALL-IN

This planning application has been called in by Members as a result of discussions held on planning applications appearing on the majors list.

RECOMMENDATION

Grant permission subject to conditions and the prior signing of a S106 agreement to secure the following:

- 1) 28% affordable housing in accordance with a scheme to be agreed by the Local Planning Authority
- 2) A financial contribution of £54,608.00 towards additional education infrastructure at Hayward's Primary School which serves the address of the proposed development.
- 3) A financial contribution of £14,980 towards public open space provision in the Parish of Crediton (Members to be updated on the allocated project prior to the Planning Committee).
- 4) A financial contribution of £62,076 towards Air Quality mitigation in the Parish of Crediton based on the calculation of 14 x £4434 (Members to be updated on the allocated project prior to the Planning Committee).

PROPOSED DEVELOPMENT

The applicant seeks planning permission for the erection of 20 dwellings with associated access, parking and landscaping on land at NGR 283153 99974, Barn Park, Crediton. The proposed development is for 20 affordable residential dwellings, consisting of a mix of 1, 2, 3 and 4 bedroom homes, with associated parking, and an access road designed to Devon County Highways adoptable standards. Whilst this scheme is intended to be a 100% affordable housing development, the applicant (Live West) has requested that the development be in accordance with the allocation within the Local Plan Review, Policy CRE8 – Land at Barn Park to enable grant funding. Policy CRE8 states *'A site of 1.64 hectares at Barn Park is allocated for residential development subject to the following: a) 20 dwellings with 28% affordable housing; and b) Vehicular access from Barn Park.'*

The supporting text states that the site is located on the south of Crediton with residential development along the northern boundaries. The site is located relatively close to the town centre. Access to the site will be through Barn Park as access is limited and the Highway Authority has advised that this is the maximum number of houses suitable for access through the existing housing estate. Therefore the development of 20 dwellings is based on the provision of 14 open market dwellings and 6 affordable dwellings to be secured through a S106 agreement. The mix which would be secured through the S106 agreement is as follows:

The 6 affordable units:

Plots 14 & 15 (4 bed - affordable rent)

Plots 1 & 6 (3 bed - affordable rent)

Plots 2 & 5 (2 bed - affordable rent)

The 14 open market dwellings:

Plots 10 -13 (Four 1 bed units – affordable rent)

Plots 3 & 4 (2 bed – affordable)

Plots 7-9 (Three 2 bed- shared ownership)

Plots 16-20 (Five 3 bed- shared ownership)

The development will be sited on 0.6 hectares in the northern corner of a 3 hectare field at between approximately 108.5m and 99m above sea level. The site slopes down, roughly from north to south at a gradient of 1:11 at the top steepening to 1:6 to the south. As part of the proposed development a new access road will be created leading from Barn Park which will remove 9m of existing hedge.

A drain crosses the site which creates a key constraint to the layout with the houses being a combination of 6 pairs of semi-detached properties, one block of 4 units and 2 terraces, which have pitched roofs and two or three storeys giving building heights of about 8.2 – 10.5m respectively. The three storey houses are split level and have been used in response to the change in level across the site. Two storey houses mainly semi-detached would back onto the existing footpath to the east with a line of three storey houses to the south which will be excavated into the site by one storey to provide less steep rear gardens. The 4 unit block would also be split level. The materials would be primarily brick walls and fibre cement slate roof covering but the expanse of red brick walls would be broken by fibre cement cladding. Solar panels are proposed on south – west roof elevations.

Since the original submission given comments received from the Local Highway Authority, amended plans have been submitted in respect to the layby parking in front of Plots 10 & 11 with this arrangement amended to 90 degree parking due to the visibility concerns. The owner of a neighbouring property in Barn Park raised concern about the footways but confirmation has been provided in Drg No. 17303_001_C which includes an enlarged detail showing the junction of the new 2m footpath with the existing 1.5m footpath of Barn Park. This does not involve the reduction of land within the curtilage of the existing property of 13 Barn Park.

APPLICANT'S SUPPORTING INFORMATION

Application Form, full set of Plans, Affordable Housing Statement, Design and Access Statement, Ecological Appraisal, Ecological Re-appraisal, Greenfield Runoff Calculations, Highway Storage Calculations, Landscape and Visual Appraisal, Site Assessment, Storage Calculations, Waste Audit Statement, Landscape Strategy Plan

RELEVANT PLANNING HISTORY

No relevant planning history for this site

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities

COR2 - Local Distinctiveness

COR3 - Meeting Housing Needs

COR5 - Climate Change

COR8 - Infrastructure Provision

COR9 - Access

COR11 - Flooding

COR12 - Development Focus
COR15 - Crediton
COR18 – Countryside

Mid Devon Allocations And Infrastructure Development Plan (Local Plan 2)

AL/DE/3 - Affordable Housing Site Target
AL/IN/2 - Development Without Community Infrastructure Levy
AL/IN/3 - Public Open Space
AL/IN/4 - Green Infrastructure
AL/IN/5 - Education Provision
AL/CRE/8 – Crediton Air Quality

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development
DM2 - High quality design
DM7 - Pollution
DM8 - Parking
DM14 - Design of housing
DM15 - Dwelling sizes
DM27 - Development affecting heritage assets

Local Plan Review 2013 - 2033

Policy CRE8 – Land at Barn Park.

A site of 1.64 hectares at Barn Park is allocated for residential development subject to the following:

- a) 20 dwellings with 28% affordable housing; and
- b) Vehicular access from Barn Park.

CONSULTATIONS

Crediton Town Council

It was resolved to recommend no objection.

Crediton Town Council

No objection provided that transport issues are carefully considered. The council approves the thoroughness of the landscape and planting plan and the provision of landscape amenity areas within the development.

South West Water - 4th October 2019

No objection

South West Water – 21st August 2019

With reference to the planning application at the above address, the applicant/agent is advised to contact South West Water if they are unable to comply with our requirements as detailed below.

Asset Protection

Please find enclosed a plan showing the approximate location of a public 100mm sewer in the vicinity. Please note that no development will be permitted within 3 metres of the sewer, and ground cover should not be substantially altered.

Should the development encroach on the 3 metre easement, the sewer will need to be diverted at the expense of the applicant. Please click here to view the table of distances of buildings/structures from a public sewer.

Further information regarding the options to divert a public sewer can be found on our website via the link below:

www.southwestwater.co.uk/developer-services/sewer-services-and-connections/diversion-of-public-sewers/

Should you require any further information, please contact the Planning Team via email: DeveloperServicesPlanning@southwestwater.co.uk.

Clean Potable Water

South West Water is able to provide clean potable water services from the existing public water main for the above proposal. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.

Foul Sewerage Services

South West Water is able to provide foul sewerage services from the existing public foul or combined sewer in the vicinity of the site. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.

The applicant can apply to South West Water for clarification of the point of connection for either clean potable water services and/or foul sewerage services. For more information and to download the application form, please visit our website: www.southwestwater.co.uk/developers

DCC - Lead Local Flood – 22nd October 2019

Recommendation:

Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that the following pre-commencement planning conditions are imposed on any approved permission:

- No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Proposed Drainage Strategy Drawing (Drawing No. 17303-050, Rev. C, dated 25th September 2019). No part of the development shall be occupied until the surface water management scheme serving that part of the development has been provided in accordance with the approved details and the drainage infrastructure shall be retained and maintained for the lifetime of the development.

Reason: To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems.

Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

- No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for

the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site.

Reason: To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.

Reason for being a pre-commencement condition: A plan needs to be demonstrated prior to the commencement of any works to ensure that surface water can be managed suitably without increasing flood risk downstream, negatively affecting water quality downstream or negatively impacting on surrounding areas and infrastructure.

Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

- No part of the development hereby permitted shall be commenced until the full details of the adoption and maintenance arrangements for the proposed permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority.

Reason: To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development.

Reason for being a pre-commencement condition: These details need to be submitted prior to commencement of any works to ensure that suitable plans are in place for the maintenance of the permanent surface water drainage management plan, for the reason above.

Observations:

The revised Proposed Impermeable Areas Drawing (Drawing No. 17303-051, Rev. B dated 25th September 2019) shows a reduced total impermeable area of 2,452m² compared to the original proposed area of 2,471m². There are also some changes to the impermeable areas of the adoptable highway (802m² as opposed to the original 855m²) and private road or driveway (721m² as opposed to the original 687m²). These minor difference, however are not revised in the MicroDrainage outputs. The applicant would need to ensure that the correct impermeable areas are used during the detailed design of the surface water drainage system.

DCC - Lead Local Flood Authority - 31 July 2019

Recommendation:

At this stage, we object to this planning application because we do not believe it satisfactorily conforms to Policy DM2, specifically part (f), of Mid Devon District Council's Local Plan (Adopted October 2013), which requires developments to include sustainable drainage systems. The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

The applicant has not provided sufficient information in relation to the disposal of surface water from the site to enable me to make observations on the proposal. The applicant must therefore submit a surface water drainage management plan which demonstrates how surface water from the development will be disposed of in a manner that does not increase flood risk elsewhere, in accordance with the principles of Sustainable Drainage Systems. The applicant is therefore advised to refer to Devon County Council's draft Sustainable Drainage Design Guidance, which

can be found at the following address:

<https://www.devon.gov.uk/floodriskmanagement/sustainable-drainage/suds-guidance/>.

The applicant must demonstrate that the hierarchy of drainage solutions has been followed and provide robust explanation as to the viability or otherwise of drainage solutions considered. Infiltration must first be explored as a means of surface water drainage management. Discharging the surface water runoff from this site to other means will only be permitted once the applicant has submitted evidence which adequately demonstrates that infiltration is not a viable means of surface water management on this site (e.g. results of percolation testing conducted in accordance with BRE Digest 365 Soakaway Design (2016)).

The applicant should also note that in accordance with the SuDS Management Train, surface water should be managed at source in the first instance. The applicant will therefore be required to explore the use of a variety of above-ground source control components across the whole site to avoid managing all of the surface water from the proposed development at one concentrated point (e.g. a single attenuation pond). Examples of these source control components could include permeable paving (which could be underdrained), formalised tree pits or other bioretention features such as rain gardens, as well as green roofs, swales and filter drains.

Drawing 17303-051 Rev A Proposed Impermeable Areas states that an impermeable area of 2,471m² is proposed as part of the development with an overall development area of 6,216m². However, the submitted greenfield runoff calculation is undertaken using the overall development area of 0.622ha. In line with Devon County Council SuDS Guidance (2017), the greenfield runoff calculations should be undertaken using the proposed impermeable area. The MicroDrainage calculations should be updated to reflect this.

Should the connection into the combined sewer is required once the above hierarchy of drainage solutions has been considered, the applicant should provide confirmation from South West Water that they have agreement in principle to discharge into their network

Natural England – 18th October 2019

Thank you for your consultation. Natural England has previously commented on this proposal and made comments to the authority in our letter dated 31 July 2019. The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal. The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal. Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again.

Natural England - 5th August 2019

No comments

Devon, Cornwall and Dorset Police - 2nd October 2019

Thank you for this application. The revised parking layout for plots 10-11 is noted.

Devon Cornwall and Dorset Police - 25th July 2019

Police have no objections in principle to the proposal, the general layout will provide both active frontages and good overlooking of the new internal streets. Please note the following advice and recommendations from a designing out crime, fear of crime, antisocial behaviour (ASB) and conflict perspective:-

To assist the process in ensuring compliance with the requirements of ADQ it is recommended that all doors and windows are sourced from a Secured by Design (SBD) member company. SBD

requires that doors and windows are not only tested to meet PAS 24 (2016) standard by the product manufacturer, but independent third-party certification from a UKAS accredited independent third-party certification authority is also in place, thus reducing much time and effort in establishing the provenance of non SBD approved products.

Secured by Design (SBD) is a crime prevention initiative owned by the Mayor's Office for Policing and Crime (MOPAC) on behalf of the UK police services. SBD aims to reduce crime, the fear of crime and opportunities for antisocial behaviour and conflict within developments by applying the attributes of Environmental Design, as follows, in conjunction with appropriate physical security measures.

The seven attributes of Crime Prevention Through Environmental Design (CPTED) are key to ensuring a safe and sustainable community and in addition to the layout the physical security is now a consideration.

- ' Access and movement: Places with well-defined and well used routes, with spaces and entrances that provide for convenient movement without compromising security.

- ' Structure: Places that are structured so that different uses do not cause conflict

- ' Surveillance: Places where all publicly accessible spaces are overlooked, have a purpose and are managed to prevent the creation of problem areas which can attract the antisocial to gather, dumping and dog fouling etc.

- ' Ownership: Places that promote a sense of ownership, respect, territorial responsibility and community

- ' Physical protection: Places that include necessary, well-designed security features as laid out in SBD Homes 2016

- ' Activity: Places where the level of human activity is appropriate to the location and creates a reduced risk of crime and a sense of safety at all times.

- ' Management and maintenance: Places that are designed with management and maintenance in mind, to discourage crime and ASB.

It is now widely accepted that a key strand in the design of a 'sustainable' development is its resistance to crime, fear of crime, and anti-social behaviour.

All access that leads to the rear of dwellings must be gated as standard. The gates must be the same height as the adjoining boundary treatment (1.8m as a minimum height requirement) be robustly constructed of timber and lockable. Such gates must be located on or as near to the front building line as possible to prevent the creation of recesses and any attempts to climb over will be more noticeable. All gates should be capable of being locked from both sides by means of a key to ensure the rear access is secure at all times regardless of ingress or egress. Sliding bolts fitted on the inner face of garden gates are not considered acceptable from a security perspective as clearly the bolt would have to be fitted to the top of the gate so it could be reached and opened from the outer face and therefore the rear access would not be secure on egress.

The proposed boundary treatments are noted.

Perimeter security is a basic principle of Secured by Design (SBD) and deterring crime, as such all rear and accessible side boundary treatments must be 1.8m high over all, as a minimum requirement, and be solid and robust to prevent being breached. Close boarded fencing or walls would be deemed appropriate. If more surveillance is required or a solid 1.8m would feel too closed in for smaller gardens then a 1.5m solid structure with a .3m or .6m trellis topping would be acceptable.

An early point to consider is that if existing hedgerow is likely to comprise new rear garden boundaries, then it must be fit for purpose. They should be of sufficient height and depth to provide both a consistent and effective defensive boundary as soon as residents move in. If additional planting will be required to achieve this then temporary fencing may be required until such planting

has matured. Any hedge must be of a type which does not undergo radical seasonal change which would affect its security function.

Education Services - 2 August 2019

Regarding the above planning application for 20 dwellings, Devon County Council has identified that the proposed increase of 16 family type dwellings will generate an additional 4 primary pupils and 2.4 secondary pupils which would have a direct impact on Hayward's Primary and Queen Elizabeth's School, Crediton.

In order to make the development acceptable in planning terms, an education contribution to mitigate its impact will be requested. This is set out below:

Devon County Council has forward funded a scheme at Hayward's Primary School to expand the school to 420 places to provide capacity for future development and increasing demographics within the town. Therefore, Devon County Council will seek a contribution directly towards additional education infrastructure at Hayward's Primary School which serves the address of the proposed development. The contribution sought is £54,608.00 (based on the DfE extension rate of £13,652 per pupil) This will relate directly to providing education facilities for those living in the development.

We have forecasted that the nearest secondary school has currently got capacity for the number of pupils likely to be generated by the proposed development. Therefore, Devon County Council will not seek a contribution towards secondary education infrastructure.

It should be noted that in accordance with the County Council's Education Infrastructure Plan, education contributions are required from all family type dwellings, including both market and affordable dwellings. Affordable housing generates a need for education facilities and therefore any affordable units to be provided as part of this development should not be discounted from the request for education contributions set out above. Such an approach would be contrary to the County Council's policy and result in unmitigated development impacts.

All contributions will be subject to indexation using BCIS. It should be noted that education infrastructure contributions are based on March 2015 rates and any indexation applied to contributions requested should be applied from this date.

The amount requested is based on established educational formulae (which related to the number of primary and secondary age children that are likely to be living in this type of accommodation). It is considered that this is an appropriate methodology to ensure that the contribution is fairly and reasonably related in scale to the development proposed which complies with CIL Regulation 122.

If this application reaches the stage of preparing a S.106, it is considered that the contribution can be allocated in accordance with the pooling regulations set out in the CIL Regulation 123.

In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement. Legal costs are not expected to exceed £500.00 where the agreement relates solely to the education contribution. However, if the agreement involves other issues or if the matter becomes protracted, the legal costs are likely to be in excess of this sum

Highway Authority 25.09.19

Observations:

The Highway Authority has no objection in principle, and the traffic generations of the proposal (which will generate 10 movements in the peak periods) do not give rise to a significant increase in traffic of such severity that they would be contrary to the advice contained in the National Planning Policy Framework. There is safe and suitable access to the greater network. The applicant has considered the existing road conditions within the greater network and the proximity and potential conflicts with pedestrians to and from the school. The personal injury accidents statistics show only two accidents neither of which are resulting from traffic volumes therefore the principle of development at the site for the proposed volumes is acceptable.

Notwithstanding the general principles, the Highway Authority would seek alterations to the proposal at the access into the site with relation to the parking layby and footway. A block of 3 existing garages with 4.5m aprons access onto the existing highway. These existing private garage aprons are substandard by today's standards and the size of modern saloon cars will often give rise to an overhang of the footway. The Highway Authority would wish to see the existing footway remain at its current width and not reduced as shown by the proposals. And given the increase in pedestrian foot fall resulting from the development would wish to explore an alternative arrangement where by no overhang can be achieved.

The parking provision for plots for 10, 11, and 13, are provided through the parking layby outside plots 10 and 11. This represents 1 space per unit, and unless the layby remains private none of the spaces can be allocated to the dwellings. This could give rise to additional parking on the highway where space is at a premium. In addition, the provision of parked cars at this location will obstruct the visibility from the garages. The Highway authority would seek that the footway is brought forward and 90 degree in series parking within the curtilage be provided this will allow two spaces to each unit and potentially increase the amount of amenity space to each dwelling.

The Highway Authority have attached a sketch plan for your assistance and would seek an amended plan. Such detail can form part of the section 38 /278 legal agreements with the Highway Authority, should the planning officer wish and that the conditions set out below would allow their scrutiny prior to construction. The Highway Authority would also seek a point of clarification At the boundary of the site and Plot 9 the construction would appear to be outside of the red line can this be clarified insofar as all works are within the red line.

The majority of these changes can be made during the section 38 agreement with the Highway Authority and therefore the following conditions should be imposed.

Recommendation:

The Head of Planning, Transportation and Environment, on behalf of Devon County Council, as Local Highway Authority recommends that the following conditions shall be incorporated in any grant of permission:

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

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

2. No part of the development hereby approved shall be commenced until:

- A) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 metres back from its junction with the public highway
- B) The ironwork has been set to base course level and the visibility splays required by this permission laid out
- C) The footway on the public highway frontage required by this permission has been constructed up to base course level
- D) A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority

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

3. No development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the County Planning Authority. Unless it is demonstrated that it is unfeasible to do so, the scheme shall use appropriate

Sustainable Urban Drainage Systems. The drainage scheme shall be designed so that there is no increase in the rate of surface water runoff from the site resulting from the development and so that storm water flows are attenuated. The development shall be carried out in accordance with the approved scheme.

REASON: To protect water quality and minimise flood risk in accordance with Flood management act

4. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

Public Health

Contaminated Land: No objection to this proposal. (31.7.19).

Air Quality: Given that Crediton is in an Air Quality Management Area (AQMA), the proposed development may have the potential to impact on local air quality. This is due to the mass of emissions arising from transport movements generated by the proposal during both construction and operational phases.

An Air Quality Low emission assessment is required to be compliant with Policy DM6 of the Local Plan 3 Development Management Policies. This will need to account for the cumulative impact of development within the AQMA as a whole.

To assess the air quality impact we will require further information in order to consider air quality constraints adequately'

- An integrated Transport Assessment, traffic pollution mass emission assessment and low emission strategy (LES) which takes account of the cumulative effect on local air quality of the proposed development alongside other proposed new developments within the AQMA. Furthermore, within the LES, sets out defined changes arising from a range of mitigation measures/options.

- Consideration to be given to a planning obligation/s106 agreement contribution to the delivery of the Crediton Air Quality Action Plan to ensure the proposed development is acceptable in planning terms. (22.7.19).

Environmental Permitting: No objection to this proposal. (22.7.19).

Drainage: No objection to this proposal. (31.7.19).

Noise & other nuisances: Before the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. Once approved the CEMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority. (31.7.19).

Housing Standards: No comment. (1.8.19).

Licensing: No comments. (19.7.19).

Food Hygiene: Not applicable. (19.7.19).

Private Water Supplies: Not applicable. (24.07.19).

Health and Safety: No objection to this proposal enforced by HSE. (19.7.19).

Public Health - 28th October 2019

In terms of the requirements, as Crediton is in an Air Quality Management Area (AQMA) any development proposal like this will result in additional emissions of relevant road-transport emitted pollutants within the AQMA itself, even where developments lie adjacent to the AQMA. (Exeter Road and the High street in particular). Given the location of this development we can furthermore specifically expect a number additional vehicle trips through the town centre where we have existing exceedances of the statutory air quality limit values.

Our recent air quality monitoring has also showed an overall deterioration in Crediton in 2018 (last full calendar reporting year). This is adding to the sensitivity of the air quality situation overall and all the more reason why we to mitigate the impact of all new development in this locality. Whilst this development in its own right may not cause *additional* locations to tip over the air quality limit values, we do need to look at the cumulative impact of this site alongside other developments to provide mitigation/S106 contribution which is consistent with policy.

