

Public Document Pack

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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 Wednesday, 11 March 2020 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 8 April 2020 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

STEPHEN WALFORD

Chief Executive
3 March 2020

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 - 24*)
Members to consider whether to approve the minutes as a correct record of the meeting held on 12 February 2020.
- 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 25 - 54*)
To consider the planning applications contained in the list.
- 8 **MAJOR APPLICATIONS WITH NO DECISION** (*Pages 55 - 56*)
List attached for consideration of major applications and potential site visits.
- 9 **APPEAL DECISIONS** (*Pages 57 - 58*)
To receive for information a list of recent appeal decisions.
- 10 **APPLICATION 19/1608/HOUSE - ERECTION OF A SINGLE STOREY EXTENSION AND SEPARATE GARAGE/ANNEX/WORKSHOP ACCOMMODATION, TANGLEWOOD, DUKES ORCHARD, BRADNINCH** (*Pages 59 - 74*)
At the Planning Committee meeting on 12 February, Members advised that they were minded to refuse the above application and invited an implications report for further consideration.
- 11 **APPLICATION 19/01156/FULL - INSTALLATION OF A 24MW RESERVE POWER PLANT WITH ASSOCIATED INFRASTRUCTURE - LAND AT NGR 302839 111143 LLOYD MAUNDER ROAD, WILLAND** (*Pages 75 - 92*)
At the Planning Committee meeting on 12 February, Members advised that they were minded to refuse the above application and invited an implications report for further consideration.

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.

An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, or

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 12 February 2020 at 2.15 pm

Present

Councillors

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

Also Present

Councillor(s)

R Evans, Mrs M E Squires and
Ms E J Wainwright

Present

Officers:

Maria Bailey (Interim Group Manager for Development), Adrian Devereaux (Area Team Leader), Philip Langdon (Solicitor), John Millar (Principal Planning Officer) and Sally Gabriel (Member Services Manager)

106 **APOLOGIES AND SUBSTITUTE MEMBERS**

There were no apologies.

107 **PUBLIC QUESTION TIME (00-02-22)**

Sarah Coffin referring to item 4 on the plans list asked the committee to refuse the application and raised the following queries:

1. If councillors approve this application which will facilitate increased capacity for conversion of biogas to energy via the adjoining Willand AD site, will the three directly connected applications presently awaiting decisions be prejudiced?

They are:

NDDC- digestate storage bag

MDDC – industrial silage clamp

DCC – variation to double the tonnage of feedstock presently permitted for Willand AD site

2. How under present NPPF and conditions guidance would it be possible to defend any refusal of these outstanding applications, which facilitate increased feedstock volumes and production capacity for Willand AD? Should you approve this application today granting mechanism for greater biogas conversion then refusal of the outstanding applications will be indefensible

against appeal. Any mitigating conditions would have to be 'reasonable, necessary and enforceable.'

3. There have been considerable complaints raised since the ADs in Mid Devon became operational, about increased traffic, odour and noise issues, related to all aspects of servicing the AD's to provide feedstock and remove digestate; and MDDC Scrutiny committee was asked in December 2019 to look into overall impact of AD operations as soon as possible.

Surely therefore a full cumulative EIA is required in this instance?

Lindsay Kuzara provided a question with regard to item 10 (Creedy Bridge) on the agenda list which was read out by the Chairman:

What will happen to the part of the site currently earmarked for a school if DCC decide not to build and the part currently earmarked for the Rugby Club if they find a better or more affordable site in the next 15 years. Can the council insist on a stipulation that if they are not used as was initially planned they will become green amenity areas with trees planted and the developer will not be permitted to apply to build more houses on them?

Adam Kuzara provided a question regarding item 10 (Creedy Bridge) on the agenda which was read out by the Chairman:

When this site was taken out of contingency it was for up to 200 houses, however the Planning Officer finally supported 257 due to viability. I had thought this must be due to the cost to the developer of providing a cheap or free site for the Rugby Club, but it now seems the Rugby Club will have to pay full price.