As such we would be looking for an Integrated transport assessment, traffic pollution assessment, Low emission assessment and a travel plan. This should take into account the cumulative effect on local air quality of the proposed development alongside other proposed new developments. (To include potential impacts on existing receptors) The mass emission impact should be quantified with expected emissions both with and without the development (The do something, do nothing scenario). With regards to the travel plan, EV infrastructure should be built in to the mitigation to provide one charging point per household.

Public Health – 27th November 2019

It does appear that this is a standard air quality assessment and although it meets most requirements it appears to fall short. It looks at the current baseline air quality but does not demonstrate if there are any potential impacts on air quality with the development as well as the future baseline without the development – taking into account cumulative impacts. (2.5 of the SPD).

https://www.middevon.gov.uk/media/85182/air_quality_spd-adopted.pdf

We would also request that the provision for electric vehicle infrastructure be increased.

Public Health- 28th November 2019

I am happy with the application and can't foresee there will be any issues from an air quality perspective. Although the assessment falls slightly short, it is really just to reinforce that the development (alongside other developments) won't cause any problems going forwards given its close proximity to Exeter Road and the High street where our AQ levels are particularly poor.

Housing Options Manager

22nd July 2019 – Crediton's Housing Need

Band	Housing Need Requirement Size				
	Housing Type	1BH	2BH	3BH	4BH
B	General Needs	6	1	4	1
	Step Free	2		1	
	Max 3 steps	1			
	Wheelchair				
C	General Needs	4	6	15	5
	Step Free				
	Max 3 steps	3	1		
	Wheelchair	2			1
D	General Needs	44	5		
	Step Free	2			
	Max 3 steps	1		2	
	Wheelchair				
Summary/Totals					
	General Needs	54	12	20	6
	Step Free	4		1	
	Max 3 steps	5	1	2	
	Wheelchair	2			1
Grand Total		65	13	23	7

NHS Foundation –

Impact Assessment Formula

The Trust has identified the following:-

A development of **20 dwellings** equates 47 new residents (based on the current assumption of 2.33 persons per dwelling as per ONS figures). Using existing 2016 demographic data as detailed in the calculations in Appendix 4 will generate 93.26 acute interventions over the period of 12 months. This comprises additional interventions by point of delivery for:

- A&E based on % of the population requiring an attendance
- Non Elective admissions based on % of the population requiring an admission
- Elective admissions based on % of the population requiring an admission
- Day-case admissions based on % of the population requiring an admission
- Regular attendances based on % of the population requiring to attend regularly
- Outpatient attendances based on % of the population requiring an attendance
- Outpatient attendances based on % of the population requiring procedure
- Community health services based on % of the population requiring the delivery of

Community based Services.

Formula:

Increase in Service Demand:

Development Population x % Development Activity Rate per head of Population x Cost per Activity
= Developer Contribution

As a consequence of the above and due to the payment mechanisms and constitutional and regulatory requirements the Trust is subject to, it is necessary that the developer contributes towards the cost of providing capacity for the Trust to maintain service delivery during the first year

of occupation of each unit of the accommodation on/in the development. The Trust will not receive the full funding required to meet the healthcare demand due to the baseline rules on emergency funding and there is no mechanism for the Trust to recover these costs retrospectively in subsequent years as explained. Without securing such contributions, the Trust would be unable to support the proposals and would object to the application because of the direct and adverse impact of it on the delivery of health care in the Trust's area. Therefore the contribution required for this proposed development is **£26,413.00**. This contribution will be used directly to provide additional health care services to meet patient demand as detailed in Appendix 5.

The contribution requested (see Appendix 5) is based on these formulae/calculations, and by that means ensures that the request for the relevant landowner or developer to contribute towards the cost of health care provision is directly related to the development proposals and is fairly and reasonably related in scale and kind. Without the contribution being paid the development would not be acceptable in planning terms because the consequence would be inadequate healthcare services available to support it, also it would adversely impact on the delivery of healthcare not only for the development but for others in the Trust's area.

Having considered the cost projections, and phasing of capacity delivery we require for this development it is necessary that the Trust receives 100% of the above figure prior to implementation of the planning permission for the development. This will help us to ensure that the required level of service provision is delivered in a timely manner. Failure to access this additional funding will put significant additional pressure on the current service capacity leading to increased delays for patients and dissatisfaction with NHS services.

REPRESENTATIONS

A total of 21 letters of objection have been received at the time of writing this report including one petition of 74 signatures. One general comment has also been received. The material concerns raised in the representations are summarised as:

- Width of the footpaths in Barnfield
- Continuity of nearby footpaths
- Ownership of the land and whether there is a conflict of interest with the Highway Authority
- Traffic impacts both in the building phase and once completed
- Width of the nearby roads for buses etc.
- Width of the access
- Safety of the surrounding highways with particular regard to the nearby schools
- Loss of a green-field agricultural site
- Precedent for further development
- The site was withdrawn from the 2011 Local Plan on highways grounds
- Impact on air quality and health
- Impact on the use of the existing residential garages opposite number 13
- Whether the town infrastructure can cope with an increase in population
- Impact on Devon hedgerow and subsequently wildlife including protected species
- Historical importance of the site
- Impact on the water pressure in the area
- Car parking concerns

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. Principle of development, planning policy and 5 year housing supply;
2. Highways and highway safety
3. Drainage and Flood Risk
4. Public open space and green infrastructure (GI)
5. Landscape and ecology
6. Living conditions of the occupiers of nearby residential properties
7. S106 Obligations and local finance considerations
8. Sustainable development balance.

1. Principle of development and 5 year housing land supply

The Mid Devon Core Strategy (Local Plan 1) was adopted in 2007 and sets out the growth strategy for the District that seeks to balance social, environmental and economic objectives. Policy COR12 focuses development in and around the main settlements of Tiverton, Cullompton and Cridton.

Policy COR1 seeks sustainable communities in which people want to live and work through provision of housing to meet the needs of all sectors of the community, providing access to education, jobs, community facilities and public transport, reducing the need to travel by car. Policy COR3 sets a target for the provision of new market and affordable housing with an appropriate mix of dwelling sizes and types. Policy COR8 seeks to ensure that development is served by necessary infrastructure in a predictable, timely and effective fashion. Developers will be expected to contribute to, or bear the full costs of, new or improved infrastructure and facilities where it is appropriate for them to do so.

This is a full planning application for the erection of 20 dwellings on a site currently outside but adjoining the settlement boundary of Cridton, a recognised town settlement in the Mid Devon Local Development Framework. Policy COR 15 of the Core Strategy allows for residential development within the defined settlement boundary for Cridton but outside of the settlement limits, Policy COR18 would apply. COR18 does not support unrestricted dwellings in the countryside.

The emerging Mid Devon Local Plan Review (post examination)

It is noted that within the emerging local plan the site is allocated for housing which is based on a total of 20 dwellings. Policy CRE8 – Land at Barn Park outlines the following:

A site of 1.64 hectares at Barn Park is allocated for residential development subject to the following:

- a) 20 dwellings with 28% affordable housing; and
- b) Vehicular access from Barn Park

Members will be aware that the Council is satisfied that it can currently demonstrate a 5 year housing land supply. The Forward Planning Team has advised *‘The 2019 NPPF and updated planning practice guidance make clear the need to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against local housing need (based on the Government’s standard method), where strategic policies are*

more than five years old. The approach takes account of the recently published Housing Delivery Test results.

A 7.43 year housing land supply can be demonstrated against an annual housing need of 364 for the period 1 April 2018 to 31 March 2023. This takes account of the identified supply of deliverable sites and a 5% buffer based on the results of the Housing Delivery Test.

Notwithstanding that a 5 year supply requirement has been met, adopted Mid Devon Core Strategy Policies COR3, COR17 and COR18 are not consistent with relevant policies in the 2019 NPPF and therefore should be accorded limited weight in planning decisions until they are replaced. The tilted balance will continue to apply to the determination of planning applications concerning proposed housing development in Mid Devon.

Draft policies in the Mid Devon Local Plan Review, where relevant, will be material to the determination of planning proposals and weight given in accordance with paragraph 48 of the 2019 NPPF. The adoption of the Mid Devon Local Plan Review will establish a new housing land supply position and policies that will carry full legal weight for the determination of planning applications concerning proposed housing development in Mid Devon.

Other development plans, including the Devon Minerals and Waste Local Plans and Neighbourhood Development Plans (once 'made'), adopted masterplans and supplementary planning documents, where relevant, can also be material to the determination of planning proposals for housing development.'

As policies relating to housing delivery in the Core Strategy are considered to be out of date the tilted balance in the NPPF applies to the consideration of applications. Paragraph 11 of the NPPF 2019 states:

'Plans and decisions should apply a presumption in favour of sustainable development.

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'

This does not mean that Mid Devon's policies must be cast aside, but the weight given to them is proportionate to their consistency with the NPPF. Housing applications need therefore to be considered in the context of sustainable development and planning permission granted unless the harm identified significantly and demonstrably outweighs the benefits. The planning balance in relation to this application is set out in section 8 of this report.

The Local Plan Review has been through examination with the main modifications now being consulted on, so the situation is that the Plan is yet to be adopted. At the time of writing this report I would comment that no reference has been made to this allocation within the Inspector's post hearing advice note with no specific hearing session arranged at the public examination hearing sessions to consider this site. Therefore the Local Plan Review is considered to carry limited weight in consideration of this planning application.

The quantum of development proposed is the same as the policy aspirations in the LPR which identifies a residential development of 20 dwellings primarily due to the highway access. The

layout plan submitted shows how the layout for the residential development would be achieved which has been considered to be acceptable and below the planning matters of the development are considered further.

2. Highways and highway safety

Policy COR9 of the Mid Devon Core Strategy seeks to improve accessibility, reduce the need to travel by car, and increase public transport use, cycling and walking, manage travel demand, reduce air pollution and enhance road safety through management of car parking and traffic and investment in transport services. The NPPF states that transport issues should be considered from the earliest stages of planmaking and development proposals, so that potential impacts of development on transport networks can be addressed. The environmental impacts of traffic and transport infrastructure should be identified, assessed and taken into account, including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

With respect to emerging policy CRE8 (Land at Barn Park) the supporting text outlines that *'Access to the site will be through Barn Park as access is limited and the Highway Authority has advised that this is the maximum number of houses suitable for access through the existing housing estate'*

The Local Highway Authority have raised no objections to the development and the initial advice given has been taken on board with amended plans submitted relating to the layout of parking. There is no objection in terms of the volume of traffic generated by this development and using the proposed access off Barn Park, with a number of conditions recommended such as a Construction Management Plan.

Concerns have been received from local residents about the levels and location of parking provision proposed for the site which could lead to parking pressures along existing roads. The current policy (DM8) requires 1.7 spaces per dwelling and the amount and location of parking is considered to be in accordance with policy. Policy DM8 of the local plan also outlines that 1 charging point per 10 units is required and again this is outlined on drg no. 1726-100-B, therefore being in accordance with local plan policy.

On balance, given that the Local Highway Authority have not raised an objection to the proposal on highway safety grounds, the development is considered to comply with policies COR9 of the Mid Devon Core Strategy and policy DM8 of Local Plan Part 3 – Development Management Policies.

3. Drainage and flood risk

The NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from the lead local flood authority, have appropriate proposed minimum operational standards, have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and where possible, provide multifunctional benefits.

Policy COR11 of the Mid Devon Core Strategy guides development to locations with the lowest flood risk and seeks to ensure development does not increase the risk of flooding elsewhere. The application site is within flood zone 1. Therefore the main consideration relates to how foul drainage and surface water drainage would be dealt with.

The applicant has stated within the application form that foul sewage will connect to the mains sewer and surface water will be disposed of by way of a sustainable drainage system. The Environmental Health Department has raised no objection on drainage grounds. Policy AL/CU/3 of the AIDPD requires the provision of a Sustainable Urban Drainage Scheme (SUDS) to deal with all surface water from the development and arrangements for future maintenance. Policy DM2 of the LP3 DMP requires appropriate drainage including sustainable drainage systems and connection of foul drainage to a mains sewer where available. Policy DM29 of the LP3 DMP relating to green infrastructure requires major development proposals to demonstrate flood and water resource management.

The Lead Local Flood Authority (Devon County Council) initially raised objections to the development as it did not consider that the drainage issues at the site and in relation to the proposed development had been adequately addressed. The applicant has carried out further assessment work and provided further information to the Lead Local Flood Authority during the course of the application, to address their concerns. The LLFA are now satisfied that with the provision of conditions attached to the planning permission, the development site can be provided with adequate drainage facilities such that it would not increase the flood risk elsewhere. On this basis, the drainage strategy is considered to comply with policies COR11 of the Mid Devon Core Strategy, and DM2 and DM29 of the LP3.

4. Public open space and green infrastructure (GI)

Policy AL/IN/3 requires new housing developments to provide at least 60 square metres of equipped and landscaped public open space per market dwelling to include children's play areas, sports areas, informal open space and allotments with safe and convenient access on foot or cycle. Policy AL/IN/4 seeks to provide a network of green infrastructure with recreational, visual and biodiversity value, including sustainable drainage. The policy seeks protection and enhancement of public rights of way and new provision within development. The site plan identifies landscaping but no formal public open space within the site so a S106 agreement would outline the financial contribution required toward a public open space project in the Parish.

Policy DM29 of the LP3 DMP requires major development proposals to demonstrate that GI will be incorporated within the site to provide biodiversity mitigation, flood management, green corridors and public rights of way linking the site to the wider GI network, and new GI such as the creation of woodland. The NPPF states that planning decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users. The submitted layout plan indicates the areas of Green Infrastructure in and around the site and therefore it is considered that the policy requirement can be satisfied.

5. Landscape and ecology

The NPPF states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services. Development should minimise impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks. If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort,

compensated for, then planning permission should be refused. Planning decisions should seek to limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

The site is not located within a designated landscape although it has been noted that there are some isolated listed buildings further to the south (over 550m away) where the development could be viewed from but given the distances involved, topography and existing backdrop of housing of Barn Park, it is not considered that there would be any harm to the setting of these heritage assets, being in accordance with Policy DM27.

In terms of this application site, it is an agricultural field on the outskirts of the town with land levels sloping down to the south. With reference to the Mid Devon landscape character assessment which was prepared in 2011, the Landscape Character Type (LCT) for this area is 3E Lowland plains. The assessment outlined that this landscape is typically present in the Crediton area and east of the River Culm.

A Landscape and Visual Appraisal was carried out to assess the impact of a proposed residential development on land off of Barn Park, Crediton where it was noted that there would be a permanent irreversible change from a 0.6 hectare area of agricultural land to a built residential development. The conclusions were that the landscape effect on the immediate landscape will be small as no specific landscape features will be lost, other than 9m of hedge for the new access into the development. The development will not break the skyline, and will abut existing developed boundary of Crediton. The pattern of the landscape will vary at the local level. A new native hedgerow and native planting to the southern boundary of the development will help to integrate the site into the landscape character of the area. The overall landscape effect of the site to the local area is therefore judged as of slight importance.

In relation to the wider landscape and adjacent rural land the appraisal comments that the area feels relatively tranquil with reasonable dark skies with low levels of light, as much of Crediton is screened from the SW by the hill. The development should therefore reduce the impact of any lighting or light pollution on that landscape, as the increase area of development will have an effect on the landscape and views. A condition is therefore recommended to agree the external lighting of the site.

With respect to the proposed development, this is an application for up to 20 dwellings which it not considered to represent overdevelopment of the site. Policy COR2 of the Mid Devon Core Strategy seeks high quality sustainable design that reinforces the character and legibility of Mid Devon's built environment and landscape and creates attractive places. Members are advised that the landscape impacts of a development on this site would have been considered prior to allocating the site within the Local Plan Review and in any event, mitigation proposals in terms of landscaping form part of this application.

With regards to protected species and habitats and ecological appraisal was submitted and an ecological re-appraisal of the site. The report recommended that a bat survey would not be justifiable because there are no roost sites within the field and foraging was, and still is, considered to be very poor. Factors that were considered were the site's exposure, a lack of cover and a dearth of insects favoured by bats. The conclusion was also that the developable part of the site was also considered to be unattractive and unsuitable for dormice so a dormouse survey would not have been justified, the same with reptiles and slow worms. Whilst the ecological and habitat value of the proposed development site is considered to be very limited with a very low ecological value, a range of mitigation measures could be provided within a development to safeguard any features of existing value, like hedges and to enhance their value. There may be scope, amongst other mitigation provisions, to install hole and open-fronted bird nesting boxes on some buildings

that back onto the south-western and south-eastern boundaries of the development. Therefore a condition is recommended for a Biodiversity Mitigation to be submitted and agreed to identify adequate compensation for ecological losses and potential enhancements.

Therefore in light of the above, it is considered that the landscape and ecology proposals are capable of complying with policy COR2 of the Mid Devon Core Strategy (LP1) and the provisions of the NPPF.

6. Living conditions of the occupiers of nearby residential properties

Paragraph 127 of the NPPF outlines that planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

This is reflected in policies DM2 and DM14 of the Local Plan 3 Development Management Policies which sets out that new development should respect the privacy and amenity of neighbouring residents. The siting of the dwellings and orientation of windows is such that it is considered that a residential development has been designed to be in accordance with these two policies, with adequate separation. A condition has been recommended to remove permitted development rights on the block of four one bedroom dwellings given the change in levels of the site and relation with neighbours which could be impacted upon through certain additions to the units which could be possible through permitted development rights.

7. Section 106 obligations

The s106 requirements are set out in full at the start of this report.

The applicants are proposing 28% affordable housing with the s106 requiring submission of an affordable housing scheme setting out the mix and tenure to be agreed prior to provision on site. The Housing Options Manager is content that this will enable the actual need to be assessed at the time allowing the provision of units on site to accord with that need. The provision of affordable housing on site will be in accordance with triggers set out in the agreement.

The application has submitted a plan which does not include the provision of public open space on site and therefore it would be necessary to secure a financial contribution towards off-site provision, which in his case would be £14,980 with Members to be informed of the allocated project at Planning Committee. A financial contribution of £62,076 towards Air Quality mitigation in the Parish of Credition based on the calculation of 14 x £4434 will be required, again Members are to be updated on the allocated project prior to the Planning Committee.

The Education Authority have requested financial contributions towards education provision as Devon County Council has identified that a financial contribution of £54,608.00 towards additional education infrastructure at Hayward's Primary School which serves the address of the proposed development is required. This would be secured in the S106 agreement.

The NHS have requested a financial contribution towards maintaining service delivery during the first year of occupation of each unit of the accommodation on/in the development. They advise that due to the payment mechanisms, constitutional and regulatory requirements the Trust is subject to, it will not receive the full funding required to meet the healthcare demand due to the baseline rules on emergency funding and they go on to advise that there is no mechanism for the Trust to recover these costs retrospectively in subsequent years. Without securing such contributions, the Trust advises that it would have a direct and adverse impact on the delivery of health care in the Trust's area. The NHS has outlined a contribution of £26,413.00 which would be used directly to provide additional health care services to meet patient demand.

However, in respect to the NHS request, a meeting was undertaken with representatives of the NHS given concerns of the funding requested and how it was calculated and why service cover could not be anticipated through the use of the existing and emerging Development Plans. The Trust outline that they are currently operating at full capacity in the provision of urgent and elective healthcare having plans to cater for the known population growth but cannot plan for unanticipated additional growth in the short to medium term the residential development associated with this application. A further response from the NHS is expected in response to this meeting and a letter sent by a number of Local Authorities in respect to how and why the funding is required, but given that this is a 100% affordable residential development with a number of other planning obligations required as outlined, it is considered not to request this contribution at this time but Members will be updated of any change to this stance.

With the exception of the NHS request at the current time, Paragraph 204 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2011 (as amended) set tests in respect of planning obligations. Obligations should only be sought where they meet the following tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

It is considered that each of these obligations satisfies the relevant tests above.

8. Planning balance

As set out in section 1 of this report, the tilted balance in paragraph 11 of the NPPF applies to the determination of this application. The application should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF, taken as a whole.

The application is in full and there are no technical reasons why the application should not be approved, subject to the required mitigation set out in the report above. Impacts on biodiversity

and landscape can be adequately mitigated through the design, layout and landscaping plans submitted, and the increase in traffic on the local road network is acceptable to the Highway Authority, subject to conditions.

The delivery of 20 new homes, including the securing of 28% affordable housing weighs in favour of approval of the application. Also weighing in favour of the approval is the financial contribution towards public open space, air quality mitigation and education services. There could also be some modest benefits to the local economy, arising from construction and sales and additional spending by local residents on local services and facilities. The site is identified for development within the Local Plan Review (draft policy CRE8 – Land at Barn Park for 20 dwellings) and is located adjacent the existing settlement limit for the town within walking distance of the centre where existing facilities and services can be found. Weighing against approval of the application is the fact that the application is not policy compliant in that the emerging local plan has not been adopted and can only be afforded some weight.

Taking all the above into consideration, and acknowledging that the tilted balance in the NPPF applies, your officers consider that the balance weighs in favour of approval of the application. Other matters put forward in favour of the development include an absence of harm to ecology, flooding, drainage and highway safety. Nonetheless, these are mitigating factors rather than benefits and the weight to be given to them is therefore limited.

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons that could be affected by the development have been identified as sharing any protected characteristic.

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. Notwithstanding the provisions of Article 3 of The Town and Country Planning [General Permitted Development] [England] Order 2015 [or any Order revoking and re-enacting that Order with or without modification] no development of the types referred to in Classes A, B, C, D and E of Part 1, Schedule 2 relating to the extension and alteration of the dwelling, extensions or alterations to its roof, the insertion of windows and/or roof lights, porches and the provision of outbuildings, shall be undertaken within the dwellings curtilage for plots 10 -13 without the Local Planning Authority first granting planning permission.
4. Prior to their use on site, details or samples of the materials to be used for all the external surfaces of the buildings shall first have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved materials shall be so retained.
5. All planting, seeding, turfing or earth reprofiling comprised in the approved details of landscaping shall be carried out within 9 months of the substantial completion of the development or first planting season (whichever is sooner). Any trees or plants which, within a

period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species. Once provided, the landscaping scheme shall be so retained.

6. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Environmental Management Plan (CEMP) including:
 - (a) the timetable of the works;
 - (b) daily hours of construction;
 - (c) any road closure;
 - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
 - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
 - (h) hours during which no construction traffic will be present at the site;
 - (i) the means of enclosure of the site during construction works; and
 - (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
 - (k) details of wheel washing facilities and obligations
 - (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
 - (m) Details of the amount and location of construction worker parking.
 - (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

The CEMP shall also identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. Once approved the CEMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

7. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins, For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.
8. No part of the development hereby approved shall be commenced until:
 - A) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 metres back from its junction with the public highway

- B) The ironwork has been set to base course level and the visibility splays required by this permission laid out
 - C) The footway on the public highway frontage required by this permission has been constructed up to base course level
 - D) A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority
9. Any dwelling constructed shall not be occupied until the access, parking and turning areas associated with that plot have been provided in accordance with the approved plans. Following their provision these facilities shall be so retained.
 10. No development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the County Planning Authority. Unless it is demonstrated that it is unfeasible to do so, the scheme shall use appropriate Sustainable Urban Drainage Systems. The drainage scheme shall be designed so that there is no increase in the rate of surface water runoff from the site resulting from the development and so that storm water flows are attenuated. The development shall be carried out in accordance with the approved scheme.
 11. No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Proposed Drainage Strategy Drawing (Drawing No. 17303-050, Rev. C, dated 25th September 2019). No part of the development shall be occupied until the surface water management scheme serving that part of the development has been provided in accordance with the approved details and the drainage infrastructure shall be retained and maintained for the lifetime of the development.
 12. No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site.
 13. No part of the development hereby permitted shall be commenced until the full details of the adoption and maintenance arrangements for the proposed permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority.
 14. As outlined within the Ecological Re-appraisal produced by Sunflower International Ecological Consultancy dated October 2017, prior to the construction of any dwelling within the approved plots hereby approved, a Biodiversity Mitigation Plan (BMP) shall be submitted to and approved in writing by the Local Planning Authority with the development implemented in accordance with the approved details. The BMP will identify adequate compensation for any identified ecological losses on site.
 15. Prior to the first occupation of the dwellings hereby approved, details of any external lighting within the application site shall be submitted, to and agreed in writing by the Local Planning Authority as part of a lighting strategy with external lighting installed in accordance with the agreed details. For the avoidance of doubt, new lighting on site shall be directed away from

existing vegetation with any mature trees on site to be kept as dark as possible without compromising safety on site.

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 safeguard the visual amenities of the area and amenities of neighbouring dwellings in accordance with policy DM2 and DM14 of the Local Plan Part 3 (Development Management Policies).
4. To ensure the use of materials appropriate to the development in order to safeguard the visual amenities of the area in accordance with Mid Devon Core Strategy (Local Plan 1) COR2 Local Plan Part 3: (Development Management Policies) DM2 and DM14
5. 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).
6. To ensure that the proposed development does not prejudice the amenities of neighbouring occupiers in accordance with Policies DM2 and DM14 of the Local Plan Part 3 (Development Management Policies).
7. To ensure that adequate information is available for the proper consideration of the detailed proposals.
8. To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents
9. In the interest of highway safety, and to ensure that adequate on-site facilities are available for traffic attracted to the site in accordance with Policy DM8 of Local Plan Part 3: (Development Management Policies).
10. To protect water quality and minimise flood risk in accordance with Flood management act.
11. To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems.
12. To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.
13. To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development.
14. To ensure the protection of endangered species, under the European Habitats Directive and the Conservation of Natural Habitats and of Wild Fauna and Flora [Council Directive 92/43/EEC] which is implemented in the UK by the Conservation [Natural Habitats & Conservation] Regulations 1994 [Statutory Instrument No 2716] amended in 2007 and in

accordance with policy DM2 of Mid Devon Local Plan Part 3 [Development Management Policies].

15. To safeguard the amenity levels enjoyed by the occupiers of neighbouring properties and to protect wildlife in accordance with policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

REASON FOR APPROVAL OF PERMISSION

The principle of developing the site for 20 dwellings is the main consideration through this application. The site is adjacent to the defined settlement limit of Cridton but would be within the defined settlement limit in the emerging local plan, with the site being allocated for residential development of 20 dwellings, therefore the quantum and density of development proposed is in line with the policy aspirations identified within the land allocation for residential development within the emerging local plan policy. The access into the site to serve a development of 20 dwellings is considered acceptable to the Highway Authority. It is considered that the overall design, scale and layout of the residential development is acceptable in this location not resulting in a significant detrimental impact on the landscape. Mid Devon District Council's policies for the supply of housing are considered to be out of date, despite the Council being able to demonstrate a 5 year housing land supply. Therefore, the tilted balance in paragraph 11 of the NPPF applies to the determination of this application. The application should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF, taken as a whole. The application is in full and there are no technical reasons why the application should not be approved, subject to appropriate mitigation as proposed through planning conditions. Impacts on biodiversity and landscape can be adequately mitigated, and the access arrangement and increase in traffic on the local road network is acceptable to the Highway Authority. The delivery of 20 new homes, including 28% affordable housing weighs in favour of approval of the application as do S106 contributions towards public open space, air quality and education. Weighing against approval of the application is the fact that the application is not currently policy compliant in terms of this being a site currently outside of the settlement limit but some weight can be given that the site is allocated for 20 houses within the emerging local plan policy. Taking all the above into consideration, and acknowledging that the tilted balance in the NPPF applies, the application is considered to be acceptable. The application scheme is considered to meet the requirements of Policies COR1, COR2, COR3, COR5, COR8, COR9, COR11 and COR15 of the Mid Devon Core Strategy (Local Plan Part 1), Policies AL/IN/3, AL/IN/5 and AL/CRE/8 of the Mid Devon Allocations and Infrastructure Development Plan Document (Local Plan Part 2) and Policies DM1, DM2, DM7, DM8 and DM14 of the Mid Devon Local Plan Part 3 (Development Management Policies), (as far as is relevant to the application details).

The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. This report has been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.

Application No. 18/01966/TPO

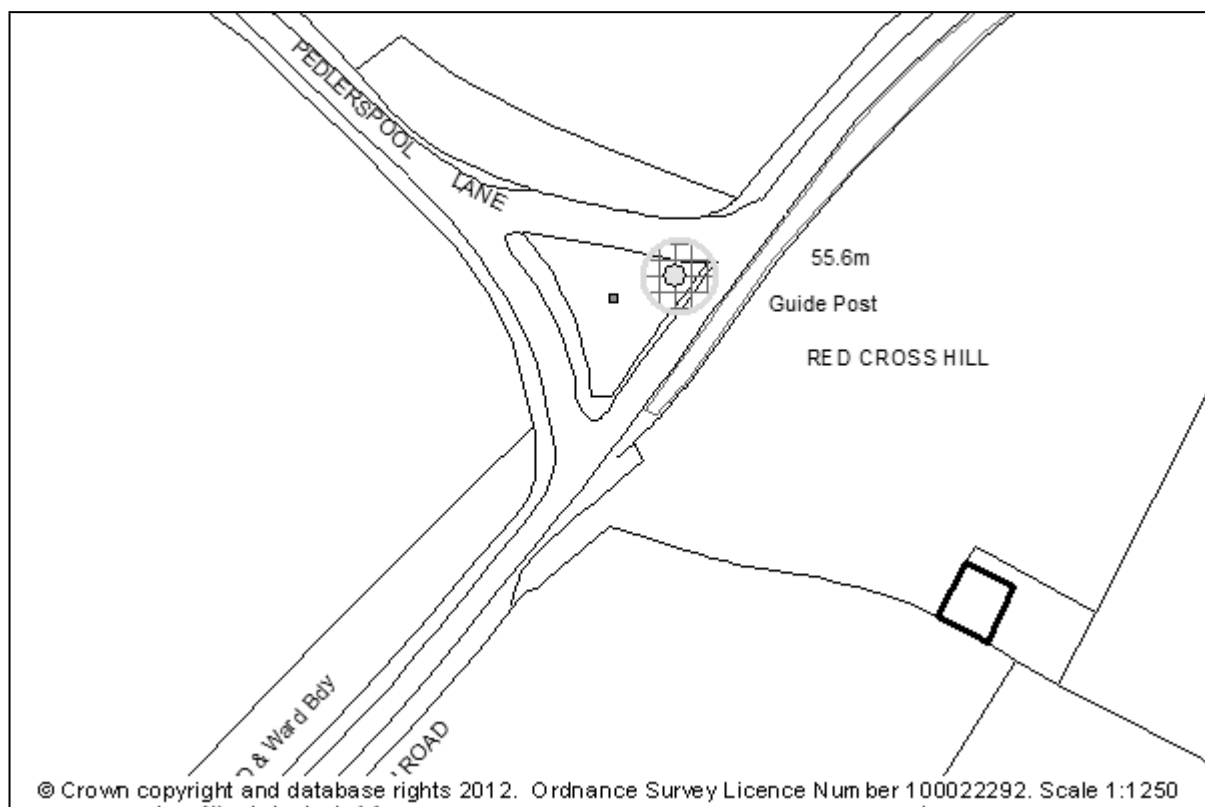
Grid Ref: 284218 : 100950

Applicant: Mr Stewart Turner

Location: Land at NGR 284218 100950 (Between Old Tiverton Road & Pedlerspool Lane)
CREDITON
DEVON

Proposal: Application to part dismantle 1 Holm Oak tree, protected by Tree Preservation
Order 10/00005/TPO

Date Valid: 23rd January 2019



APPLICATION NO: 18/01966/TPO

MEMBER CALL-IN

Prior to the local elections in May 2019, the former Ward Member Cllr Binks had requested that this application be considered by Planning Committee on the grounds that

- i) An expert report on its health be submitted
- ii) If it is deemed to be dangerous, several other trees in a dead or dangerous condition in the vicinity have not been felled.
- iii) Whether there is sufficient reason to fell this ancient tree.

One of the current Ward Members has not to date indicated that she is satisfied that this application can be determined under delegated powers. The application is therefore brought to Planning Committee for its consideration.

RECOMMENDATION

Refuse consent for the following reason:

1. In the view of the Local Planning Authority insufficient evidence has been submitted to support the felling of the stem of the holm oak protected by 10/00005/TPO on safety grounds and the loss of the main stem would be detrimental to local amenity and detract from the character of the area.

PROPOSED DEVELOPMENT

Application to part dismantle 1 Holm Oak tree, protected by Tree Preservation Order 10/00005/TPO.

The proposal seeks to dismantle the northern stem of a mature twin stemmed holm oak. The reasons given within the application are as follows:

1. The tree has significant defect due to major crack between its two stems.
2. Large lateral stem over the road and is an unacceptable risk to the public and highway users.

APPLICANT'S SUPPORTING INFORMATION

The application form indicates that the tree has been tagged by Devon County Council due to 'a significant defect due to a major crack between the twin stems of this holm oak. One large lateral stem is over the road and the high target area being the adjacent road presents an unacceptable risk to the public and highway users.'

It is recommended to reduce this stem to 1½ metres above the ground, removing approximately 12 metres of stem.

Letter from applicant highlighting the safety concerns raised within a qualified report and that he cannot take responsibility for the situation in the event of injury, accident or death on the highway. He will hold MDDC responsible.

DCC Tree Report submitted: Inspection June 2018

Probability of failure: Moderate/high.
Remedial treatment: sectional fell/ dismantle.

Letter from DCC 23rd November 2018 submitted with the application summarised as follows:

1. Meeting with MDDC Tree officer October 2018 concluded permission would be given to remove the split in the holm oak due to the poor condition of the tree and the unacceptable risk to the public.
2. As Arboricultural Officer for Devon County Council I confirm that the tree has a significant defect due to the major crack between the twin stems of the holm oak; one large lateral stem is over the road and the high target area being the adjacent road presents an unacceptable risk to the public and highway users.

RELEVANT PLANNING HISTORY

16/00983/TPO - PERMIT date 9th August 2016

Application to reduce 1 Oak tree (reduce crown over highway by 3 - 3.5 m & reduce overall canopy by 3 - 3.5m) protected by Tree Preservation Order 10/00005/TPO

18/01552/TPO - CLOSED date 3rd October 2018

Five day notification to fell 2 Scots Pine trees protected by Tree Preservation Order 10/00005/TPO

18/01630/TPO - DELETE date 24th December 2018

Application to fell 1 oak tree protected by Tree Preservation Order 10/00005/TPO

OTHER HISTORY

17/00348/MOUT – RESOLUTION TO GRANT PERMISSION SUBJECT TO THE PRIOR SIGNING OF A S106 AGREEMENT

Residential development of up to 257 dwellings and up to 5 Gypsy and Traveller pitches; 8.6 hectares of land made available to facilitate the relocation of Crediton Rugby Club; up to 1.1 hectares of land safeguarded for the delivery of a primary school; access arrangements from A3072 (Exhibition Way); pedestrian and cycle access on to Pounds Hill/Stonewall Cross junction, Old Tiverton Road and Pedlerspool Lane; landscaping and area of public open space; and other associated infrastructure and engineering operations

CONSULTATIONS

SANDFORD PARISH COUNCIL - 11.02.19

No objection subject to TPO conditions

HIGHWAY AUTHORITY - 20.02.19

No Comments

REPRESENTATIONS

16 letters of objection and 2 of representation summarised as follows:

1. Bats have been seen roosting in this tree requiring their legal and proper protection.
2. Previous application refused due to lack of supporting evidence.
3. Many trees overhang roads and if they fell would cause risk to the public. The proposed works are quite a reduction to the tree. Wish assurance that an independent survey of the tree has been made by DC tree inspector before any work is carried out and any reduction is necessary and appropriate.
4. The tree appears sound. A full risk assessment and independent expert report is required before any works.

5. Consider the extent of the proposed works would kill the tree and be likely to lead to the remaining trunk rotting and falling into the road. As the two trunks share a root system, the works would see the demise of the remaining trunk.
6. If the tree as existing falls, it will not be onto the road but the high bank area opposite.
7. Concern over placement of initial site notice, insufficient consultation and competence of officers.
8. Insufficient evidence submitted to justify the proposed works ort that it is a genuine danger. The evidence provided by DCC Highways suggests the tree is largely healthy.
9. The tree is part of the planting forming the approach to Creedy Park via East Lodge and is part of an overall heritage asset.
10. Other genuinely dangerous trees have been missed by DCC (photos and details provided by objector). This tree has stood firm when others have failed.
11. There are alternatives to felling such as filling with concrete and a tie bar or bracing collars to hold the twin trunks together.
12. Removal of this key feature cannot be justified in the absence of a detailed evaluation.
13. This will add to the environmental vandalism of the Creedy Valley arising from the Pedlars Pool development. The tree is cherished by the local community and integral to the wider environment, aesthetics and to the Creedy Estate.
14. The tree adds to local biodiversity.
15. The tree was protected as being of critical importance- nothing has changed.
16. The developer is well aware of the development restrictions and should have accounted for them in the design.
17. Felling should be a last resort.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The application seeks to dismantle part of a twin stemmed holm oak, for reasons of concern over structural integrity and resultant concern over highway and public safety.

The Council commissioned an independent report by an arboricultural consultant into the application proposal, a copy of which is attached at Appendix 1 to this report.

For details of descriptions and findings and application appraisal please see the contents of the report at Appendix 1.

In summary, the Council's tree consultant has concluded as follows:

1. The subject tree, a mature holm oak is a reasonably prominent feature of Old Tiverton Road from the northern approach. It forms a significant part of the wider tree canopies thus making a significant contribution to the character of the area and to local amenity. The proposed felling of its northern stem would be detrimental to the local visual amenity of the tree, as well as exposing the remaining stem crown to a significant change in wind exposure.
2. There are no immediate signs of instability either at the roots or between the two stems to indicate imminent failure now or in the near future.
3. The application states that the tree poses an unacceptable risk to road users but no substantive evidence to support this claim has been submitted in the form of a qualified risk assessment. The observations of the base of the tree indicate that the probability of failure is not particularly high and as such the tree does not seem to pose an unacceptable risk of harm to road users or passers-by.
4. A risk assessment undertaken using the QTRA method (www.QTRA.org.uk) indicates that the risk of harm posed by the tree is within the broadly acceptable threshold thus felling on safety grounds is unjustified.

Accordingly he has recommended refusal of the application on the basis of insufficient evidence to support the felling of the stem on highway safety grounds and the loss of the main stem would be detrimental to local amenity and detract from the character of the area.

REASON FOR REFUSAL

In the view of the Local Planning Authority insufficient evidence has been submitted to support the felling of the stem of the holm oak protected by 10/00005/TPO on safety grounds and the loss of the main stem would be detrimental to local amenity and detract from the character of the area

The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. This report has been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.

SEE REPORT OF ARBORICULTURIST – AT END OF PLANS LIST

Application No. 19/01608/HOUSE

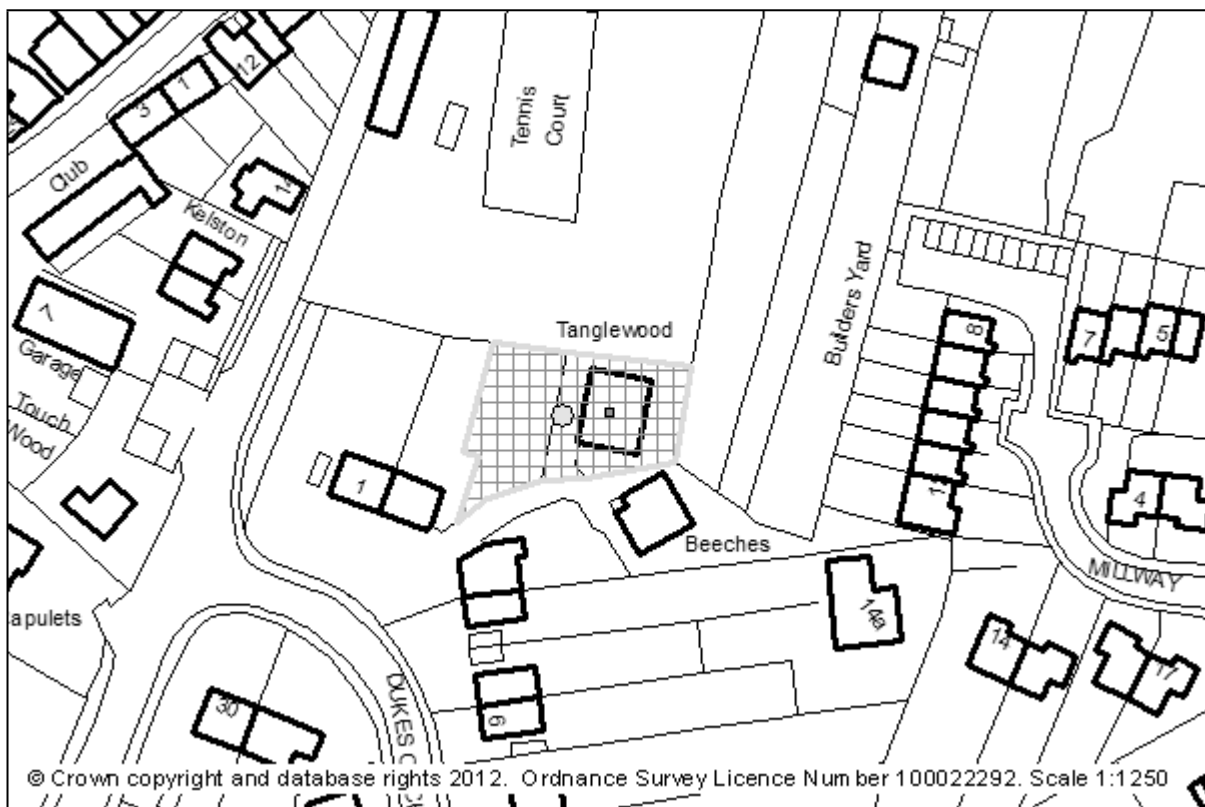
Grid Ref: 299869 : 103868

Applicant: Mr & Mrs Fullerton

Location: Tanglewood
Dukes Orchard
Bradninch
Exeter

Proposal: Erection of single storey extension and separate garage/annex/workshop accommodation

Date Valid: 23rd September 2019



APPLICATION NO: 19/01608/HOUSE

MEMBER CALL-IN

Called in by Cllr Luke Taylor, in order to consider the potential over-development of the site and the impact of the proposed development on the neighbouring garden and associated private amenity space.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

Erection of single storey extension and separate garage/annex/workshop accommodation.