The Wellparks site was viable with fewer than 200 houses. Should the Council now ask the developer to resubmit plans for a maximum of 200 houses?

Mark Gulley on behalf of the Crediton Rugby Club referring to item 10 (Creedy Bridge) on the agenda stated that as the Chairman of the Rugby Club he saw first-hand the substantial benefit that it provides for the town. The volunteers that run the club are amazing and offer their time for nothing creating a real spirit of togetherness. The most important element is the junior offering to hundreds of local children who learn core values for life. If the rugby club cannot relocate where will our 400 junior members find a community that offers the same values? Why when the clubs relocation is written into the local plan and the club are working hard to make that happen have we been kept at arm's length by officers from a discussion and agreement of the section 106 agreement and conditions that will be applied to the Pedlerspool site. We'd love to work more closely with your officers on this subject and we're in your hands with that.

Cllr Elizabeth Wainwright, referring to item 2 (Hitchcocks) on the plans list stated that whilst I realise that job creation is important in our area it cannot be at the expense of our aim to become net zero by 2030. This application is concerning for a number of reasons not least because it's on greenfield site and I'm curious how this application can be looked at or revised in light of our own aim to become net zero by 2030 and what concrete mitigations have been or will be put in place.

Mr Grantham also referring to item 2 on the plans list stated he objected to the application because of the increase of vehicle movements on the B3181 and the lack of safety measures e.g. a halt sign at the exit from the site to the B3181 and light pollution.

This site has increased in size over a number of years. Planning applications have been brought before the planning committee in a piecemeal way and only considered on the application before them. They do not look at the bigger picture. This is how the Hitchcocks site has got larger and larger over the years. Some would say, this is a very clever way by the agents to get their own way.

Let's take the present application, it is a very reduced site from the original one. So what do we find from all the main consultees – Devon Highways, Public Health, Police, Environment Agency, Natural England, Historic England, Highways England, Flood Risk team, Conservation Officer, Historic Environment Team and DCC Highway Authority. We now do not object.

No one looks at the bigger picture when considering these planning applications – more traffic, more pollution, especially from diesel vehicles. Is this contributing towards our green environment? We must remember that planning permission is already in place for a large part of this site towards Uffculme road. This could be changed, because of other circumstances or conditions later on so the site could get bigger.

The traffic impact has not been rigorously tested near the M5 J27, traffic assessment was March 2014. Traffic counts are out of date after 3 years. Distribution assumptions at J27 taken from 2001 census, only impact assessments considered were on the M5 slip, nothing on the B3181.

I have done traffic counts myself at the junction of B3181 and the C107 (road to Uffculme school). The increase in vehicle movements was astonishing. 2016 total movements 590 between 3 and 4 pm. 2020 vehicle movements on Friday 7th February between 3 and 4 pm were 1020.

Queues are now forming from J27 past the B3181 and C107 towards Hitchcocks Farm. These queues are now occurring on a regular basis most days. This will only increase when the extension to Mid Devon Business Park, providing unit sizes B1, B2 and B8. This plus 125 houses at Meadow Park in Willand, 90 houses in Uffculme and Cullompton Garden Village, using Willand as a rat run to J27. Also taken into account, is the proposed J27 development and an increase in traffic from the block works at Uffculme.

The B3181 road is only classified as a B road with maintenance that goes with it i.e. hardly any. MDDC should have an official vehicle count done on the B3181 at the junction of the B3181 and C107. This together with recommendation from MDDC public health service air quality impact assessment according to the supplementary planning document on air quality. The receptor location is to be agreed at the junction of the B3181 and the C107 to Uffculme School. A report of the above should be made to MDDC before any decision on the proposed planning application is granted. Why has MDDC, being the lead planning authority on the Hitchcock site, never asked DCC Highways or the Environment Agency for a full traffic assessment on the B3181 or a light pollution assessment on the Hitchcock site?