The proposal relates to Tanglewood, a modern bungalow located on the northern side of Dukes Orchard, located on land to the rear of 2 and 3 Dukes Orchard. Another property, Beeches, which was built at the same time, sits to the south. The proposed development includes the erection of a single storey extension to the western elevation of Tanglewood and the erection of a one and a half storey garage/workshop with annexe accommodation in the roof space. The extension is proposed to be finished with render and tiles to match the existing property, in addition to a small section of standing seam metal roof to an attached lean-to section. The garage/annexe is proposed to be constructed with a mix of render, timber cladding and stone.

APPLICANT'S SUPPORTING INFORMATION

Existing and proposed plans

Letter responding to neighbour and Parish Council comments

RELEVANT PLANNING HISTORY

08/00613/FULL - PERMIT date 4th July 2008

Erection of 2 dwellings and a replacement detached garage

09/00312/FULL - PERMIT date 9th November 2009

Retention of 2 dwellings and erection of a replacement detached garage

16/01182/TPO - PERMIT date 12th September 2016

Application to fell one Conifer tree protected by Tree Preservation Order No. 08/00001/TPO

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1, COR2, COR13, COR17

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1, DM2, DM8, DM13, DM27

CONSULTATIONS

BRADNINCH TOWN COUNCIL – 15th October 2019

The council have visited the site, where they met with the applicant and subsequently with some of the neighbours.

The council has considered this application and has No Objection to the proposals regarding extension of the main property.

The council has also considered the proposals for a separate annex (which runs along part of the boundary with a neighbouring property) which could be over bearing, may also constitute over development of the site and could compromise the privacy of the immediate neighbours. The proposed exterior staircase to the annex would allow overlooking into neighbouring properties with a potential loss of privacy.

The council feel that these concerns require addressing.

HIGHWAY AUTHORITY - 27.09.19

Standing advice applies please see Devon County Council document
<https://www.devon.gov.uk/planning/apply-for-planning-permission/get-help-with-an-application/guidance-for-applicants>

REPRESENTATIONS

Letters of objection were received from four local residents. The main points raised are as follows:

- The two storey garage is too high and will intrude and overlook 1, 2, 3 Dukes Orchard and The Beeches. There will be particular overlooking from the annex steps. There will be loss of light, as well as privacy.
- The accommodation above could easily be turned into a separate dwelling, leading to additional vehicle movements and increased levels of rubbish.
- The proposal will increase the vehicle movements to five properties using the same access.
- There is a hedge to the left when exiting, which obscures visibility and should be reduced to 1m in height.
- Drainage for Tanglewood and Beeches passes through another resident's drains. They object to a third house using this.
- The proposed drive is opposite existing domestic gates, potentially causing a hazard.
- There was a requirement to plant a new tree within the site to replace a felled TPO tree. This has not been planted or enforced.
- In the past restrictions imposed on the property have been ignored so there is little faith that conditions imposed will be adhered to.
- The proposed extension contains two skylights that will overlook neighbouring properties.
- The canopy over the doors could be used as a sun-terrace, causing overlooking.
- The development will result in over-development of the site.
- The garage will be against the neighbouring building which should not happen.
- Removal of the existing fence may weaken the neighbouring wall.
- There is a hedgehog run that will be affected by the development.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The application is made to erect a single storey extension to the front of the property, protruding westward. It is also proposed to erect a one and a half storey garage/workshop/annexe in the south western corner of the garden. Other works included as part of the scheme include the addition of four roof lights to the main house and the removal and realignment of the existing fence and wall adjoining the access drive, to provide access to the garage.

The principle of extending the property and providing domestic outbuildings, including annexe accommodation, is considered to be acceptable, subject to assessment against relevant national and local plan policies.

Policy DM13 of the Local Plan Part 3 (Development Plan Policies) supports the provision of extensions to existing dwellings and other ancillary development provided that they:

- a) Respect the character, scale, setting and design of existing dwelling;
- b) Will not result in over-development of the dwelling curtilage; and
- c) Will not have a significantly adverse impact on the living conditions of occupants of neighbouring properties.

A summary assessment of the scheme against these criteria is set out below:

a) Respect the character, scale, setting and design of existing dwelling

The proposal is split into two elements, the alterations to the main house and the provision of the outbuilding comprising garage and workshop at ground level and annexe accommodation in the roof space.

In addition to policy DM13, Policy DM2 seeks high quality design upon a number of principles including a clear understanding of the site, efficient use of the site, making a positive contribution to local character, and creating visually attractive places that are well integrated with surrounding buildings, streets and landscapes, taking account of factors including architecture, siting, layout, scale, massing, orientation, fenestration and materials.

In considering the extension to the house first, the proposal is a single storey extension that will provide additional living accommodation in the form of a kitchen and dining area. Internal rearrangement of the existing house would see the creation of an office/snug and one of the ground floor bedrooms moving. There is no net gain in bedroom numbers within the house. The extension is considered to be an appropriate scale to respect and relate to the character and appearance of the existing house and its surroundings. The proposed materials will match existing.

The proposed garage/workshop/annexe is a larger in scale, with a height of up to 5.5m above ground level, and more prominent due to its positioning towards the southern edge of the site, where it will be more visible from views within Dukes Orchard. Notwithstanding this, it is also considered to be acceptable. Despite its height, the building would be viewed between numbers 2 and 3 Dukes Orchard, and Tanglewood to the north east. The topography of the site changes rising to the north and the north east, with Tanglewood sited on the higher ground and the aforementioned adjoining properties below. In order to limit its impact, the proposed building would be constructed on the lowest part of the site, with excavations to the rear so that it is effectively dug into the ground below the existing level of the garden to its north. In terms of design, the frontage is designed to have a simple appearance in keeping with the other development in the

area, with more detail to the rear, where it will be less readily visible and is not considered to detract from the character of the area.

In addition to the consideration of general impact on the surrounding area, it is noted that the edge of the village conservation area adjoins the northern boundary of the application site. As such, the site is not within the local conservation area but does abut it. The extension adjoins this boundary, while the garage building would be approximately 16 metres from this boundary. Taking this into account, consideration will have to be given to the impact that the development will have on the significance of this heritage asset. Paragraph 192 of the NPPF advises that “in determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.”

The above requirements in respect to heritage assets are echoed in policy COR2 of the Core Strategy, which includes the requirement that “development will sustain the distinctive quality, character and diversity of Mid Devon’s environmental assets through...the preservation and enhancement of Mid Devon’s cultural and historic environment, and the protection of sites, buildings, areas and features of recognised national and local importance.” Policy DM27 of the Development Plan Policies document also states that “heritage assets and their setting which are irreplaceable resource accordingly the Council will:

- a) Apply a presumption in favour of preservation in situ in respect of the most important heritage assets
- b) Require development proposals likely to affect heritage assets and their settings, including new buildings, alterations, extensions, changes of use and demolitions, to consider their significance, character, setting and local distinctiveness, and opportunities to enhance them.
- c) Only approve proposals that would be likely to substantially harm heritage assets and their settings if substantial public benefit outweighs that harm or the requirements of the NPPF are met.
- d) Where a development proposal would lead to less than substantial harm, that harm will be weighed against any public benefit, including securing optimum viable use.
- e) Require developers to make a proportionate but sympathetic assessment of the impact on setting as set down in the guidance from Historic England.”

In assessing the impact of the development, specifically in relation to its impact on the conservation area, against the aforementioned local and national policy requirements, it has already been noted that the proposal is considered to be an appropriate form of development, satisfactorily respecting the character and appearance of its surroundings. Accordingly, the proposed development is not considered to have any harmful impact on the significance of heritage asset either.

Overall, it is considered that the proposal is acceptable and accords with policies COR1 and COR 2 of the Core Strategy and policies DM2, DM13 and DM27 of the Development Management Policies (Local Plan Part 3).

b) Will not result in over-development of the dwelling curtilage

Concerns have been raised by neighbours and the Parish Council, regarding the size of the proposed works, especially in respect to the garage building, suggesting that it will represent over-development of the site. The size and scale of the proposal has been assessed above, however in considering its position within the site, it is felt that the garden area associated with Tanglewood is of an appropriate size to accommodate all aspects of the development comfortably. Due to the way the site was divided up when the property was built some 10 years ago, the property currently has a larger garden than many of the surrounding properties. It is considered that the resulting garden area, following any development, would still accord with the general pattern of development in the locality.

c) Will not have a significantly adverse impact on the living conditions of occupants of neighbouring properties

Amongst the objections received, there are concerns that neighbouring properties will be overlooked from the new roof lights in the extension, windows in the annexe accommodation, and from the steps accessing the annexe, to the rear of the building. There is also concern that there will be a loss of light to the properties to the west and south (2 and 3 Dukes Orchard) due to the height of the garage building.

Starting with loss of light, the extension to the house is single storey and located sufficiently distant from the site boundaries so as to raise no concerns in this respect. The garage/workshop/building is close to the western boundary of the site, adjoining 2 Dukes Orchard, however it is located to the north east of this adjoining bungalow, where the movement of the sun will be such that any overshadowing would be minimal, with the shadow being cast predominantly over the applicant's garden and property as the day passes. The building would be located at sufficient distance from the other nearby properties to avoid overshadowing. In respect to general overbearing impact, the property most likely to be affected would be the property to the west, 2 Dukes Orchard. In considering the impact, it should be noted that the building would be set away from the nearest part of 2 Dukes Orchard by approximately 5.5m. It would adjoin a small part of the boundary with the garden of this property, however due to the alignment of the fence, the majority of the building would be over 3m from the boundary fence and reasonably distant from the adjoining property. It should also be noted that the building is proposed to be constructed at the lowest ground level, to allow vehicular access from the adjoining drive, with the land behind excavated and the property dug in. This will further reduce the impact of the building. The majority of the proposed building will be level with the garden of 2 Dukes Orchard, rather than the property itself. In this respect, the adjoining garden is raised above the level of the associated house, at a similar level to the application site. Taking into account the similar levels of the two gardens, and the height of the proposed building following excavation of the site, the impact on the garden area, is considered to be acceptable. In order to properly control the final finished floor levels, it is considered reasonable to impose a condition requiring these details to be submitted prior to commencement of works in relation to the outbuilding.

In considering the potential for overlooking, the roof lights proposed in both the extension to the main house, and the roof slope of the garage building, are positioned well above head height, and higher than the 1.7m above finished floor level, which is recognised as an appropriate level to avoid overlooking. The areas of concern would be views from the eastern gable window serving the annexe, and the stairs accessing the annexe, which could provide overlooking of the Beeches

and 2 Dukes Orchard. National policy and guidance advises that planning permission should not be refused, where appropriate conditions could be imposed to mitigate the adverse effects. In this case, it is considered that the provision of obscured and non-opening windows to the east elevation window and a privacy screen to the top of the stairs could adequately prevent the identified overlooking issues, thereby preventing harm to residential amenity. Ideally, the use of obscured glazing in a bedroom/living accommodation should be avoided due to having an adverse impact on the living condition of users of that particular room, however it is noted that the annexe accommodation, includes two large roof lights, which will allow additional light and clear views that in this case will be acceptable. The provision of details of this obscure glazing and an appropriately permanent privacy screen can be required by condition prior to the accommodation at first floor level first being brought into use. In both cases, these solutions are considered to be appropriate.

One other matter raised was the prospect of flat roof elements of the proposal being used as roof terraces. This is unlikely to be a concern, as the addition of required balustrading would require planning permission, however it is considered prudent to impose a condition preventing this taking place.

Overall, it is considered that the proposed development is of an appropriate size, scale, siting and design to avoid an unacceptable level of harm to the living conditions of existing occupiers of nearby properties so as to warrant recommending refusal. The areas of identified harm are able to be appropriately mitigated through the imposition of conditions.

Other Issues

Other areas of objection raised relate to concerns that the outbuilding will be used as a separate dwellinghouse, the access arrangements and an increase in vehicle movements would be harmful to highway safety, and that there will be increased usage of an existing drainage connection in third party ownership.

Starting with concerns that the building would be used as a separate dwelling, it is clear that the proposal is to provide ancillary accommodation to Tanglewood only. While it may be possible to convert in the future, there are likely to be issues with the site that would prevent such a change being acceptable. Nonetheless, it is usual to impose a condition on annexe buildings requiring them to only be used as ancillary accommodation. Any future change would thereafter require planning permission to remove or vary this condition, with the application considered on its own merits at that point of time.

Similar to the above point, the proposed development provides a very small element of ancillary accommodation, which is not accepted to increase the levels of vehicular traffic associated with Tanglewood. The parking area for the property remains in the same position, although is enlarged due to the removal and realignment of the southern boundary fence. The removal of this fence will also vastly improve visibility from the existing access, leading to an improvement over the existing situation.

The concerns relating to the existing drainage arrangements are noted, however the development is of domestic scale only, with limited expected increase in water usage. In respect to the third party ownership of the drainage system, input into this is not considered to be a planning matter on this occasion, with the applicant needing to ensure that they have the necessary rights to add to the existing system.

Finally, reference has been made to the failure to replace a tree removed under application 19/01182/TPO. The requirement to replace the removed tree is conditioned as part of this consent and it is not apparent as to whether this has been done. Notwithstanding this, the requirement to

plant a replacement tree has not been removed. If this has not been done, the proposed development does not remove the opportunity to do so. This is a separate matter to that being considered under this application but the applicant will be reminded of the requirement to plant a new tree.

Overall, despite the various concerns raised, it is considered that the proposal is acceptable and accords with policies COR1, COR2 and COR13 of the Core Strategy, policies DM1, DM2, DM8 and DM13 of the Development Management Policies (Local Plan Part 3), and the aims and objectives of the National Planning Policy Framework.

SUMMARY

The proposed development comprising an extension to the main house and provision of a detached outbuilding containing garage, workshop and annexe accommodation is considered to be acceptable, satisfactorily relating to the character and appearance of the existing property and its surroundings and would cause no demonstrable harm to the character, setting or appearance of the conservation area. Furthermore, there will be no unacceptable impact on neighbouring living conditions as a result of the proposed development, or adverse impact on highway safety. For these reasons it is considered appropriate to recommend approval with conditions necessary to ensure the success of the development in this location. The proposal therefore accords with policies COR1, COR2 and COR13 of the Mid Devon Core Strategy 2007, policies DM1, DM2, DM8 and DM13 of the Local Plan Part 3 (Development Management Policies), and the aims and objectives of the National Planning Policy Framework.

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 work shall be carried out on in relation to the construction of any of the external surfaces of the development hereby permitted unless details of the materials, colour and finish (including the provision of samples) to be used for all external walls and roofs have been first submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall thereafter be constructed in accordance with the approved details.
4. No works shall be carried out in relation to the construction of the garage/workshop/annexe building unless details of the finished floor levels of the building have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out strictly in accordance with the agreed details unless otherwise further agreed in writing by the Local Planning Authority.
5. Provision shall be made within the site for the disposal of surface water so as to prevent its discharge beyond the application site, in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority. Such approved scheme shall be installed prior to any works taking place in relation to the construction of the garage/workshop/annexe building and shall be permanently retained and maintained thereafter.
6. Prior to the first floor annexe accommodation within the garage/workshop/annexe building hereby approved first being brought into use, the window to be inserted into the east elevation, to serve the annexe, as indicated on the approved plans, shall be fitted with obscure glass (minimum

level 3) and fixed closed, and shall be permanently retained and maintained in this fashion thereafter.

7. Notwithstanding the approved drawings, details of privacy screens to be provided at the top of the external staircase of the garage/workshop/ annexe hereby permitted, including their design, size, materials and finish, shall be submitted to and approved in writing by the Local Planning Authority prior to the first floor annexe accommodation first being brought into use. The privacy screens shall be fully constructed in accordance with the approved details prior to the annexe accommodation first being brought into use and shall be permanently retained as such thereafter.

8. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order), no part of the flat roof elements of the development hereby permitted shall be used as a roof terrace, or as any other area of domestic amenity space.

9. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no additional windows, including dormer windows, or other openings (including doors) shall be formed in any part of the development hereby permitted without the prior express grant of planning permission.

10. The annexe accommodation hereby approved shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Tanglewood. There shall be no subdivision of this single residential planning unit.

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 use of materials appropriate to the development in order to safeguard the visual amenities of the area in accordance with policies COR2 of the Mid Devon Core Strategy 2007, DM2, DM27 and DM13 Local Plan Part 3 (Development Management Policies) and the aims and objectives of the National Planning Policy Framework.

4. In the interests of residential amenity and to safeguard the visual amenities of the area, in accordance with policy COR2 of the Mid Devon Core Strategy 2007, policies DM2 and DM13 of the Local Plan Part 3 (Development Management Policies) and the aims and objectives of the National Planning Policy Framework.

5. To ensure that the site is adequately drained and to prevent surface water runoff leaving the site, in accordance with policies COR1 of the Mid Devon Core Strategy 2007, DM2 of the Local Plan Part 3 (Development Management Policies) and the aims and objectives of the National Planning Policy Framework.

6. In the interests of residential amenity, in accordance with policies DM2 and DM13 of the Local Plan Part 3 (Development Management Policies) and the aims and objectives of the National Planning Policy Framework.

7. In the interests of residential amenity, in accordance with policies DM2 and DM13 of the Local Plan Part 3 (Development Management Policies) and the aims and objectives of the National Planning Policy Framework.

8. In the interests of residential amenity, in accordance with policies DM2 and DM13 of the Local Plan Part 3 (Development Management Policies) and the aims and objectives of the National Planning Policy Framework.

9. In the interests of residential amenity, in accordance with policies DM2 and DM13 of the Local Plan Part 3 (Development Management Policies) and the aims and objectives of the National Planning Policy Framework.

10. In the interests of residential amenity and to safeguard the amenities of the area, in accordance with policy COR2 of the Mid Devon Core Strategy 2007, policies DM2 and DM13 of the Local Plan Part 3 (Development Management Policies) and the aims and objectives of the National Planning Policy Framework.

The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. This report has been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons that could be affected by the development have been identified as sharing any protected characteristic.

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Arboricultural Report Findings

Location	Junction of Pedlarspool Lane & Old Tiverton Road, Sandford, CREDITON		Ref:	R2532cw/AL
Client	Mid Devon District Council, Phoenix House, Tiverton, Devon		Report Date	29/10/19
Survey Inspector(s)	C Hawley Prof Dip. Arb, M. Arbor A.	A M Lane MIC For., F. Arbor A., MRICS	Inspection Date	9/10/19
Initial Report Prepared By:	C Hawley Prof Dip. Arb, M. Arbor A.	Final Report Checked & Amended By:	A M Lane MIC For., F. Arbor A., MRICS	

Please note that abbreviations introduced in [Square brackets] are used throughout the report

Scope & Limitations

- The inspection has been undertaken from ground level by optical means only using the Visual Tree Assessment [VTA] methodology which in addition to the literal meaning, is a system expounded by Mattheck & Breloer (1995) & D Lonsdale (1999) Principles of Tree Hazard Assessment & Management, DETR, to aid the diagnosis of potential defects through visual signs and the application of mechanical criteria.
- The Visual Tree Inspection [VTA] ¹ methodology has been used in conjunction with a nylon sounding mallet.
- No measurements and no tissue samples of any trees were taken.
- Ivy obscured the trunk and branch structure of parts of the tree and the inspection was limited the visible areas of the tree. The removal of the Ivy has been specified in the recommendations where appropriate.
- No trees other than the holm oak subject to the application have been inspected.
- The limit of A M Lane Ltd's indemnity over any matter arising out of this report extends only to the instructing client, namely Mid Devon District Council.

Instruction

Conduct a visual inspection of the tree(s) based on the submitted application reference 18/01966/TPO.

To review the amenity value of the tree in the context of the submitted application.

¹ **Visual Tree Assessment:** in addition to the literal meaning, a system expounded by Mattheck & Breloer (1995) & D Lonsdale (1999) Principles of Tree Hazard Assessment & Management, DETR, to aid the diagnosis of potential defects through visual signs and the application of mechanical criteria.

Information provided

1.

- a. Application form, a photograph and a location plan.
- b. Highway tree safety inspection report by DCC.

Reasons For Work(s)

2. The proposed works are to part dismantle **a holm oak**; the following reasons have been cited
 - a. Tree has significant defect due to major crack between its two stems.
 - b. Large lateral stem over the road and is an unacceptable risk to the public and highway users

Description & Findings

1. The subject tree is a mature twin stemmed holm oak, located on the eastern corner of a mixed broadleaved copse at the end of Pedlerspool Lane where it joins Old Tiverton Road. The tree is growing in a 2m high raised bank above the road. (See Annex 1 and Plate 3 below)
2. There are obvious short range views of the tree from Old Tiverton Road, particularly as you approach it from the north west, it can also be seen from the main Crediton to Tiverton Road, as such it adds positively to the character of the area and is seen daily by numerous people using the road. It was noted that there is a further mature holm oak located on the western corner of the copse; the holm oaks are older and more prominent than the adjacent trees and are significant features that add appreciably to local amenity.
3. The tree is twin stemmed from the base, the northern stem leans slightly (to the north east) over Old Tiverton road, it bifurcates at approximately 5m. The bifurcation is partially hidden by ivy but looks to be normally formed; the southern stem leans (to the south west) into the copse. The tree appears to be in normal physiological health and has good vitality and crown density.
4. There is a historic wound at the base of the southern stem where an old stem appears to have failed many years ago, the decayed remnants of the old stem and its stump persist between the two remaining live stems. On the north side of the tree there is a vertical crack in the exposed wood of the old stump extending from ground level to the top of the old stump where the crack is some 2.5cm wide.
5. It appears that the crack may originate from the historic stem failure or may simply be the result of the exposed heartwood drying out and decaying over many years. There is no evidence found that the crack is actively propagating or of movement at the base of the tree.
6. Active load adaptive growth ribs are clearly evident on the tensile (inside) faces of both stems.
7. The northern stem of the tree appears to be firmly rooted in the bank and to be free from significant decay. There is exposed sapwood at the base associated with the old stump with callous formation noted at the edge of the exposed of it.
8. The northern stem or tree has undergone previous crown reduction and crown lifting over the highway, the pruning wounds appear to be free from decay and the upper crown has responded well to the reduction pruning
9. The tree is sheltered from the prevailing westerly and south winds by its location on the eastern side of the copse. There are further trees located on the north side of the lane which also provide shelter.

Application Appraisal

1. The application is to dismantle the northern stem (tagged as 993) to 1.5m above ground level, citing the crack between the two stems as a major defect and stating that the tree poses an unacceptable risk to road users.
2. The application is supported by a tree inspection report carried out by DCC in August 2018, the report identifies the presence of a large crack between the stems and the large stem over the road and concludes that the stem should be felled.
3. As described above the crack at the base of the tree between the two stems appears to be wholly within the old stump of a previously failed stem, rather than being a crack between the two remaining stems. Cracks may sometimes develop between codominant stems where there is a



weak embedded bark union and the union has begun to structurally fail by opening to form a crack. This is not in my opinion the case here with the two stems appearing to be growing essentially as two separate trees. There is a small area of bark to bark contact between the stems at the base on the south side (embedded bark) but they appear not to be joined above ground level by common annual rings.

4. The tree has evidently actively adapted to the described defect and the load imposed on both stems as evidenced by the observed growth ribs. Holm oak are considered to be structurally robust and are resilient to decay. There are no apparent signs of insipient failure or stem subsidence.
5. While the report by DCC states the probability of failure as moderate to high it does not provide an actual risk assessment for the tree by which to evaluate the risk of harm it may pose in relation to its surroundings, e.g. the road users. The tree has been subject to previous crown reduction to reduce its overall size and sail area such that it already has a reduced risk of failure given that the crown is smaller. If it is perceived to pose an unacceptable risk perhaps repeating the crown reduction could have been considered as an option rather than felling the tree.
6. Numerous people have written in objection to the proposed dismantling of the tree stem, the objectors have raised the following concerns:
 - Questions whether the works are really necessary, no evidence the tree is unsafe, risk assessment needed
 - Loss of habitat and potential harm to the local environment, loss of important tree of potential historic importance

Sandford Parish Council has written to say it has no objection subject to TPO conditions.

Plate 1: Showing the east side of the union and decayed remains of the historic third stem failure associated with the southern stem.



Plate 2: Showing the west side of the union and the oxidised remains of the historically failed stem with the observed crack.



Plate 3: Showing the subject trees from the northern approach along 'The Old Tiverton Road'. The arrow indicates the subject tree.



Summary

1. The subject tree, a mature holm oak is a reasonably prominent feature of Old Tiverton Road from the northern approach. It forms a significant part of the wider tree canopies thus making a significant contribution to the character of the area and to local amenity. The proposed felling of its northern stem would be detrimental to the local visual amenity of the tree, as well as exposing the remaining stem crown to a significant change in wind exposure.
2. There are no immediate signs of instability either at the roots or between the two stems to indicate imminent failure now or in the near future.
3. The application states that the tree poses an unacceptable risk to road users but no substantive evidence to support this claim has been submitted in the form of a qualified risk assessment. The observations of the base of the tree indicate that the probability of failure is not particularly high and as such the tree does not seem to pose an unacceptable risk of harm to road users or passers-by.
4. A risk assessment undertaken using the QTRA method (www.QTRA.org.uk) indicates that the risk of harm posed by the tree is within the broadly acceptable threshold thus felling on safety grounds is unjustified.

Formal Recommendations

1. I recommend the following:

- a. Refuse consent to part dismantle the holm oak.

Reasons:

- b. There is insufficient evidence to support the felling of the stem on safety grounds.
- c. The loss of the main stem would be detrimental to local amenity and detract from the character of the area.

I trust that this preliminary visual tree assessment provides sufficient information but if I can be of further assistance in this matter please do not hesitate to contact me.

Yours sincerely



A M Lane F. Arbor A., MIC For., MRICS, SFIIRSM, Tech IOSH, Tech Cert ARBOR A
Arboricultural Consultant, Chartered Forester & Chartered Surveyor

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Abbreviations & Glossary of Terms

(Glossary From: D Lonsdale, *Principles of Tree Hazard Assessment and Management*)

GL	Ground level
mm	Millimetres
m	Metres
N,E,S,W	Cardinal compass points and points between i.e. SW

Adaptive growth: in tree biomechanics, the process whereby wood formation is influenced both in quantity and in quality by the action of gravitational force and mechanical stresses on the cambial zone (THIS HELPS TO MAINTAIN A UNIFORM DISTRIBUTION OF MECHANICAL STRESS.)

Assessment: in relation to tree hazards, the process of estimating the risk which a tree or group of trees poses to persons or property. (THIS INVOLVES A VISUAL INSPECTION FOR DEFECTS AND CONTRIBUTORY SITE FACTORS, AND SOMETIMES ALSO A DETAILED INVESTIGATION OF SUSPECTED DEFECTS.)

Buttress [root]: a tree root that extends above ground as a platelike outgrowth of the trunk supporting the tree. The buttress formation normally creates a concave sweep between the roots to the trunk and is commonly symmetrically arranged around the bole. As trees mature so the buttresses become more pronounced.

Incipient failure: in wood tissues, a mechanical failure that results only in deformation or cracking, and not in the fall or detachment of the affected part.

Loading: a mechanical term describing the force acting on a structure from a particular source; e.g. the weight of the structure itself or wind pressure

Pruning: the removal or cutting back of twigs, branches or roots; in some contexts applying only to twigs or small branches only, but more often used to describe all kinds of work involving cutting.

Significant: in relation to health and safety, pertaining to hazards or risks which are deemed to exceed accepted standards of safety and which therefore require remedial or preventive action.

Targets: in tree hazard assessment (and with somewhat incorrect terminology), persons or property or other things of value, which might be harmed by mechanical failure of the tree or by objects falling from it.

Vigour: in tree assessment, an overall measure of the rate of shoot production, shoot extension or diameter growth (cf. **vitality**).

Visual Tree Assessment: in addition to the literal meaning, a system expounded by Mattheck & Breloer (1995) & D Lonsdale (1999) *Principles of Tree Hazard Assessment & Management*, DETR, to aid the diagnosis of potential defects through visual signs and the application of mechanical criteria.

Vitality: in tree assessment, an overall appraisal of physiological and biochemical processes, in which high vitality equates with healthy function (cf. **vigour**.)

Woundwood: wood with atypical anatomical features, formed in the vicinity of a wound; also a term sometimes used to describe the occluding tissues around a wound in preference to the ambiguous term "callus".

Annex 1: Approximate location of the Holm Oak as denoted by the red circle

Scale: Not To Scale – for location purposes only

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Aerial image courtesy of the Google



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LIST OF APPEAL DECISIONS FROM 7 November 2019

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
17/00072/RURAL	Appeal against	Land at Grid Reference 317450 110777 (Tickle Penny) Clayhidon Devon				Written Representations	Enforcement Notice Quashed
17/00072/RURAL	Appeal against	Land at Grid Reference 317450 110777 (Tickle Penny) Clayhidon Devon				Written Representations	Appeal Dismissed
18/01948/OUT	Outline for the erection of 5 dwellings	Land and Buildings at NGR 277638 93018 (East of Hill View) Cheriton Bishop Devon	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
19/01048/FULL	Removal of condition 2 of planning permission 19/00224/FULL for the fitting of a floating cover	Land at NGR 276531 99245 (Mardles Farm) Colebrooke Devon	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
18/00735/OUT	Outline for the erection of 7 dwellings with new access (Revised Scheme)	Land and Buildings at NGR 294119 106891 (Adjacent To Highfield) Bickleigh Devon	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
18/00518/MFUL	Erection of 40 dwellings, conversion of barns to 7 dwellings, formation of new accesses and car parking areas, with associated works including access and landscaping	Halberton Court Farm High Street Halberton Tiverton Devon EX16 7AW				Written Representations	Appeal Dismissed

Application No. 19/00118/MOUT

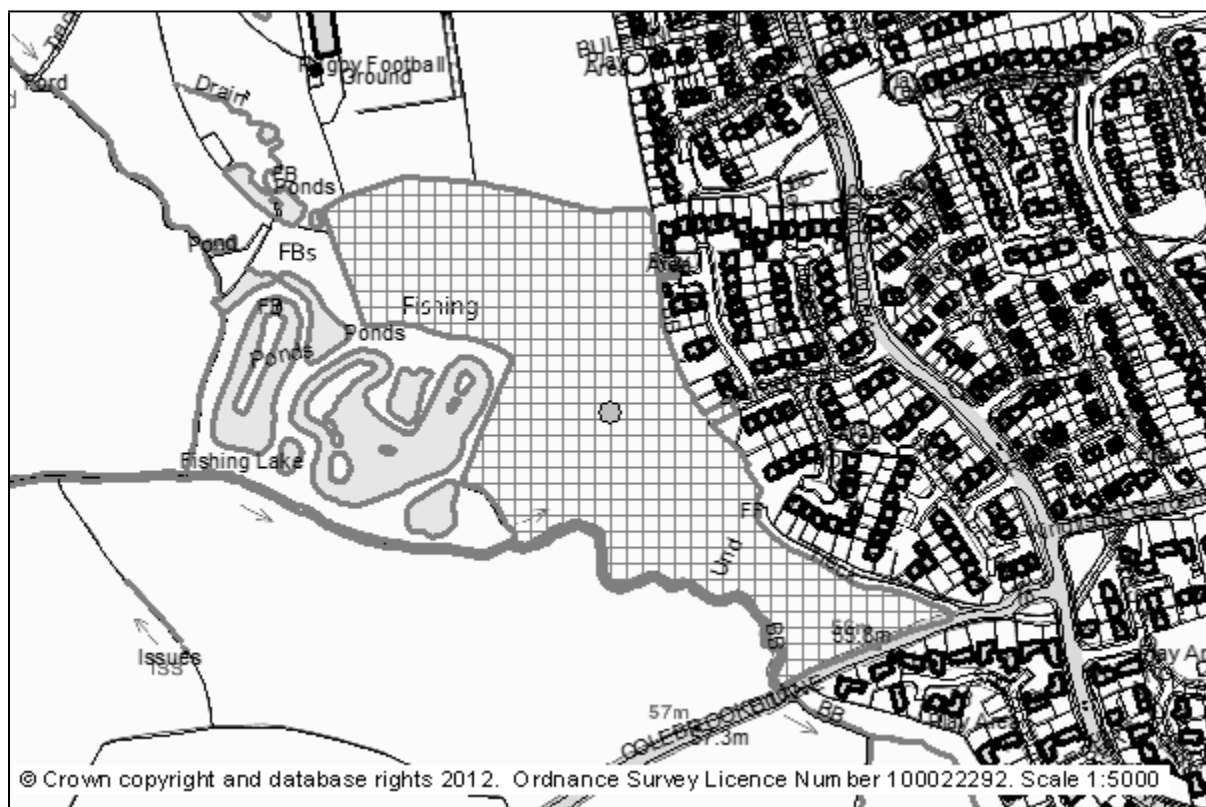
Grid Ref: 301216 : 106714

Applicant: Taylor Wimpey UK Ltd

Location: Land at NGR 301216 106714 (West of Siskin Chase)
Colebrooke Lane
Cullompton
Devon

Proposal: Outline for the erection of up to 105 dwellings, associated landscaping, public open space and allotments together with vehicle and pedestrian access from Siskin Chase and pedestrian access from Colebrooke Lane

Date Valid: 23rd January 2019



PLANNING COMMITTEE

25TH SEPTEMBER 2019

Outline for the erection of up to 105 dwellings, associated landscaping, public open space and allotments together with vehicle and pedestrian access from Siskin Chase and pedestrian access from Colebrooke Lane

Reason for Report: At their meeting on 5th June 2019, the Planning Committee resolved that the application be deferred for further discussions between Officers and the Agent/applicant to consider the possibility of a permanent vehicular access route from Colebrook Lane into the site.

RECOMMENDATION:

Grant permission subject to conditions and the prior signing of a S106 agreement to secure the following:

- 1) 35% affordable housing in accordance with a scheme to be agreed by the Local Planning Authority
- 2) Financial contribution of £7,500 per dwelling towards the provision of the Town Centre Relief Road
- 3) A financial contribution towards delivery of the new primary school of £4004.75 per dwelling, (equating to £420,498.00 for 105 dwellings).
- 4) A financial contribution towards secondary education facilities of £345,255.00 (based on 105 dwellings and the DfE extension rate of £21,921 per pupil).
- 5) A financial contribution towards Early Years provision for 2, 3 and 4 year olds of £26,250 (based on 105 dwellings at £250 per dwelling).
- 6) A financial contribution of £135,000.00 towards the maintenance/provision/improvement of the bus service
- 7) A financial contribution of £1457.32 per dwelling to the Royal Devon and Exeter NHS Foundation Trust towards maintaining service delivery during the first year of occupation of each unit of the accommodation in the development.
- 8) Implementation and monitoring of a Travel plan
- 9) Provision of public open space, allotments and play areas on site.
- 10) The transfer of an area of land to the north of the site to DCC or MDDC to ensure that unencumbered access may be provided in future to the land to the north, if required.

Should there be any changes to the s106 requirements listed above prior to the signing of the s106, these shall be referred back to planning committee for consideration

Financial Implications: An appeal may require the appointment of planning consultants to assist in the defence of the reasons for refusal. The applicant may make an application for costs on any appeal against the Council and such costs claims are made by demonstrating that there has been unreasonable behaviour. That being the case, Members must be able to clearly justify each and every reason for refusal in line with the development plan and all other material considerations. In the event of a public inquiry, the Council would also need to appoint Counsel to assist with the defence of the case, and if the Inspector found that the Council had behaved unreasonably in refusing the application, the Council would also be required to pay the applicants appeal costs.

Legal Implications: The report identifies the views of the highway authority as statutory consultee in the planning process. If members resolve to refuse the application on highway (or other) grounds they must be able to clearly justify each reason for refusal. There would be no support at the appeal from the Highway Authority. In the event of an appeal, the Council will need to prepare draft planning conditions for the appeal and negotiate and complete a section 106 agreement. External legal representation may be required if the appeal proceeds to a public inquiry.

Risk Assessment: If Committee decide to refuse the application for reasons that cannot be sustained at appeal there is a risk of a successful appeal costs claim against the Council for reasons of unreasonable behaviour. Those costs could be significant in the event of the appeal being heard by public inquiry.

Equality Impact Assessment: Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons with protected characteristics have been identified in the determination of this application.

Relationship to Corporate Plan:

Homes

- Facilitating the housing growth that Mid Devon needs, including affordable housing
- Planning and enhancing the built environment

Environment

- Protect the natural environment

Impact on Climate Change: Section 70 (2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that in determining a planning application, the determination must be made in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework represents up-to-date government planning policy and is a material consideration that must be taken into account where it is relevant to a planning application or appeal. This includes the presumption in favour of development found at paragraph 14 of the Framework. The climate emergency shall be considered through existing planning policies and any subsequent development plans.

1.0 Introduction/Background

- 1.1 At their meeting on 5th June, Members considered this proposal in detail following a site visit the previous day to view the site from Siskin Chase and Colebrooke Lane. A representative from the Highway Authority was also present at the meeting. Members were advised that the land was allocated for development in both the Allocations and Infrastructure Development Plan Document (Local plan part 2) and the emerging Local Plan Review. In both instances the policy sets out the requirement for 2 points of access from Siskin Chase. It does not state that any access from Colebrooke Lane is required.
- 1.2 The outline application has all matters except access reserved for future consideration and therefore access falls to be determined under this application.
- 1.3 The application is accompanied by a Transport Assessment which includes a stage 1 road safety audit. No concerns have been raised either in the road safety audit, or by the Highway Authority as statutory consultee with regards to the proposed use of Siskin Chase for access into the development.

2.0 Local Plan Review Update:

- 2.1 Since the application was last considered by Planning Committee, the Council has been able to assess the Inspectors post hearing advice note and has published the draft Housing Land Supply Update. Within that document, it advises that the site was previously included in the Local Plan review on the basis of being a contingency site. Devon County Council has advised that the site is not dependent upon

significant additional highways infrastructure. A main modification has been proposed to remove the contingency status of this site and instead include this in the LPR as a standard housing allocation. As such this site is now included as part of the housing trajectory. This change follows the Inspectors suggestion in his advice note of bringing forward contingency sites and those currently restricted in terms of timing with no good reason. However, Members are advised that this document is in draft, has not been ratified by members and therefore is not the formal position of the council. As a result, no significant weight can be attributed to the document as a material consideration in the determination of this application.

3.0 Reasons for deferral:

3.1 At their meeting on 5th June 2019, the Planning Committee resolved that the application be deferred for further discussions between Officers and the Agent/applicant to consider the possibility of a permanent vehicular access route from Colebrook Lane into the site.

3.2 Following the meeting on 5th June, your officers have approached the applicant with regards to the possibility of vehicular access from Colebrooke Lane. The applicant has advised as follows:

'As you are aware, we gave an undertaking through the application process to secure a temporary construction access from Colebrooke Lane in order to remove the need for construction access to use Siskin Chase.

However, during the Planning Committee's consideration of the planning application, certain Members sought this temporary construction access as a permanent means of secondary access for the development.

A secondary vehicular access is not required by the site-specific policy in the Local Plan (which specifically requires access from Siskin Chase). Moreover, the need for such an access has not been identified in the submitted Transport Assessment, Road Safety Audit or in relation to the consultation response received from County Highways. Quite rightly, officers made it clear to Members that a secondary point of vehicle access is not required and nor is it necessary.

Nevertheless, Members resolved to defer a decision on the application in order to ask Taylor Wimpey to review their position.

That review has been undertaken and Taylor Wimpey would not raise an objection in principle should the Council resolve to require the temporary access for construction traffic shown on Plan 173040_G_09 to become a permanent means of secondary access/egress.

However, and for the avoidance of doubt, this position is subject to the following caveats:

- a) In so far as there is no policy and/or highway safety basis to require provision of this additional means of access, any off-site highway works for the provision of footpaths, street lighting and/or junction enhancements to Colebrooke Lane or Swallow Way will not be funded by Taylor Wimpey. We have discussed the latter with the County Council and they have confirmed that they would not be willing to pay for these works. Accordingly, if the secondary point of access was something the Council wanted to explore they would need to fund the off-site works (i.e. anything beyond the new access point from Colebrooke Lane and the application site). These works would then need to be carried out by County Highways (or an appointed contractor)*

under s278 works. Taylor Wimpey would take no liability for failure to complete such works in terms of highway safety or under CDM guidelines

- b) *Finally, the land referenced in your email dated 20 June 2019 has a restriction on its title in favour of third parties. Accordingly, their agreement will be needed in order to facilitate improvements to the Colebrook Lane / Swallow Way junction. That is not a matter for Taylor Wimpey. It is for the Council and County Highways to resolve. However, it should not and must not further delay the determination of the application; not least because of the satisfactory means of access already proposed via Siskin Chase. On the basis of the foregoing, providing a secondary means of access from Colebrook Lane is not required by Council policy and nor is it required for highway safety reasons. County Highways have not raised an objection to the proposed access arrangement from Siskin Chase, the provision of which accords with the Council's policy for development of the site.*

As such, it is not practicable to expect Taylor Wimpey to fund a secondary means of access on this basis'

- 3.3 Officers have also discussed the proposal with DCC Highways. The Highway Authority have advised that they would welcome a secondary access onto Colebrook Lane, in addition to one from Siskin Chase, not instead of it. They advise that in order to achieve access from Colebrook Lane it would need to be widened to a width of 5.5m to allow two vehicles to pass.

They have clarified that Colebrook Lane (leading to the site from Swallow Way) needs to be wider than Siskin Chase due to the conflict between residential traffic and the HGVs which regularly visit the grain store to the west. 'Manual for Streets' requires a minimum width of 5.5m to allow an HGV to pass another HGV at slow speed and to comfortably pass a private car. Therefore given the increased likelihood of a private vehicle coming into conflict with an HGV on Colebrook Lane, the wider road is preferred.

The existing narrowing in Siskin Chase is a standard speed reducing feature utilised on residential estates and is a standard detail in the Devon design guide. The retention of this feature is seen as a safety benefit rather than a safety concern.

The issue of parked cars on the existing highway at Siskin Chase is an enforcement issue under the Highways Act. Under the Act, there are no rights for anyone to park on the public highway and to do so and cause an obstruction to the primary definition of a highway (to allow all road users to pass and repass) can be prosecuted by the police, if no specific restrictions are in place or through civil enforcement, if a traffic regulation order (TRO) is in force. There are no TRO's in Siskin close at this time nor do the Highway Authority wish to see any, but through the section 38 agreement when the site is developed their introduction is an option. However it is written in the Highways Act that a land owner has the right to access the public highway provided it is safe to do so. Therefore the developer has demonstrated that a safe access can be achieved and the course of action open to the Highway Authority if the parking does present an issue is to introduce a TRO. Therefore parking on the highway is for the Highways Act and not the Town and Country Planning Act.

- 3.4 The Environment Agency were asked by Officers to provide their views of a vehicular access being provided through land which is designated as flood zone 3.