Chris Hill referring to item 2 (Hitchcocks) on the plans list stated he was very alarmed to see on page 36 that the representations relate to only responses on the revised application. My question is for the officers: when considering this application and granting permission whether they took into account the 673 people who signed the objection to the Hitchcocks application and also the 117 letters of objection. Only those letters of objection that relate to this application have been included yet this is only a mini bit of the original application and as the previous gentleman said we are very very concerned that this will be a piece meal application because this is only the same as the big application so 14% bigger in 3 months' time will you get another 15% and another 15% and eventually the whole of the fields will be filled with warehouses. So the same objections we all made to the original application still stand and I believe they have not been properly presented to the council by the officers for this application.

Linnea Mills again referring to item 2 (Hitchcocks) on the plans list stated her question was about the integrity and evidence provided in the report. The planning guidance to local governments say that recommendations that depart from the local development plan clearly must be justified and I was wondering when I was reading this report how good of a justification is been given in this report. The justification that is given is that there is insufficient availability of employment land at other sites. Where is the evidence for this? I ask you to be wary of the fact that the council only mentions historical under supply of employment land and provides no information on actual supply and demand or vacancy rates. There is no data. I ask you to be equally weary and critically note that there is no mention about employment floor space being created as part of the Local Plan, there is no mention of increased floor space at Mid Devon Business Park just down the road from Hitchcocks. There is no mention of the huge increase in employment floor space that is being created as part of the J27 development. It's a deliberate choice by the officers not to include these pieces of information that is needed for you to make an informed decision about this matter. They have chosen not to see the bigger picture, we as a community need to rely on you as our representatives to see the bigger picture. So the planning office asked you to bypass the local plan and in so doing set the precedents for future opportunistic applications from developers. They asked you to bypass the development plan and as such take us away from the holistic planning that the local plan contributes to. It asks you to step away from the local plan and go against the wishes of a lot of people who live in the affected communities. Remember that Uffculme Parish Council, Willand Parish Council objected to this and these are the Parishes where Hitchcocks is physically located. We don't want it. The planning office is asking you to do all this on very flimsy ground, providing no justification and no evidence. So my question to you is will you at least consider deferring until the council can provide with good enough information for you to be able to make an informed decision in this case.

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

108 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT**

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

109 **MINUTES OF THE PREVIOUS MEETING (00-20-03)**

The minutes of the meeting held on 15 January 2020 were approved as a correct record and signed by the Chairman.

110 **CHAIRMAN'S ANNOUNCEMENTS (00-20-47)**

The Chairman informed the meeting that this was the last meeting for the Interim Group Manager for Development, she thanked her for her work and wished her well for the future.

111 **DEFERRALS FROM THE PLANS LIST (00-21-46)**

There were no deferrals from the Plans List.

112 **THE PLANS LIST (00-21-59)**

The Committee considered the applications in the plans list *.

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

(a) Applications dealt with without debate.

In accordance with its agreed procedure the Committee identified those applications contained in the Plans List which could be dealt with without debate.

RESOLVED that the following application be determined or otherwise dealt with in accordance with the various recommendations contained in the list namely:

(i) No 1 on the Plans *List (19/02034/LBC Listed Building Consent for internal alterations to create an en-suite shower room - The Old Carriage House, St Andrew Street North, Tiverton)* be approved subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by Cllr L J Cruwys and seconded by Cllr D J Knowles)

b) No 2 on the Plans *List (19/0928/MFUL Erection of buildings incorporating employment (B1/B2/B8) with associated infrastructure – land at NGR 305390 112177 (Hitchcocks Business Park) Uffculme).*

The Interim Group Manager for Development outlined the contents of the report by way of presentation highlighting the location of the proposed development within the site, the proposed floor space of the 3 proposals and members were reminded of the fact that this was now a revised smaller scheme than originally proposed. Members viewed the layout of the 3 areas, the site sections, floor plans and elevations and viewed photographs from various aspects of the site.

The officer added that the proposal was in line with Policy DM20 of the Local Plan and highlighted the updates within the update sheet which included the following: a representation from the MDDC, Growth, Economy and Delivery Section and Halberton Parish Council, a response from the Environment Agency and a further objection.