The Environment Agency have advised that removal of the hedgebank that separates the development sites from Colebrook Lane for the purpose of creating a highway link would have the potential to increase the risk of floodwater flowing onto Colebrook Lane and nearby residential property. In addition the main highway link into the development

would be at risk of flooding meaning that access/egress to vehicles/cyclists and pedestrians would be problematic and potentially dangerous in certain circumstances.

On this basis, members are advised that it would not be appropriate to require a permanent vehicular access into the site on flood risk grounds.

- 3.5 Officers have looked into the land ownership arrangements in terms of the provision of an access at Colebrook Lane. The land required for the widening of Colebrooke Lane is not within the control of the applicant or the Highway Authority. Evidence collated by officers suggests that land ownership would not be an insurmountable barrier to the widening of Colebrooke Lane.

In a recent appeal at Exeter Hill, Tiverton (ref: 17/00942/MOUT) the Authority drew the Inspectors attention to the fact that a 'triangle' of land which was required to mitigate the highway safety harm identified at a junction did not form part of the public highway nor was it in the control of the appellants. With regards to this point, the Inspector stated, *'I am mindful that the Planning Practice Guidance (PPG) advises that such conditions (negatively worded condition to secure those works prior to development commencing) should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the condition. That is a very high bar. Whilst I note that concerns of the Council, Local Highway Authority and local residents about the status of the land, I find no substantive evidence that the land could not become available for the required works. The very high bar set for not imposing a condition in the PPG is therefore not met and I find that one could be used to prevent any development commencing until the junction improvements had been provided. I therefore, find that a condition could mitigate the identified harm.'*

- 3.6 Three further letters of objection have been received since the previous planning committee, reiterating concerns about highway safety in relation to both Siskin Chase and Colebrooke Lane, the wider impact on traffic in the town centre and that a policy document is a live document which must be reviewed as circumstances arise. It is considered that the planning issues raised are covered in this and the previous report.

4 Conclusion

- 4.1 The Environment Agency have identified concerns with regards to the impact on flood risk from a permanent vehicular access being provided onto Colebrook Lane
- 4.2 The developers have already taken on board the concerns of the residents about construction traffic and have proposed that all construction traffic is brought to site via Colebrooke Lane
- 4.3 The Highway Authority are satisfied that Siskin Chase can provide vehicular access to the application site to the required standard and do not have any highway safety concerns regarding its provision
- 4.4 The adopted AIDPD policy and that within the LPR require access from Siskin Chase, not Colebrooke Lane
- 4.5 The tilted balance in paragraph 11 of the NPPF applies to the determination of this application. The application should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF, taken as a whole. (officers underlining for emphasis)

The Officer recommendation remains one of approval, subject to the prior signing of a s106 (as set out at the top of this report) and the conditions and reasons set out below which have been reviewed since the previous committee to delete condition 18 which was found to be unnecessary:

CONDITIONS

1. Before any part of the development hereby permitted is begun, detailed drawings of layout, scale and appearance of the buildings, and the landscaping of the site (hereinafter called the Reserved Matters) shall be submitted to and approved in writing by the Local Planning Authority.
2. Application(s) for approval of all the Reserved Matters shall be made to the Local Planning Authority before the expiration of two years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of two years from the date of this permission, or before the expiration of two years from the date of approval of the last of the Reserved Matters which have been approved, whichever is the later.
4. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
5. The detailed drawings required to be submitted by Condition 1 shall include the following information: boundary treatments, existing and proposed site levels, finished floor levels and materials, details of all areas of public open space and green infrastructure, arboricultural method statement and tree protection plan, to include engineering details for any areas of no-dig construction and cabling for electric vehicle charging points at a rate of one per residential property
6. No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Flood Risk Assessment and Drainage Strategy (Ref. 173040; dated December 2018) and the additional information contained within the letter RE: West of Siskin Chase, Cullompton (dated 13th March 2019).
7. No part of the development hereby permitted shall be commenced until the full details of the adoption and maintenance arrangements for the proposed permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority.
8. No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site.
9. Details of an inspection regime in respect of the installation of the surface water drainage management system, including any attenuation ponds and outflows, shall be submitted to and approved in writing by the Local Planning Authority before its installation begins. The inspection regime shall include details of key stages of the installation to be signed off by a drainage engineer or other qualified professional and confirmation provided in writing to the Local Planning Authority that each stage of the

installation has been provided in accordance with the details approved under Condition 6.

10. No development approved by this permission shall commence until details of finished floor levels of property, and landscaping between the existing ponds and properties, have been submitted to, and agreed in writing by the local planning authority
11. No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.
12. Before the development hereby approved is commenced, a site investigation and risk assessment shall be carried out to determine the nature and extent of land contamination that may be present and the likely impact on all receptors that may result. A full report of the investigation and risk assessment shall be forwarded to the Local Planning Authority for approval in writing. No work shall proceed on site until either the Local Planning Authority grants written consent for the development to commence or the requirements of condition 13 below are met.
13. Where actual or probable significant pollutant linkages are found following the investigation and risk assessment required by condition 12 above, the applicant shall submit a remediation statement together with a timescale for completion of the required works for approval in writing by the Local Planning Authority.
14. Following completion of any works required by condition 13 above, a remediation validation report shall be submitted to the Local Planning Authority for approval in writing. Occupation on the site, or parts of the site affected by land contamination, shall not take place until approval of the validation report has been granted in writing by the Local Planning Authority.
15. No development shall begin until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include:
 - A. the timetable of the works and a phasing plan;
 - B. daily hours of construction;
 - C. any road closure;
 - D. hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays including 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the Planning Authority in advance;
 - E. the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - F. The proposed route of all construction traffic to include the temporary use of an access from Colebrook Lane;
 - G. the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - H. areas on site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
 - I. hours during which no construction traffic will be present at the site;

J. the means of enclosure of the site during construction works;
K. details of wheel washing facilities and obligations, and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways;
L. photographic evidence of the condition of adjacent public highway prior to commencement of any work;
M. the steps and procedures to be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development. Once approved in writing by the Local Planning Authority, the works on site shall be carried out in accordance with the approved CEMP unless a subsequent variation is agreed in writing by the Local Planning Authority.

16. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.
17. No development shall take place until details of the layout and construction of the construction access from Colebrook Lane have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before the development is brought into use.

REASONS FOR CONDITIONS

1. The application was submitted as an outline application in accordance with the provisions of Articles 4 & 5 of The Town and Country Planning (Development Management Procedure) Order 2010.
2. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 however the timescales have been reduced to reflect the fact that the site is a contingency site and is being brought forward to increase the supply of housing.
3. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 however the timescales have been reduced to reflect the fact that the site is a contingency site and is being brought forward to increase the supply of housing.
4. For the avoidance of doubt and in the interests of proper planning
5. To enable the Local Planning Authority to consider whether adequate provision is being made for the matters referred to in the condition.
6. To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems.
7. To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development.
8. To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.

9. To ensure that the surface water drainage management system operates effectively to reduce the risk of flooding elsewhere in the Cullompton Critical Drainage Area. This is required prior to commencement of any works to demonstrate that the system manages surface water safely and does not increase flood risk downstream.

10. To safeguard property adjacent an existing ponds from the consequences of a scenario of water discharging from them. Several of the proposed properties would sit adjacent to several existing ponds. The ponds are higher in level than the proposed houses. As such measures should be put in place to safely manage any water that may discharge from the ponds.

11. To ensure, in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development.

12. In the interests of public health and the protection of the environment

13. In the interests of public health and the protection of the environment

14. In the interests of public health and the protection of the environment

15. To minimise the impact on the highway network and on nearby residential properties during the construction period.

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

17. To ensure the layout and construction of the access is safe in accordance with the National Planning Policy Framework.

Contact for more Information: Mrs A Fish, Area Team Leader, ext. 4266
afish@middevon.gov.uk

Circulation of the Report: None

List of Background Papers: All documents submitted in relation to application 19/00118/MOUT and development plan documents

Application No. 19/00118/MOUT

Original Report

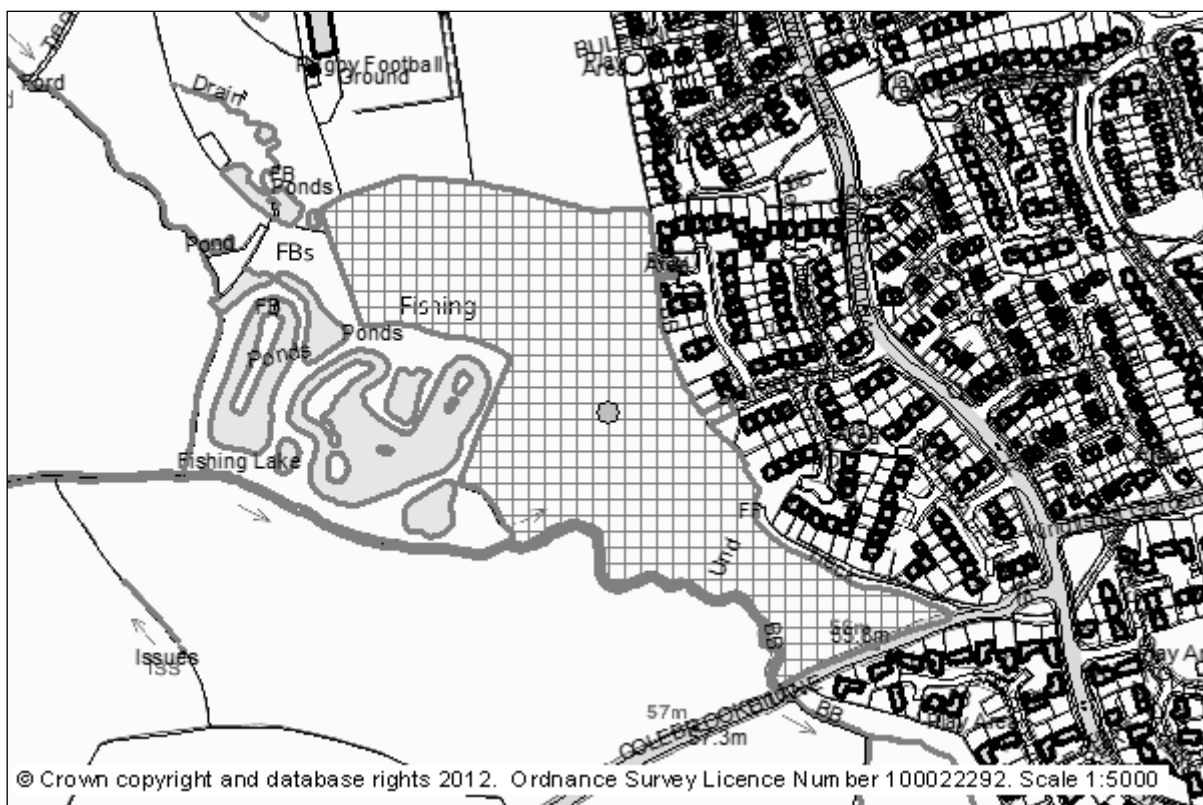
Grid Ref: 301216 : 106714

Applicant: Taylor Wimpey UK Ltd

Location: Land at NGR 301216 106714 (West of Siskin Chase)
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Proposal: Outline for the erection of up to 105 dwellings, associated landscaping, public open space and allotments together with vehicle and pedestrian access from Siskin Chase and pedestrian access from Colebrooke Lane

Date Valid: 23rd January 2019



APPLICATION NO: 19/00118/MOUT

RECOMMENDATION

Grant permission subject to conditions and the prior signing of a S106 agreement to secure the following:

- 1) 35% affordable housing in accordance with a scheme to be agreed by the Local Planning Authority
- 2) Financial contribution of £7,500 per dwelling towards the provision of the Town Centre Relief Road
- 3) A financial contribution towards delivery of the new primary school of £4004.75 per dwelling, (equating to £420,498.00 for 105 dwellings).
- 4) A financial contribution towards secondary education facilities of £345,255.00 (based on 105 dwellings and the DfE extension rate of £21,921 per pupil).
- 5) A financial contribution towards Early Years provision for 2, 3 and 4 year olds of £26,250 (based on 105 dwellings at £250 per dwelling).
- 6) A financial contribution of £135,000.00 towards the maintenance/provision/improvement of the bus service
- 7) A financial contribution of £1457.32 per dwelling to the Royal Devon and Exeter NHS Foundation Trust towards maintaining service delivery during the first year of occupation of each unit of the accommodation in the development.
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- 9) Provision of public open space, allotments and play areas on site.
- 10) The transfer of an area of land to the north of the site to DCC or MDDC to ensure that unencumbered access may be provided in future to the land to the north, if required.

Should there be any changes to the s106 requirements listed above prior to the signing of the s106, these shall be referred back to planning committee for consideration

PROPOSED DEVELOPMENT

This is an outline application to establish the principle of development on the site, with all matters such as appearance, landscaping, layout and scale reserved for future consideration within any reserved matters application. The access is the one matter for which approval is sought as part of this application.

The site is located to the south west of Cullompton and is currently an irregularly shaped agricultural field accessed by way of a field gate off Colebrook Lane, which lies along the southern boundary of the site. The site slopes gently downwards in a broadly north to south direction. To the north of the site is the Cullompton Rugby club land, to the east is the existing residential development of Siskin Chase and to the west of the site are open fields.

The application is accompanied by an indicative layout plan and should be treated as such. It indicates how 105 dwellings, areas of open space and estate roads may be accommodated and laid out on site but should not be considered as an approved or final layout as this would be established at reserved matters stage.

The location of the access to the site, does form part of the consideration of this application. Vehicular access is proposed off the existing cul-de-sac known as Siskin Chase. Further pedestrian access is proposed to the south of the existing play area at the northern most end of Siskin Chase. A further pedestrian/cycle access is proposed at the southern end of the site out onto Colebrook Lane and at the northern end of the site which borders with the Rugby Club land.

The submitted indicative layout plan indicates areas of Public Open Space towards the southern end of the site, adjacent to Colebrook lane together with an area of allotments.

APPLICANT'S SUPPORTING INFORMATION

Arboricultural Impact Assessment Report
Design and Access Statement
Draft Heads of Terms
Ecological Impact Assessment
Energy and Sustainability Statement
Flood Risk Assessment and Drainage Strategy
Heritage Statement
Landscape and Visual Impact Assessment
Planning Statement
Statement of Community Involvement
Transport Assessment
Tree Constraints Plan
Tree Protection Plan
Waste Audit Statement
Transport Assessment
Various plans

RELEVANT PLANNING HISTORY

18/01826/SCR - CLOSED date 16th November 2018

Request for Screening Opinion in respect of proposed development of 105 dwellings together with associated amenity and open space provision landscape and access from Siskin Close

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 Sustainable Communities
COR2 Local Distinctiveness
COR3 Meeting Housing Needs
COR8 Infrastructure Provision
COR9 Access
COR11 Flooding
COR14 Cullompton

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

AL/DE/3 Affordable Housing Site Target
AL/DE/4 Occupation of Affordable Housing
AL/IN/2 Development without Community Infrastructure Levy
AL/IN/3 Public Open Space
AL/IN/4 Green Infrastructure
AL/IN/5 Education Provision
AL/CU/15 Cullompton Air Quality
AL/CU/20 Colebrook

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 Presumption in favour of sustainable development
DM2 High quality design
DM4 Waste management

DM6 Transport and air quality
DM8 Parking
DM28 Green infrastructure in major developments

CONSULTATIONS

FLOOD and COASTAL RISK MANAGEMENT TEAM – 7th March 2019

At this stage, we object to this planning application because we do not believe it satisfactorily conforms to Policy DM2, specifically part (f), of Mid Devon District Council's Local Plan (Adopted October 2013), which requires developments to include sustainable drainage systems. The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

The applicant has submitted greenfield runoff rates using the "developable area" of 2.9ha. However, Devon County Council require greenfield rates to be calculated using impermeable area only which as stated to be 1.74ha in section 6.23 in the FRA. Please submit revised calculations using the impermeable site area only.

Section 6.37 states that "The detention basin and swale could be maintained by the Local Authority, funded by a commuted sum". The local authority will not be able to take on maintenance responsibilities therefore SuDS features will need to be passed to a private maintenance company upon completion.

FLOOD and COASTAL RISK MANAGEMENT TEAM - 17th April 2019

Observations:

Following my previous consultation response (FRM/MD/00118/2019; dated 7th March 2019), the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

Groundwater was encountered during the site investigation (dated May 2018). Groundwater will need to be accounted for within the design of the surface water drainage system. The excavation of a basin or tank will need to account for groundwater, these structures will also need to account for any effects (such as flotation) which can occur due to high groundwater levels. If groundwater is not monitored within the vicinity of the storage features then a conservative level should be used (at the moment a groundwater record of 0.2m below ground level is close to the proposed storage feature).

A SuDS Management Train should be implemented to ensure that surface water is well treated before being discharged to the watercourse. If an attenuation tank is proposed then a robust statement will need to be submitted at the next stage of planning to clarify why an above-ground feature cannot be implemented. If an attenuation tank is proposed then above-ground features will still be needed to ensure sufficient treatment of surface water. If a storage feature formed by bunds is proposed, then the Local Planning Authorities Landscape Officer may need to review this.

Recommendation:

Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that the following pre-commencement planning conditions are imposed on any approved permission:

No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Flood Risk Assessment and Drainage Strategy (Ref. 173040; dated December 2018)

and the additional information contained within the letter RE: West of Siskin Chase, Cullompton (dated 13th March 2019).

Reason: To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems.

Reason for being a pre-commencement condition: A detailed permanent surface water drainage management plan is required prior to commencement of any works to demonstrate that the plan fits within the site layout, manages surface water safely and does not increase flood risk downstream.

No part of the development hereby permitted shall be commenced until the full details of the adoption and maintenance arrangements for the proposed permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority.

Reason: To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development.

Reason for being a pre-commencement condition: These details need to be submitted prior to commencement of any works to ensure that suitable plans are in place for the maintenance of the permanent surface water drainage management plan, for the reason above.

No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site.

Reason: To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.

Reason for being a pre-commencement condition: A plan needs to be demonstrated prior to the commencement of any works to ensure that surface water can be managed suitably without increasing flood risk downstream, negatively affecting water quality downstream or negatively impacting on surrounding areas and infrastructure.

Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

HISTORIC ENVIRONMENT TEAM - 30.01.19

I refer to the above application and your recent consultation. The proposed development site lies in an area of archaeological potential with regard to known prehistoric and Romano-British activity within Cullompton and in the surrounding landscape. The geophysical survey undertaken in support of this application does not indicate the presence of any significant heritage assets with archaeological interest within the proposed development site. However, several anomalies have been identified that indicate the presence of archaeological deposits that will be affected by the proposed development. As such, the impact of development upon the archaeological resource here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets and archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2018) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013), that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason

To ensure, in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

I would envisage a suitable programme of work as taking the form of a staged programme of archaeological works, commencing with the excavation of a series of evaluative trenches to determine nature and significance of anomaly 8, as identified in the geophysical survey report, any further mitigation here would depend upon these results. In addition, the south-eastern part of the site should be subject to strip, map and recording where the survey has identified discrete anomalies that may be pits. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to:

<https://new.devon.gov.uk/historicenvironment/development-management/>.

HISTORIC ENVIRONMENT TEAM - 26.03.19

I refer to your recent re-consultation. The Historic Environment Team have no additional comments to make to those already made,

PUBLIC HEALTH - 05.02.19

Contaminated Land:

The proposed development may be on land affected by land contamination resulting from previous or current land use(s) on or adjacent to the development site.

Recommended conditions:

1) Before the development hereby approved is commenced, a site investigation and risk assessment shall be carried out to determine the nature and extent of land contamination that may be present and the likely impact on all receptors that may result. A full report of the investigation and risk assessment shall be forwarded to the LPA for approval. No work shall proceed on site

until either the LPA grants written consent for the development to commence or the requirements of condition (2) below are met.

2) Where actual or probable significant pollutant linkages are found following the investigation and risk assessment required by condition (1) above, the applicant shall submit a remediation statement together with a timescale for completion of the required works for approval in writing by the LPA.

3) Following completion of any works required by condition (2) above, a remediation validation report shall be submitted to the LPA for approval in writing. Occupation on the site, or parts of the site affected by land contamination, shall not take place until approval of the validation report has been granted.

Reason: In the interests of public health and the protection of the environment

Informative note: It is recommended that applicants, agents and developers take specialist consultant advice before complying with these conditions.

Air Quality:

Given that Cullompton is in an Air Quality Management Area (AQMA), the recorded concentrations of relevant traffic related Nitrogen Dioxide (NO₂) pollution is high and concerns are that developments within the area might contribute to the deterioration of poor air quality in certain locations.

These concentrations apply to areas where there is residential exposure in the town-centre and consequently, all major development in Cullompton area giving rise to new traffic trips within the town has to be managed carefully.

Recent monitoring data in the vicinity of the area indicates that the development may contribute to a deterioration in air quality and in certain locations, exceedances of the national air quality objectives (Air Quality Regulations - Part IV of Environment Act 1995) for nitrogen dioxide and particulates. This is due to the mass of emissions arising from transport movements generated by the proposal during both construction and operational phases and by increased trips through the town centre.

As such, an adequate and comprehensive proactive assessment and mitigation of air quality concerns is required. A Low emission assessment, which accounts for the cumulative impact of development within the AQMA as a whole, should be provided.

To assess the air quality impact we will require further information in order to consider air quality constraints adequately'

- An integrated Transport Assessment, traffic pollution mass emission assessment and low emission strategy (LES) which takes account of the cumulative effect on local air quality of the proposed development alongside other proposed new developments within the AQMA. Furthermore, within the LES, sets out defined changes arising from a range mitigation measures/options.