The officer then supplied answers to questions posed in public question time:

- With regard to climate change and the Council's aim to become net zero by 2030, there was a need to look at the current planning policies within the existing Local Plan.
- With regard to light pollution, the application had been thoroughly scrutinised and external consultees had found that the mitigation that had been put in place was acceptable.
- With regard to responses to the original application, those responses were still on the file for everyone to view.
- With regard to Policy DM20, the policy did allow for this type of development, officers had been working with the Growth, Economy and Delivery Team to make sure that the needs of the policy had been met.

Consideration was given to:

- The details of the travel plan
- The lateness of the Growth, Economy and Delivery Team's response
- The views of the objector with regard to the views of the local community with regard to the proposal, the cumulative impact of continued development on the village of Uffculme and the roads leading to the village. The number of applications that had been submitted for the site and the fact that the local habitat was being changed forever.
- The views of the applicant with regard to the 100% occupancy of all units on the site and the mixture of small and large businesses in residence. The application would contribute to the traffic on local roads but lots of cars travelled along that road heading for the motorway junctions. It was intended that investment would be made in solar energy where possible. The site continued to provide employment in the local area.
- The views of the local Ward Member with regard to the scaled back proposal, Halberton Parish Council were in support of the proposal and it would create jobs in the area, the smaller units on plot 1 should be encouraged, the Growth, Economy and Delivery Team supported the proposal and there had been no objection from the Highway Authority.
- The site was not outlined within the current or emerging Local Plan, although officers considered it to be in line with Policy DM20; there was a need for the countryside to be protected and maybe there was a need for an additional condition with regard to extra planting/screening around the site.

It was therefore:

RESOLVED that: planning permission be granted subject to the prior signing of a S106 agreement to secure:

- a) A financial contribution towards the installation of a visibility control at the junction roundabout at J27 of M5 or the installation of the scheme to address the issue of minor shunts and:
- b) A travel plan to seek to reduce overall reliance on private car travel to the site.

And conditions as recommended by the Head of Planning, Economy and Regeneration with an additional condition to be added after Condition 2 to state:

- The floorspace hereby approved under drawing reference 180209 Unit F3 01 01 C shall not be amalgamated and/or let to provide an individual unit of more than 288 sq m.
- The buildings hereby approved under drawing reference 180209 Unit F1 01 01 F shall not be amalgamated or let to provide an individual unit of more than 216 sqm.
- The buildings hereby approved under drawing reference 180209 Unit F 01 01 H shall not be amalgamated or let to provide an individual unit of more than 216 sq m. and there shall be no more than three units beyond 144 sq m in total.

Reason: To ensure that the size of the units remains appropriate for starter and grow on space

With a further condition in respect of screening/additional planting around the site.

(Proposed by the Chairman)

Notes:

- i) Cllr B G J Warren made a declaration in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as a member of Willand Parish Council which had been involved in discussions regarding the site;
- ii) Mr Hills spoke on behalf of the objectors;
- iii) Mr Persey (applicant) spoke;
- iv) Cllr R F Radford spoke as Ward Member;
- v) The following late information was reported:

MDDC - Growth, Economy and Delivery (GED) – 3 February 2020.
The Growth, Economy and Delivery (GED) team strongly supports this planning application.

The award winning business park has delivered a significant proportion of the District's economic growth (delivery of employment space, job creation and business investment) over the past 5 years, and is looking to build upon this success. The proposed units will enable local businesses to grow, and will help to meet the demand for business space which is currently outstripping the supply of commercial and industrial units across Mid Devon and the surrounding areas (most of our business sites and commercial land owners have waiting lists of interested businesses).

The site's occupants provide employment for over 600 people, with jobs at a variety of salary levels, including higher level technical and specialist roles. It is unfortunate that the owner has chosen to withdraw the larger scheme they originally put forward and is instead going for a smaller project. The larger, masterplanned scheme would have delivered far greater benefits to the local

area (greater pedestrianisation between Willand and Uffculme, park and community facilities etc), and there is a real risk of these benefits being lost through a potential return to a piecemeal approach to developing Hitchcocks. However, we recognise the reasons behind the decision, and will continue to support the business park and its further development.