- Consideration to be given to a planning obligation/s106 agreement contribution to the delivery of the Cullompton Air Quality Action Plan to ensure the proposed development is acceptable in planning terms.

A report of the above assessments and its recommendations shall be submitted for consideration to the Local Planning Authority for consultation with Public Health and Regulatory Services prior to any decision on the proposal.

Environmental Permitting:

No objection to this proposal

Drainage:

No objection to this proposal

Noise & other nuisances:

Before the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. Once approved the CEMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

PUBLIC HEALTH 1st May 2019

Air Quality update:

The Air Quality and low emissions assessment provided for the proposed residential development at Siskin Chase, Cullompton, is now considered acceptable. Taking into account the cumulative traffic, the results show that the development will not cause exceedances of the air quality objectives, and the impact of the development is considered to be satisfactory.

Necessary migration can therefore be secured by appropriate conditions and/or through the s106.

RSPB - 13th February 2019 - Thank you for inviting the RSPB to comment on the above application, we are pleased to see that provision will be made for building dependant bird species.

We are concerned that the numbers recommended are less than is currently accepted best practice as described in RIBA Publishing's Building for Biodiversity 2nd Edition 2016:

The latest guidance from the Town and Country Planning Association and The Wildlife Trusts, Planning for a Healthy Environment: Good Practice for Green Infrastructure and Biodiversity (2012), uses guidelines from Exeter City Council's Supplementary Planning Document Residential Design (available at: www.exeter.gov.uk/index.aspx?articleid=127302010). It recommends that nesting and roosting boxes be included as part of the fabric of the building for building-reliant birds (e.g. swift, swallow and house martin) and bats and birds associated with urban areas (e.g. house sparrow and starling). As a guideline, the number of built-in provisions of nest or roost sites per development should be approximately the same as the number of residential units. However, this provision would be located in the parts of the site suitable for the species in question and can be in residential or non-residential buildings.

We have come to the conclusion that as nest cups for swallows and house martins are retro-fitted, need ongoing maintenance and are easily removed they should not be conditioned but left to the discretion of the new occupiers

We are also concerned that equal numbers of bat tubes to bird nest boxes makes limited ecological sense as the types of bat that use the former tend to roost in groups and a bird box will only be used by one pair at a time !!

In Exeter recently Taylor Wimpey have concurred with this advice and are fitting a much higher ratio of bird boxes to bat tubes.

We strongly recommend that the number of bird boxes are increased and made a condition if planning consent is granted.

RSPB - 25 March 2019

Thank you for asking us to comment on the above, these are unchanged from our previous comments, the attached from Action for Swifts which we fully endorse may be helpful.

DEVON COUNTY EDUCATION - 13.02.19

Regarding the above application, Devon County Council has identified that the proposed increase of 105 family type dwellings will generate an additional 26.25 primary pupils and 15.75 secondary pupils which will have a direct impact on primary schools in Cullompton and Cullompton Community College.

In order to make the development acceptable in planning terms, an education contribution to mitigate its impact will be requested. This is set out below:

Primary School Provision:

Devon County Council has already forward funded schemes at Willowbank Primary School and St Andrew's Primary School to provide capacity for future development and increasing demographics within the town. The cost of these expansion projects will be recouped from development in the town as it comes forward. Additionally, a new primary school is proposed as part of the NW Urban extension which is necessary to ensure sufficient pupil places for children living within the town. The new primary school will also be funded by development.

The County Council has indicated in our responses to other planning applications across the town (17/01170/MOUT, 17/01178/MFUL and 17/01346/MOUT) that pupils from 200 dwellings can be accommodated at the expanded schools. As such, the first 200 dwellings approved in the town will be required to pay the DfE extension rate of £13,652 per pupil (£3,413 per dwelling, equating to £358,365.00 for this development). Development beyond the first 200 dwellings approved will be required to contribute towards the delivery of the new primary school, and will therefore be required to pay the DfE new build rate of £16,019 per pupil (£4004.75 per dwelling, equating to £420,498.00 for this development). Therefore the amount requested from this development will be dependent upon the time of determination. This request relates directly to providing education facilities for those living in the development.

Secondary School Provision:

Although Cullompton Community College has some forecast 'spare' capacity available, this is expected to be filled by sites allocated in the submission Local Plan. As this site is a contingency site in the Local Plan, it is not considered to be allocated and therefore a proportion of this spare capacity has not been assigned to this application site. As such, a contribution towards secondary expansion is expected to be required from the development. The contribution sought would be £345,255.00 (based on the DfE extension rate of £21,921 per pupil). This will relate directly to providing education facilities for those living in the development.

Early Years Provision:

In addition, a contribution towards Early Years provision would be needed to ensure delivery of provision for 2, 3 and 4 year olds. This is calculated as £26,250 (based on £250 per dwelling). This will be used to provide early years provision for pupils likely to be generated by the proposed development.

All contributions will be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on March 2015 rates and any indexation applied to contributions requested should be applied from this date.

The amount requested is based on established educational formulae (which related to the number of primary and secondary age children that are likely to be living in this type of accommodation). It is considered that this is an appropriate methodology to ensure that the contribution is fairly and reasonably related in scale to the development proposed which complies with CIL Regulation 122.

If this application reaches the stage of preparing a S.106, it is considered that the contribution can be allocated in accordance with the pooling regulations set out in the CIL Regulation 123.

NATURAL ENGLAND - 1 February 2019

Natural England has no comments to make on this application.

Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

Natural England and the Forestry Commission have also published standing advice on ancient woodland and veteran trees which you can use to assess any impacts on ancient woodland.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>

NATURAL ENGLAND – 25th March 2019.

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 01 February 2019.

The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal.

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult.

DEVON, CORNWALL & DORSET POLICE

Police have no objections in principle to this proposal. It is appreciated that at this time it is an outline application, as such I am unable to comment in depth as the only available proposed layout

drawing does not reveal many, if any details that would be of concern to the police. However, the reference to Crime Prevention within the Design and Access Statement is noted and welcomed. The seven attributes of Crime Prevention Through Environmental Design (CPTED) are key to ensuring a safe and sustainable community, in addition to the layout the physical security is now a consideration.

Planning applications should demonstrate, generally in the Design and Access Statement, how the principles of Crime Prevention through Environmental Design (CPTED) combined with the principles and practices of Secured by Design (SBD) have been considered and incorporated into the design and layout of all new developments. This helps provide reassurance and will ensure a consistent level of security throughout and opportunities for crime, the fear of crime, ASB and conflict are minimised.

CPTED principles:-

'Access and movement - Places with well-defined and well used routes with spaces and entrances that provide for convenient movement without compromising security.

'Structure - Places that are structured so that different uses do not cause conflict.

'Surveillance - Places where all publicly accessible spaces are overlooked.

'Ownership - Places that promote a sense of ownership, respect, territorial responsibility and community.

'Physical protection - Places that include necessary, well-designed security features.

'Activity - Places where the level of human activity is appropriate to the location and creates a reduced risk of crime and a sense of safety at all times.

'Management and maintenance - Places that are designed with management and maintenance in mind, to discourage crime.

Having reviewed the available outline masterplan, which I accept may change, please note the following information, initial advice and recommendations from a designing out crime, fear of crime, antisocial behaviour (ASB) and conflict perspective:-

The one main access into the development creates strong active frontages with good neighbourly surveillance opportunities to deter criminal activity and anti-social behaviour (ASB).

I would advise that for all plots that private front gardens are suitably defined. Open frontage, particularly but not exclusively on corner plots, can for many reasons frequently lead to community conflict, for example, desire lines for pedestrians and cyclists are created, dog fouling, ball games and anti-social behaviour.

Perimeter security is one the basic principles of crime prevention, being the first line of defence against unwanted trespassers, as such all rear boundary treatments must be 1.8m high, as a minimum requirement, and be solid and robust to prevent being breached. If more surveillance is required or 1.8m would feel too closed in for smaller gardens then a 1.5m solid structure with a .3m trellis topping would be acceptable. It is accepted that on some occasions gradients of land or other permanent solid structures can have an impact on the need, choice and height of boundary treatments but these should be assessed on their own merits to ensure the boundary treatment is appropriate to any potential risk of trespass.

Where dwellings are adjacent to public open space, (POS), considerations should be given to the inclusion of defensive planting as part of clear boundary definition for private and public space.

Any proposed pedestrian routes must not run to the rear of and provide access to gardens, rear yards / parking courts or dwellings as this has been proven to generate crime and anti-social behaviour (ASB).

If existing hedgerow is likely to comprise new rear garden boundaries as appears will be the case then it must be fit for purpose. They should be of sufficient height and depth to provide both a consistent and effective defensive boundary as soon as residents move in. If additional planting will be required to achieve this then temporary fencing may be required until such planting has matured. Any hedge must be of a type which does not undergo radical seasonal change which would affect its security function.

With regard to the proposed allotments, which can be the target of crime and ASB, consideration must be given to appropriate security measures with for example the inclusion of a robust perimeter fence and gates.

DEVON, CORNWALL & DORSET POLICE –

Thank you for this application.

Police have no additional comments to those of 4th February 2019.

Kind regards

ENVIRONMENT AGENCY - 08.05.19

Thank you for consulting us on this application.

Environment Agency position

The development will be acceptable provided that a condition regarding flood resilience is included within any permission granted.

The suggested wording for our recommended condition is set out below, together with associated advice on flood risk.

Condition

No development approved by this permission shall commence until details of finished floor levels of property, and landscaping between the existing ponds and properties, have been submitted to, and agreed in writing by the local planning authority.

Reason - To safeguard property adjacent an existing ponds from the consequences of a scenario of water discharging from them.

Advice - Flood Risk

We hold no objections but do raise some issues as material considerations.

Flooding of Colebrook Lane and third party land

There is a history of flooding from the Cole Brook, most notably in August 1997, which resulted in water flowing east along Colebrook Lane into Spindlebury and Swallow Way. Numerous residential properties in Knightswood were flooded. Indications are that the road culvert under Colebrook Lane is of limited flow capacity which can lead to instances of water flooding Colebrook Lane and in larger floods water flowing east and effecting third party land. Development provides an opportunity to upgrade this culvert, perhaps in conjunction with Devon County Council in their role as the Highway Authority.

The proposed pedestrian/cycle link onto Colebrook Lane would increase the risk of flooding of Colebrook Lane because it would act as a flow path for flood waters, through an existing bank/wall. We advise that the proposal be revised to reduce the likelihood of water passing onto Colebrook Lane.

It may be feasible to construct an embankment, or bolster the existing earth and stone wall, along the southern and eastern boundary of the proposed area of public open space, in conjunction with other minor earthworks, to encourage the storage of flood water reducing risk downstream. We are happy, and indeed would suggest either hosting, or attending, a meeting to discuss the above.

Proximity of some of the proposed properties to existing ponds.

Several of the proposed properties would sit adjacent to several existing ponds. The ponds are higher in level than the proposed houses. As such measures should be put in place to safely manage any water that may discharge from the ponds.

Advice - Flood Resilience

Detailed information on flood proofing and mitigation can be found by referring to the CLG free publication 'Improving the Flood Performance of New Buildings'. Please see the link below:
<https://www.gov.uk/government/publications/flood-resilient-construction-of-new-buildings>

HISTORIC ENGLAND - 09.04.2019

Thank you for your letter of 21 March 2019 regarding the above application for planning permission. On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request

HIGHWAY AUTHORITY – 25th March 2019

Observations:

The Highway Authority has considered the application and the transport assessment, and are accepting of its contents as a reasonable expectation of the traffic generations likely within the development. The application is in out line and details beyond the point of access are to be determined through the reserve matter application.

Current emerging policy requires the delivery of the distributor road through the NW Cullompton allocation before the site comes forward, however the Secretary of State's Inspectors decision on the traffic in Cullompton would result in such requirement falling foul of CIL regulations, The Highway Authority through the enquiry in public (LPR) have requested that this is now removed from policy based on the Inspectors decision.

The Highway Authority are content to accept a single point of vehicle access, but would require that an emergency/Footway/ cycle way access is formed to the west of the site and again the use of Colebrook lane cycle lane access can also be for emergency vehicles too.

Similarly the use of this point of access to the land should be used for construction vehicles to avoid conflict with residential traffic in Siskin Chase and should form part of the construction management plan. The internal layout will need to demonstrate suitable speed reducing features e.g. Speed reduction bends or other Horizontal alignment features.

The Highway Authority would support the Local planning Authority in seeking contributions to the Town centre relief road, and may require contributions towards public transport to be included in a legal agreement through the Town and country planning act.

Therefore the following conditions should be imposed

Recommendation:

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

Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.;

9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;

(e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;

(f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;

(g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;

(h) hours during which no construction traffic will be present at the site;

(i) the means of enclosure of the site during construction works; and

(j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site

(k) details of wheel washing facilities and obligations

(l) The proposed route of all construction traffic exceeding 7.5 tonnes.

(m) Details of the amount and location of construction worker parking.

(n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

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

REASON: To protect water quality and minimise flood risk in accordance with Flood management Act

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

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

4. No development shall take place until details of the layout and construction of the Colebrook lane access have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before the development is brought into use.

REASON: To ensure the layout and construction of the access is safe in accordance with NPPF

5. No part of the development hereby approved shall be commenced until:

A) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 metres back from its junction with the public highway

B) The ironwork has been set to base course level and the visibility splays required by this permission laid out

C) The footway on the public highway frontage required by this permission has been constructed up to base course level

D) A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority

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

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

REASON: To ensure the proper development of the site.

REPRESENTATIONS

41 letters of objection have been received summarised as follows:

- Ability of DCC to change their minds about the need for NW link road to be in place
- Concern over use of Siskin chase for more housing and construction traffic – safety issues, existing parking, narrowness of road
- Greater number of parking spaces required than shown
- Impact on all roads leading to motorway at rush hours
- Why go to great expense of producing a development plan and then not stick to it
- Dangerous levels of air quality in town at present
- J28 is at capacity
- Road surface in Siskin chase is already cracking and who will repair this
- Developers have said that they can't put access in from Colebrook lane as it's too marshy but why are they building houses there?
- Increased waiting times for doctors and dentists – increased pressure on services
- Colebrook lane wouldn't be suitable for access as it's a narrow rural lane
- Colebrook lane would be the most suitable access point
- Disturbance to bats and geese
- Concern over the accuracy of the documents submitted by the applicant and that they are biased. MDDC should commission their own reports and studies
- Overwhelming number of journeys made from the site will be by car
- Increased risk of flooding to existing properties
- Mud from builders traffic will be dragged onto the road
- Will inevitably lead to the development of the rugby club land

2 letters of either support or neutral have been submitted summarised as follows:

- Glad to see some further development
- Good quality proposed with large areas of POS
- More housing is good for the economy
- No objection subject to their being sufficient highway capacity for both this site and the NW Cullompton allocation

A further letter of representation has been received from the RD&E NHS Foundation Trust requesting a financial contribution from the development towards their services. This is dealt with in section 8 below.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. Principle of development and 5 year housing land supply

2. Highway safety
3. Air quality
4. Drainage and flood risk
5. Public open space and green infrastructure
6. Landscape and ecology
7. Heritage
8. Section 106 obligations
9. Comments received
10. Planning balance

1. Principle of development and 5 year housing land supply

The Mid Devon Core Strategy (Local Plan 1) was adopted in 2007 and sets out the growth strategy for the District that seeks to balance social, environmental and economic objectives. Policy COR12 focuses development in and around the main settlements of Tiverton, Cullompton and Cridton.

Policy COR1 seeks sustainable communities in which people want to live and work through provision of housing to meet the needs of all sectors of the community, providing access to education, jobs, community facilities and public transport, reducing the need to travel by car. Policy COR3 sets a target for the provision of new market and affordable housing with an appropriate mix of dwelling sizes and types.

Policy COR8 seeks to ensure that development is served by necessary infrastructure in a predictable, timely and effective fashion. Developers will be expected to contribute to, or bear the full costs of, new or improved infrastructure and facilities where it is appropriate for them to do so. Policy COR14 sees Cullompton developing as a small market town with the provision of market and affordable dwellings and employment floorspace. The policy sets out a number of objectives to improve transport, flood risk and the town centre environment.

The emerging Mid Devon Local Plan Review (submitted for examination) focuses development mainly on Cullompton and Tiverton with Cullompton being identified as an area for strategic growth. The application site is allocated under policy CU21 in the Local Plan Review (LPR) submission as a contingency site and states:

A site of 4.8 hectares at Colebrook is identified as a contingency site for residential development to be released in accordance with Policy S4, subject to the following:

- a) 100 dwellings with 28% affordable housing;
- b) The development shall not commence until completion of the North West Cullompton through route linking Tiverton Road to Willand Road;
- c) Provision of two points of access from Siskin Chase;
- d) Provision of 1.1 hectares of green infrastructure, to include the retention of land in the floodplain as informal amenity open space and for Sustainable Urban Drainage provision;
- e) Measures to protect and enhance trees, hedgerows and other environmental features which contribute to the character and biodiversity, maintaining a wildlife network within the site and linking to the surrounding countryside;
- f) Archaeological investigation and appropriate mitigation; and
- g) Transport assessment and implementation of travel plans and other measures to minimise carbon footprint and air quality impacts.

Policy S4 of the LPR states that sites identified as contingency sites will be permitted to boost housing supplies if cumulative housing completion levels fall below expected rates or a five year deliverable supply of sites cannot be demonstrated.

The site was previously allocated as a contingency site in AL/CU/20 of the Allocations and Infrastructure DPD.

The Local Plan Review has been through examination but the Inspector's report has not yet been received and the Plan has not yet been adopted. At the time of writing this report, The Local Plan Review carries only some weight in consideration of this planning application.

Members will be aware that the Council is satisfied that it can currently demonstrate a 5 year housing land supply. However since an appeal at Uffcume in 2016, its policies relating to housing delivery in the Core Strategy are considered to be out of date and therefore the tilted balance in the NPPF applies to the consideration of applications. Paragraph 11 of the NPPF 2019 states:

Plans and decisions should apply a presumption in favour of sustainable development.

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

This does not mean that Mid Devon's policies must be cast aside, but the weight given to them is proportionate to their consistency with the NPPF.

Housing applications need therefore to be considered in the context of sustainable development and planning permission granted unless the harm identified significantly and demonstrably outweighs the benefits. The planning balance in relation to this application is set out in section 10 of this report.

The principle of developing the site for up to 105 dwellings and the proposed means of access to the site are the only issues for consideration through this application. The quantum of development proposed reflects the policy aspirations in the LPR, and the submissions provided with the application demonstrate that an acceptable scheme is capable of being designed.

Matters relating to architecture and design of all buildings, height, scale and massing of all buildings, design and layout of public and highway infrastructure within the site area, design and layout of open space areas and green infrastructure, design of other landscaped areas, drainage infrastructure and parking provision are all reserved for future consideration.

Mitigation is proposed to off-set the impacts of the proposed development and a package of Section 106 obligations will be delivered (see section 8 of this report)

2. Highway safety

Policy COR9 of the Mid Devon Core Strategy seeks to improve accessibility, reduce the need to travel by car, and increase public transport use, cycling and walking, manage travel demand, reduce air pollution and enhance road safety through management of car parking and traffic and investment in transport services.

The NPPF states that transport issues should be considered from the earliest stages of plan-making and development proposals, so that potential impacts of development on transport networks can be addressed. The environmental impacts of traffic and transport infrastructure should be identified, assessed and taken into account, including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. All

developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

As set out above, policy CU21 sets out the requirement for the completion of the North West Cullompton through route linking Tiverton Road to Willand Road prior to the commencement of development on this site. As Members will be aware, the road in question has not commenced construction and therefore to grant planning permission for 105 dwellings on this application site would be contrary to that policy. That does not mean that planning permission must be refused as section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 advised that the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (underlining for emphasis only)

In November 2017, a planning application for 259 dwellings on an unallocated site in Willand was refused and appealed. One of the reasons for refusal was concerned with the impact additional traffic from the development would have on Junction 28 of the M5 and congestion on the surrounding road network. The inspector took considerable time to look at the operation of the junction and observed queuing for much of the way along Station Road. The Inspector also observed there was a steady stream of traffic between the roundabout and the traffic light controlled junction at the Junction 28 slip roads and no clear signs of an unacceptable delay. Although slow, the Inspector considered there was a steady flow of traffic along Station Road and Millennium Way towards Junction 28. The Inspector's view was that there were no clear signs of unacceptable delay.

It is this appeal decision that the Highway Authority are referring to in their consultation response and as such, do not consider that it would be reasonable to require the North West through route linking Willand Road to Tiverton Road to be in place prior to the occupation of the proposed 105 dwellings. The views of the Inspector in that appeal are a material consideration which in your officers view, outweighs the policy requirement. The Highway Authority would not be able to substantiate a refusal on this matter, despite there being clear wording within the policy, due to a change of circumstances since the policy wording was drafted.

Many of the letters submitted make reference to the perceived inadequacies of Siskin Chase to provide access to 105 dwellings. Many of the letters suggest a potential access from Colebrook Lane. Some residents are in favour of development access coming solely from Colebrook Lane, some are against any access from Colebrook Lane. However, the Highway Authority, as statutory consultee has advised that in their view Siskin Chase is an acceptable means of access for the development, requiring a pedestrian/cycle/emergency access only onto Colebrook Lane. The applicants have also agreed to use Colebrook Lane for construction traffic to minimise disruption to residents on Siskin Chase. This would be subject to a Construction Management Plan. Access via Siskin Chase accords with the policy requirement of CU21.