HALBERTON PARISH COUNCIL 15th January 2020 - No objections. The Council supports the scaled down application and the provision of much needed local employment.

Response from Environment Agency 07.02.2020

Thank you for re-consulting us on this application.

Environment Agency position

Following review of the Foul Drainage Statement (AWP, dated 23rd December 2019), we confirm that we have no objection to the proposed development. The reason for this position and advice is provided below.

Reason – We have reviewed the further information provided within the Foul Drainage Statement and consider this to adequately demonstrate that the proposed foul drainage arrangement is acceptable. The proposal complies with our requirements and with the General Binding Rules.

Additional condition to be added after Condition 2

- The floorspace hereby approved under drawing reference 180209 Unit F3 01 01 C shall not be amalgamated and/or let to provide an individual unit of more than 288 sq m.
- The buildings hereby approved under drawing reference 180209 Unit F1 01 01 F shall not be amalgamated or let to provide an individual unit of more than 216 sqm.
- The buildings hereby approved under drawing reference 180209 Unit F 01 01 H shall not be amalgamated or let to provide an individual unit of more than 216 sq m. and there shall be no more than three units beyond 144 sq m in total.

Reason: To ensure that the size of the units remains appropriate for starter and grow on space

From an objector :

Re: Scientific report on behalf of the applicant on air quality and proposed additional HGV and car movements (60 lorries and 700 cars):

- Cars, of the employees (approx. 700), in all probability will all turn up to and exit the site at roughly the same time; and anyone familiar with the locality cannot possibly consider that the impact of such a significant increase in vehicular movement and accompanying pollution (air quality) could be anything other than significant; especially as additional to the existing and currently expanding new developments of residential properties in close proximity on two sides of the site's perimeter and only metres away.

- The residential developments themselves are a source of additional vehicular movement and pollution to the existing residential developments (both the established developments and those still under construction). No consideration at all has been given to the fact that the full effects of the latter properties are yet to have been established as not yet built/completed! Already, residential vehicles and 'white' goods vehicles are congested up and down Bridwell Lane; a lane which cannot accommodate the passing of two cars even, in places, let alone commercial vehicles with local car drivers having to repeatedly reverse a significant distance back along a narrow and bendy road with road users displaying varying degrees of 'courtesy' and 'care' (often both absent) i.e. not very safe.
- Much of the commercial traffic (although not all) will probably arrive via the M5 and travel along the upper road to Uffculme B...', which is already becoming increasingly congested; especially at the Old Well / Waterloo Cross roundabout and the access road from it to the M5 roundabout resulting often in 20 minutes of vehicular queueing; especially when loading is taking place at the 'Waterloo Cross' (the linking road suffering much pot-holed disrepair which will be exacerbated throughout the area if the expansion goes ahead).
- The residents of Uffculme have limited road access to the M5, the main two running alongside Bridwell Manor and Uffculme School; both already suffering from the lack of two car passage at certain points; both with difficult access to join the top road (B) to access the M5 at Jctn 27; both already becoming increasingly hazardous due to the already increased weight of traffic, especially heavy goods vehicles; posing a hazard to people, children and domestic vehicles.
- Both these access roads are hazardous, having generally poor visibility, including at their respective junctions with the upper road B... (which also has poor lighting), currently having no assistance provided to aid safe access across oncoming traffic to join the traffic flow in direction of the M5.
- The alternative is to travel the 'long' route, Uffculme Road (the 'Uffculme straight'), to Willand roundabout and then retrace the journey back along the B... (upper road) where the site's access for 700 to 800 vehicles is to be situated, including at least 60 heavy/commercial vehicles! This weight of traffic is compounded by the relative narrowness of the road for heavy lorry usage with large vehicles passing very close as they travel in the opposite direction, also creating sudden and significant backdraft as they hurtle pass small vehicles travelling in the opposite direction (and pedestrians).
- Similarly, potential pedestrian use of the upper road (B...) has not been considered. The pavement, in combination with a lack of lighting is already inadequate and dangerous for the safe passage of pedestrians; especially due to the closeness of the road to the path and the strong back draft created by passing heavy goods vehicles.
- There seems to be no consideration of the yet to be built Junction 27 major industrial and commercial development (or the current expansion of the Mid Devon Industrial Park with its industrial units or the large scale residential developments, not only in Uffculme but also Willand and

Tiverton Parkway localities). Travelling along the 'Uffculme straight' in the direction of Willand to access Cullompton and/or the M5 at J 28 is becoming increasingly congested; with traffic already trailing at peak times the whole length of Millennium Way at Cullompton for those travelling to Cullompton Tesco etc or the M5 at J 28; where queuing is regularly 30 minutes plus (on outward and incoming journeys).

Noise Pollution – This has been given little if any consideration; either whilst proposed building works take place or/and when the site is completed and the site is up and running:

- 700 cars and 60 lorries are going to generate significant noise and gas emissions/pollution.
- The noise and vibration effects from building works in the early stages of Luccombe Park, were protracted and invasive. I am sure no residents in the locality would relish a prolonged repeat of this; with the constant 'thumping' sound and accompanying vibration felt all day every day, for weeks; even though we ourselves are not the nearest of properties to the building works; it drove us 'mad'; initially thinking a neighbour had a washing machine and tumble dryer running constantly in their garage (not attached to our house) but subsequently found this not to be the case as it was the building works.
- Is Mid Devon going to allow residents to suffer a repeat of the Luccombe Park building nightmare and inconvenience; including protracted use of temporary traffic lights, which impacted upon residents' movements ('imprisoning' Culm Valley Way residents for significant periods) and the additional misery which would be created going forward?

All the above makes a mockery of the applicant's expert conclusion that they do not see any negative traffic or pollution impacts prior to 2024! The area is *already* suffering impact from these!

Sewage - What exactly is the provision for this? This seems a vital consideration which has yet to be fully considered or addressed! How can a 'large scale' development such as this be given any consideration at all without detail of provision for this and drainage in place? We often suffer drainage issues and have noticed an increase in vehicular 'drainage' activity in the locality; as well as historical flooding across the Uffculme straight in the region of the Luccombe Park development and beyond.

Flood risk (none?)

- I find this a strange conclusion as I have repeatedly, following heavy rainfall had to travel along Bridwell Lane up to the 'top 'road' (B...); to avoid the flooding which takes place along the stretch of road passing between the Hitchcock's site and Langlands Industrial Estate/ Luccombe Park (Uffculme Road); and have witnessed other more intrepid drivers stranded, broken down in the flood water as their vehicle has not been designed to negotiate deep water or 'flooding'!
- Surely the further reduction in natural soakaway land down to Uffculme Road and across it, by the increase in concrete coverage will exacerbate the likelihood and extent of flooding in this locality (and

potentially of homes); especially as the land on the 'Uffculme straight' side of the site (and the site itself) slopes downwards to the 'Uffculme straight' and beyond? The fields becoming flooded now from Uffculme to Cullompton (and no doubt beyond)

Finally, the existing site is an eyesore and very visible from Bridwell Lane and Uffculme Road. The village of Uffculme remains a small one, which would be visually and practically dominated by such an extension of the Hitchcock's site, as proposed. To allow this proposal to go ahead would render Uffculme a giant industrial estate which has a tiny residential component at its centre. Its residents would find themselves living in the middle of a giant industrial estate (combined areas) with detrimental associated issues. This cannot be right or humane on any level; noise, pollution, flooding, inconvenience, hazard, 'green', environmental and ecological issues and last but not least, the health and safety of local residents with their right to live in a decent and appropriate environment; one in which they can thrive and which is conducive to their general well-being.