Concerns have been received about the levels of parking provision proposed for the site. The current policy (DM8) requires 1.7 spaces per dwelling. The amount and location of parking will need to form part of the reserved matters application and does not fall to be considered under this application. Concerns have also been expressed about the quality of the road surface in and around Siskin Chase but this is a maintenance matter for the Highway Authority and does not fall to be considered here.

The applicants are also making financial contributions to mitigate the impact of the development and subject to these, your officers consider that the development can be accommodated without

an unacceptable impact on the highway network. The development is considered to comply with policies COR9 and COR10 of the Mid Devon Core Strategy.

3. Air quality

Policy AL/CU/15 of the AIDPD requires development in or adjoining Cullompton will to mitigate its likely impact on air quality in the Cullompton Air Quality Management Area by contributing towards the cost of implementing the Cullompton Air Quality Action Plan including the provision of the Town Centre Relief Road. Developers will be required to prepare and implement a Low Emissions Strategy to ensure the impact of the site on air quality is acceptable.

Policy DM6 of the LP3 DMP requires that development proposals that would give rise to significant levels of vehicular movement must be accompanied by an integrated Transport Assessment, Travel Plan, traffic pollution assessment and Low Emission Assessment, including mitigation measures to reduce negative impacts on local air quality.

The NPPF states that planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.

The application is supported by the required documentation which includes mitigation to reduce the impact of the development on air quality. Environmental Health officers are satisfied with the measures to reduce reliance on car travel through the implementation of a Travel Plan (which promotes car sharing, promote walking/cycling and the provision of electric vehicle infrastructure) and a financial contribution towards the Town Centre Relief Road, although they have recommended more detail on the provision of electric car charging points be provided. This will be conditioned for provision at reserved matters stage when the layout of the site is known.

Subject to securing the mitigation measures, your officers consider that the proposal complies with policies AL/CU/15 of the AIDPD and DM6 of the LP3 DMP in respect of air quality.

4. Drainage and flood risk

The NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from the lead local flood authority, have appropriate proposed minimum operational standards, have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and where possible, provide multifunctional benefits.

Policy COR11 of the Mid Devon Core Strategy guides development to locations with the lowest flood risk and seeks to ensure development does not increase the risk of flooding elsewhere.

The site is in Flood Zone 2 (which means there is between a 1:1000 and 1:100 year risk that the site will flood. The lower (southern most part bordering Colebrook Lane) is in Flood Zone 3 (high risk) Cullompton is in a Critical Drainage Area where surface water drainage from development needs to be very carefully considered and managed to ensure that an overall reduction in flood risk is achieved.

Policy AL/CU/3 of the AIDPD requires the provision of a Sustainable Urban Drainage

Scheme (SUDS) to deal with all surface water from the development and arrangements for future maintenance.

Policy DM2 of the LP3 DMP requires appropriate drainage including sustainable drainage systems and connection of foul drainage to a mains sewer where available.

Policy DM29 of the LP3 DMP relating to green infrastructure requires major development proposals to demonstrate flood and water resource management.

The Lead Local Flood Authority (Devon County Council) initially raised objections to the development as it did not consider that the drainage issues at the site and in relation to the proposed development had been adequately addressed. The applicant has carried out further assessment work and provided further information during the course of the application, to address their concerns. The LLFA are now satisfied that with the provision of conditions attached to the planning permission, the development site can be provided with adequate drainage facilities such that it would not increase the flood risk elsewhere. The Environment Agency have also advised that they have no objections subject to the imposition of a conditions relating to site levels. They have however set out a series of recommendations which can be accommodated (with the exception of the culverting work) within the layout of the reserved matters application. The suggested work to the culvert seeks to deal with an existing situation rather than mitigate the impact of the development and therefore it would not be appropriate to require the developer to carry out this work.

On this basis, the drainage strategy is considered to comply with policies COR11 of the Mid Devon Core Strategy, and DM2 and DM29 of the LP3 and criteria d) of policy CU21 of the LPR

5. Public open space and green infrastructure (GI)

Policy AL/IN/3 requires new housing developments to provide at least 60 square metres of equipped and landscaped public open space per market dwelling to include children's play areas, sports areas, informal open space and allotments with safe and convenient access on foot or cycle. Policy AL/IN/4 seeks to provide a network of green infrastructure with recreational, visual and biodiversity value, including sustainable drainage. The policy seeks protection and enhancement of public rights of way and new provision within development.

Policy CU21 of the LPR requires the provision of 1.1h of green infrastructure, to include the land within the flood plain as informal amenity space.

Policy DM29 of the LP3 DMP requires major development proposals to demonstrate that GI will be incorporated within the site to provide biodiversity mitigation, flood management, green corridors and public rights of way linking the site to the wider GI network, and new GI such as the creation of woodland.

The NPPF states that planning decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users.

The submitted layout plan does indicate a swathe of open space along the southern end of the site, where the flood plain is. It also includes an area for allotments and a local area of play. Given that this is an illustrative plan only, final details will be required as part of the reserved matters submission and the details of its provision will be a requirement of the s106. Given that its provision can be secured by way of a s106 agreement, it is considered that the policy requirement has been satisfied.

6. Landscape and ecology

The NPPF states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services. Development should minimise impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks. If

significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Planning decisions should seek to limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

Policy COR2 of the Mid Devon Core Strategy seeks high quality sustainable design that reinforces the character and legibility of Mid Devon's built environment and landscape and creates attractive places.

Policy CU21 requires measures to protect and strengthen trees, hedgerows and other environmental features which contribute to character, biodiversity, maintaining a wildlife network within the site and linking to the surrounding countryside;

The site is in an edge of settlement location so to the west of the Site, the wider landscape begins to rise and forms rolling hills with varied undulations. This area is characterised by mixed agricultural use with irregularly shaped fields following the landform and separated by dense hedgerows and mature hedgerow trees. The roads become narrow, winding and usually sunken as they run westwards out of Cullompton. The application is accompanied by a Landscape and Visual impact assessment which looks at the impact of the development in terms of visual impact and landscape impact. In order to carry out the assessment, reference is made to the Mid Devon landscape character assessment which was prepared in 2011. The site is located on the boundary between two different Landscape Character Types (LCT). The northern (highest) part of the site is located within LCT 3B: Lower Rolling Farmed and Settled Valley Slopes, and the southern part in LCT 3G: River Valley Slopes and Combes.

The study identifies that LCT 3B: Lower Rolling Farmed and Settled Valley Slopes is a gently rolling and strongly undulating landscape characterised by intensively farmed light soils. The sources of rivers create a lush damp character in the valleys. Woodlands are mixed with dense undergrowth giving a well-wooded character, which gives a strong sense of enclosure. It is primarily pastoral, fertile farmland with some arable with tightly clipped hedgerows unifying the landscape when viewed from distant vantage points. Road are mostly winding with bends and frequently sunken.

With regards to LCT 3G: River Valley Slopes and Combes (the southern part of the site), it is described as a landscape that has a very strong sense of enclosure with lush valleys with attractive, fast flowing streams. Some of the main areas of trees are ancient seminatural woodland. It is a strongly undulating landscape with a variety of sloping land. Woodlands are predominantly characterised by oaks and extensive deciduous tree species. Copses are widespread and have dense scrubby undergrowth.

The submitted LVIA, concludes that visually, the site is relatively well contained within the wider landscape with few long distance views due to the well vegetated and undulating landform. The trees and vegetation to the west of the site, combined with the site's low-lying position contribute to screening and filtering of views of the site from the wider area. The northern part of the site, being slightly more elevated, is slightly more visible. However, due to the sunken nature of many of the surrounding public rights of way and roads, publically accessible views of the site are limited to the local area.

With regards to impact on the landscape, the LVIA concludes that overall, the site is of medium quality and sensitivity to residential development because it forms part of a landscape with reasonable ability to accommodate change and is well related to the adjacent settlement edge of Cullompton. Change would be accommodated on this Site with limited loss of some features or elements, and residential development would not be especially discordant in this location and could be sensitively designed to mitigate harm to landscape character.

In addition, Members are advised that the landscape impacts of a development on the site would have been considered prior to allocating the site. Mitigation proposals would need to form part of the reserved matters application.

With regards to protected species and habitats, an Ecological Impact Assessment has been submitted which shows the survey results for the site. No protected species were found on site but the survey indicates the use of the site for foraging by bats. Mitigation through provision of bat boxes and consideration within the scheme design to items such as lighting will need to form part of the reserved matters application.

Subject these further assessments to inform reserved matters, it is considered that the landscape and ecology proposals are capable of complying with policy COR2 of the Mid Devon Core Strategy (LP1), CU21 of the LPR and the provisions of the NPPF.

7. Heritage

Policy DM27 of the Local Plan 3 Development Management Policies states that where development proposals are likely to affect heritage assets and their settings, proposals should be assessed to take account of the significance of those assets. Where proposals would substantially harm heritage assets, public benefit must outweigh that harm. Where proposals would lead to less than substantial harm, the harm should be weighed against any public benefit.

Paragraph 189 of the NPPF requires developers to assess the significance of a proposal's impact on heritage assets and their settings. Where a proposal would lead to substantial harm, planning applications should be refused unless substantial public benefits outweigh that harm, and where proposals would lead to less than substantial harm, the harm should be weighed against public benefits. A balanced judgment should be made of the effect of loss of non-designated heritage assets (for example, archaeology), according to the significance of that asset. Developers are required to record and advance understanding of the significance of any heritage assets to be lost and to make this evidence publicly accessible.

A geophysical survey has been carried out on the site, the results of which have been submitted. Whilst this does not indicate the presence of any significant heritage assets with archaeological interest within the site, several anomalies have been identified and as a result the DCC Archaeologist has recommended that a condition be applied to any consent granted requiring a staged programme of archaeological works, commencing with the excavation of a series of evaluative trenches and the south-eastern part of the site being subject to strip, map and recording where the survey has identified discrete anomalies that may be pits. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

With the imposition of their recommended condition, and considering that there are no listed buildings or conservation areas close to the site the development is considered to comply with policy DM27 of the Mid Devon Local Plan Development Management Policies and the requirements of the NPPF.

8. Section 106 obligations

The s106 requirements are set out in full at the start of this report.

The applicants are proposing 35% affordable housing with the s106 requiring submission of an affordable housing scheme setting out the mix and tenure to be agreed prior to provision on site. The Housing Options Manager is content that this will enable the actual need to be assessed at the time allowing the provision of units on site to accord with that need. The provision of affordable housing on site will be in accordance with triggers set out in the agreement.

The Highway Authority have requested financial contributions of £7,500 per dwelling towards the provision of the Town Centre Relief Road and a single payment of £135,000 to support the bus service. As part of the s106, they will also require the implementation of a Travel plan. In addition, your officers are recommending that an area of land to the north of the site be transferred to the ownership of DCC so as to ensure access can be provided into the land to the north, should it be required for development in the future.

The Education Authority have requested financial contributions towards primary, secondary and early years provision.

The NHS have requested a financial contribution towards maintaining service delivery during the first year of occupation of each unit of the accommodation on/in the development. They advise that due to the payment mechanisms, constitutional and regulatory requirements the Trust is subject to, it will not receive the full funding required to meet the healthcare demand due to the baseline rules on emergency funding and they go on to advise that there is no mechanism for the Trust to recover these costs retrospectively in subsequent years. Without securing such contributions, the Trust advise that it would have a direct and adverse impact on the delivery of health care in the Trust's area.

The application includes the provision of public open space, allotments and a play area and it is necessary to secure their adequate provision by way of a s106 agreement.

Paragraph 204 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2011 (as amended) set tests in respect of planning obligations. Obligations should only be sought where they meet the following tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

It is considered that each of these obligations satisfies the relevant tests above

9. Comments received

Comments received from members of the public have been addressed in the relevant sections above. In addition, comments have been received regarding the impact of the development on increased waiting times for doctors and dentists and the increased pressure on health services in general. Members will note in the section above, that contributions towards this provision have been requested.

Concern has also been expressed about the accuracy of some of the documents submitted by the applicant and that MDDC should commission their own reports and studies instead. Members will be aware that the Local Planning Authority is required to consult with statutory consultees on planning applications it receives. It is the role of these consultees to assess the relevant information submitted with the application and its appropriateness or otherwise. Members will have seen in the 'consultations' section above that questions or concerns have been raised initially by consultees, who are experts in their fields, and the applicant has been given time to address these. The reports and studies submitted with the planning application have been carried out by qualified professionals and the reports should therefore be read and considered in this context.

Concern has been expressed that approval of this development will inevitably lead to the development of the rugby club land. The plans clearly indicate the desire for pedestrian access into the land and your officers included a requirement in the s106 to ensure that vehicular access

up to and including the northern boundary of the site is provided so that this cannot prevent development in the future. It does not however give an indication that development of that land would inevitably be acceptable and nor should the possibility of further land coming forward in future be a barr to development on the application site.

10. Planning balance

As set out in section 1 of this report, the tilted balance in paragraph 11 of the NPPF applies to the determination of this application. The application should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF, taken as a whole. (officer's underlining for emphasis)

The application is in outline and there are no technical reasons why the application should not be approved, subject to the required mitigation set out in the report above. Impacts on biodiversity, landscape and heritage assets can be adequately mitigated, and the increase in traffic on the local road network and the motorway junction is acceptable to the Highway Authority, subject to the mitigation outlined above.

Community facilities are to be provided in the form of allotment, a play area and landscaped open space.

The delivery of 105 new homes, including 35% affordable housing weighs in favour of approval of the application. Also weighing in favour of the approval is the financial contribution towards delivery of the Town Centre Relief Road which will provide substantial benefits for delivery of future housing developments and the improvement of the quality of the environment in the town centre.

Weighing against approval of the application is the fact that the application is not policy compliant in terms of the North West Cullompton road being in-situ but the reason for this has been addressed above.

Taking all the above into consideration, and acknowledging that the tilted balance in the NPPF applies, your officers consider that the balance weighs in favour of approval of the application.

CONDITIONS

1. Before any part of the development hereby permitted is begun, detailed drawings of layout, scale and appearance of the buildings, and the landscaping of the site (hereinafter called the Reserved Matters) shall be submitted to and approved in writing by the Local Planning Authority.
2. Application(s) for approval of all the Reserved Matters shall be made to the Local Planning Authority before the expiration of two years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of two years from the date of this permission, or before the expiration of two years from the date of approval of the last of the Reserved Matters which have been approved, whichever is the later.
4. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
5. The detailed drawings required to be submitted by Condition 1 shall include the following information: boundary treatments, existing and proposed site levels, finished floor levels and materials, details of all areas of public open space and green infrastructure,

arboricultural method statement and tree protection plan, to include engineering details for any areas of no-dig construction and cabling for electric vehicle charging points at a rate of one per residential property

6. No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Flood Risk Assessment and Drainage Strategy (Ref. 173040; dated December 2018) and the additional information contained within the letter RE: West of Siskin Chase, Cullompton (dated 13th March 2019).
7. No part of the development hereby permitted shall be commenced until the full details of the adoption and maintenance arrangements for the proposed permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority.
8. No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site.
9. Details of an inspection regime in respect of the installation of the surface water drainage management system, including any attenuation ponds and outflows, shall be submitted to and approved in writing by the Local Planning Authority before its installation begins. The inspection regime shall include details of key stages of the installation to be signed off by a drainage engineer or other qualified professional and confirmation provided in writing to the Local Planning Authority that each stage of the installation has been provided in accordance with the details approved under Condition 6.
10. No development approved by this permission shall commence until details of finished floor levels of property, and landscaping between the existing ponds and properties, have been submitted to, and agreed in writing by the local planning authority
11. No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.
12. Before the development hereby approved is commenced, a site investigation and risk assessment shall be carried out to determine the nature and extent of land contamination that may be present and the likely impact on all receptors that may result. A full report of the investigation and risk assessment shall be forwarded to the Local Planning Authority for approval in writing. No work shall proceed on site until either the Local Planning Authority

grants written consent for the development to commence or the requirements of condition 13 below are met.

13. Where actual or probable significant pollutant linkages are found following the investigation and risk assessment required by condition 12 above, the applicant shall submit a remediation statement together with a timescale for completion of the required works for approval in writing by the Local Planning Authority.
14. Following completion of any works required by condition 13 above, a remediation validation report shall be submitted to the Local Planning Authority for approval in writing. Occupation on the site, or parts of the site affected by land contamination, shall not take place until approval of the validation report has been granted in writing by the Local Planning Authority.
15. No development shall begin until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include:
 - A. the timetable of the works and a phasing plan;
 - B. daily hours of construction;
 - C. any road closure;
 - D. hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays including 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the Planning Authority in advance;
 - E. the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - F. The proposed route of all construction traffic to include the temporary use of an access from Colebrook Lane;
 - G. the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - H. areas on site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
 - I. hours during which no construction traffic will be present at the site;
 - J. the means of enclosure of the site during construction works;
 - K. details of wheel washing facilities and obligations, and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways;
 - L. photographic evidence of the condition of adjacent public highway prior to commencement of any work;
 - M. the steps and procedures to be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development. Once approved in writing by the Local Planning Authority, the works on site shall be carried out in accordance with the approved CEMP unless a subsequent variation is agreed in writing by the Local Planning Authority.

16. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.
17. No development shall take place until details of the layout and construction of the construction access from Colebrook Lane have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before the development is brought into use.
18. Prior to construction of any residential dwellings above slab level (excluding enabling works and excavation), the first 10 metres of the access roads back from its junction with the public highway, and details of the construction compound must be submitted to and agreed with the Local Planning Authority. The access road must be laid out, kerbed, drained and constructed up to base course level for the first 10 metres back from its junction with the public highway and a site compound and car park have must be constructed in accordance with those details approved.

REASONS FOR CONDITIONS

1. The application was submitted as an outline application in accordance with the provisions of Articles 4 & 5 of The Town and Country Planning (Development Management Procedure) Order 2010.
2. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 however the timescales have been reduced to reflect the fact that the site is a contingency site and is being brought forward to increase the supply of housing.
3. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 however the timescales have been reduced to reflect the fact that the site is a contingency site and is being brought forward to increase the supply of housing.
4. For the avoidance of doubt and in the interests of proper planning.
5. To enable the Local Planning Authority to consider whether adequate provision is being made for the matters referred to in the condition.
6. To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems.
7. To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development.
8. To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.
9. To ensure that the surface water drainage management system operates effectively

to reduce the risk of flooding elsewhere in the Cullompton Critical Drainage Area. This is required prior to commencement of any works to demonstrate that the system manages surface water safely and does not increase flood risk downstream.

10. To safeguard property adjacent an existing ponds from the consequences of a scenario of water discharging from them. Several of the proposed properties would sit adjacent to several existing ponds. The ponds are higher in level than the proposed houses. As such measures should be put in place to safely manage any water that may discharge from the ponds.
11. To ensure, in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development
12. In the interests of public health and the protection of the environment
13. In the interests of public health and the protection of the environment
14. In the interests of public health and the protection of the environment
15. To minimise the impact on the highway network and on nearby residential properties during the construction period.
16. To ensure that adequate information is available for the proper consideration of the detailed proposals.
17. To ensure the layout and construction of the access is safe in accordance with the National Planning Policy Framework.
18. To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents.

INFORMATIVES

- 1) It is recommended that applicants, agents and developers take specialist consultant advice before complying with conditions 12, 13 and 14.

REASON FOR APPROVAL OF PERMISSION

The principle of developing the site for 105 dwellings and the proposed means of access to service the site are the only issues for consideration through this application. The quantum and density of development proposed reflects the policy aspirations established in the relevant development plan policies and the submissions provided with the application demonstrate that an acceptable scheme is capable of being designed. The access into the site is considered acceptable to the Highway Authority. Matters relating to architecture and design of all buildings, height, scale and massing of all buildings, design and layout of public and highway infrastructure within the site area, design and layout of open space areas and green infrastructure, design of other landscaped areas, drainage infrastructure and parking provision are all reserved for future consideration. Mid Devon District Council's policies for the supply of housing are considered to be out of date, despite the Council being able to demonstrate a 5 year housing land supply. Therefore, the tilted balance in paragraph 11 of the NPPF applies to the determination of this application. The application should be approved unless any adverse impacts of doing so would

significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF, taken as a whole.

The application is in outline and there are no technical reasons why the application should not be approved, subject to appropriate mitigation as proposed. Impacts on biodiversity and landscape can be adequately mitigated, and the increase in traffic on the local road network is acceptable to the Highway Authority, subject to appropriate mitigation as proposed.

The delivery of 105 new homes, including 35% affordable housing weighs in favour of approval of the application as do provision of green infrastructure.

Also weighing in favour of the approval are the financial contributions towards delivery of the Town Centre Relief Road which will provide substantial benefits for delivery of future housing developments and the improvement of the quality of the environment in the town centre.

Weighing against approval of the application is the fact that the application is not policy compliant in terms of this being a contingency site and in relation to the requirement for the North West Cullompton linking road not yet having been constructed.

Taking all the above into consideration, and acknowledging that the tilted balance in the NPPF applies, the application is considered to be acceptable.

The application scheme is considered to meet the requirements of Policies COR1, COR2, COR8, COR9, COR10, COR11 and COR14 of the Mid Devon Core Strategy (Local Plan Part 1), Policies AL/IN/3 and AL/IN/5 of the Mid Devon Allocations and Infrastructure Development Plan Document (Local Plan Part 2) and Policies DM1, DM2, DM4, DM6, DM8 and DM27 of the Mid Devon Local Plan Part 3 (Development Management Policies), (as far as is relevant to the application details).

The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. This report has been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.

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