If the residents of Uffculme had been happy to live in the midst of an industrial estate, they would have moved into an area where such existed and one in which the house prices and council charges would have been significantly lower than residents of Uffculme have paid for the privilege of enjoying some semblance of the benefits just listed. There must be more appropriate 'brown' sites where this plant could be situated; it certainly does not need to be situated in a location which results in residents finding themselves but a speck in the middle of an industrial estate/s!

I hope these comments may contribute to any discussion and subsequent decision.

c) No 3 on the Plans List (***19/01608/HOUSE – erection of a single storey extension and separate garage/annex/workshop accommodation – Tanglewood, Dukes Orchard, Bradninch.***)

The Principal Planning Officer outlined the contents of the report and reminded those present that the application had been deferred from a previous meeting to allow for a site visit to take place by the Planning Working Group. He highlighted by way of presentation the location of the application site, the proposals which included the proposed elevations and floor plans and photographs from various aspects of the site.

Consideration was given to:

- How the proposed condition 10 would be enforced
- The views of the objector with regard to the impact of the proposal on her property, the garage with accommodation would have an overbearing impact and there would be overlooking issues on her bungalow and her garden.
- The major concern was that of the position of the proposed garage not the erection of a single storey extension
- Whether the proposal was visually unattractive and had an adverse effect on the amenity of the neighbouring property and therefore against policy DM2 of the Local Plan

It was therefore:

RESOLVED that: Members were minded to refuse the application and therefore wished to defer the application for an implications report to consider the proposed reasons for refusal, that of: the proposal was not in accordance with Policies DM13 (a) and (c) of the Local Plan Part 3 (Development Plan Policies)

a) Respect the character, scale, setting and design of existing dwelling;

c) Will not have a significantly adverse impact on the living conditions of occupants of neighbouring properties.

and DM2 (a) and (e) of the Local Plan Part 3 (Development Plan Policies)

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

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 on and fenestration

iv) Materials, landscaping and green infrastructure

(Proposed by Cllr B G J Warren and seconded by Cllr E J Berry)

Notes:

i) Cllr E J Berry declared a personal interest as he knew the objector;

ii) Mrs Brown (objector) spoke;

iii) A proposal to approve the application was not supported.

d) No 4 on the Plans *List (19/01156/FULL Installation of a 24MW Reserve Power Plant with associated infrastructure – land at NGR 302839 111143, Lloyd Maunder Road, Willand).*

The Interim Group Manager for Development outlined the contents of the report by way of presentation highlighting the location of the proposal, which was outside of the settlement limit but close to existing development; blocks plans, a plan identifying the treeline and gas pipe, proposed elevations, photographs of the proposed power plant and also photographs from various aspects of the site. She highlighted page 154 of the NPPF and the need for renewable and low carbon energy, she explained how the proposed power plant would be fuelled using bio-methane, derived from both the national grid and the neighbouring AD facility and how that power would be distributed and when and that the energy would be classed as renewable.

Referring to the question posed in public question time, there was a need to consider the application before the committee today. The application had been screened for an Environmental Impact Assessment but was not an Environmental Impact Assessment development.

Consideration was given to:

- The views of the representative of the CPRE who felt that the proposal was for a mini power station on greenfield land, the proposal was not a renewable energy generator or a low carbon facility that therefore contrary to policies COR5, COR18 and DM5. The proposal would have a massive carbon footprint which would only be used for a maximum of 4 hours per day.
- The views of the agent with regard to the need to support the Devon Climate Declaration, the proposal was in line with becoming carbon neutral but that there was an intermittent source of sun/wind and therefore a fluctuation of energy generation, it was therefore necessary for storage facilities to be made available. She reminded those present that the NPPF was very clear with regard to the need for low carbon technology to reduce emissions and the certification process that was required.
- The views of the representative from Willand Parish Council with regard to the proposal not complying with the NPPF or policy COR 18, that natural gas was a fossil fuel, there had been no discussion with regard to the safety of the plant and no agreement with the National Grid/Western Power that they would accept the energy.
- The views of the Ward Members with regard to the impact on the local residential area, the proposal was outside of the settlement limit, would the energy being used be renewable? How would it be known that the energy being drawn from the national Grid was renewable. Was there any evidence for the need. An application to increase the tonnage used in the AD plant.
- Whether the application was premature as there was a need for the additional tonnage for the AD plant to be determined.

It was therefore:

RESOLVED that: Members were minded to refuse the application and therefore wished to defer the application for an implications report to consider the proposed reasons for refusal:

The application was:

- In the open countryside
- Not producing renewable energy
- Not an energy efficient measure
- Not in accordance with Policies COR5, DM5 or COR 18(f) of the Local Plan

And that there was cumulative impact with other Devon renewable energy plants in the area.

(Proposed by Cllr B G J Warren and seconded by Cllr R F Radford)

Notes:

- i) Cllr B G J Warren made a declaration in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as a member of Willand Parish Council which had been involved in discussions regarding the site and had called the application in;
- ii) Cllr R Evans made a declaration in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as he had had discussions with regard to the application as a local Ward member;
- iii) Miss Coffin spoke on behalf of the CPRE;
- iv) Ms Cairns spoke as applicant;
- v) Cllr Grantham spoke on behalf of Willand Parish Council;
- vi) Cllrs R B Evans and B G J Warren spoke as Ward Members;
- vii) The following late information was reported: There is an error on page 63 of your agenda (Plans List No 4)
Under conclusion it states that 'The proposal is considered to be unacceptable, having regard to the Development Plan.....'

This should read 'The proposal is considered to be ACCEPTABLE, having regard to the Development Plan....'

113 MAJOR APPLICATIONS WITH NO DECISION (2-03-36)

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

It was **AGREED** that:

Application 20/00047/MFUL – Erection of extension at Gregory Distribution Limited remain delegated.

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

114 APPEAL DECISIONS (2-04-08)

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.

115 APPLICATION 17/00348/MOUT - 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 - LAND AT NGR 284185 101165 (CREEDY BRIDGE) CREDITON DEVON (2-05-03)

The Committee had before it a * report of the Head of Planning, Economy and Regeneration considering revisions to the wording of three of the Heads of Terms of the S106 agreement and the associated S106 implications from those proposed revisions. The resolution made by Members of the Planning Committee on the 19th September 2018 was for planning permission to be granted subject the prior signing of a S106 agreement, with the revisions sought relating to planning obligation numbers 1, 2 and 4 as outlined within the resolution. Delegated authority was also requested to allow minor changes to the wording of planning conditions in order to allow for a phased approach to development across the site.

The Area Team Leader informed the meeting of the contents of the update sheet which referred to an enquiry from Sandford Parish Council with regard whether S106 contributions towards improvements to the existing public rights of way could be used to deliver a footpath/cyclepath between the site and the village of Sandford.

He answered the questions posed in public question time

- With regard to what would happen to the land if the school was not progressed, then the land would go back to the applicant and further planning permission would be required.
- With regard to the policy allocation for 200 dwellings whereas the proposed development was for 257 which was considered due to viability in order to provide land for the rugby club. The 257 dwellings were granted planning permission in 2018, where it was noted that the viability appraisals did not include for this provision in the Heads of Terms.
- With regard to the rugby club and that they were being kept at arms length with regard to any discussions. He stated that officers had been in discussions with the rugby club with regard to the transfer of the land, the rugby club had wanted a nil or nominal rate; this had been clarified by Counsel's advice; the land would be safeguarded for the rugby club but would not be transferred at a nil/notional value.

The officer further explained and listed the Heads of Terms that required amendment (as identified in the report) and the delegated authority that was sought for the Head of Planning, Economy and Regeneration.

Consideration was given to:

- Clarification with regard to the safeguarding/transfer of land and the amendment that pre-commencement conditions be removed
- That maybe following delegation to the Head of Planning Economy and Regeneration consultation take place with the Chairman, Vice Chairman and Ward Members to make any changes to the wording of the planning conditions
- The views of the representative of Crediton Rugby Club with regard to how the club had supported the application on the basis that they would receive land; any transfer on terms discussed today would not enable the club to move. He asked that the application be reviewed in it's entirety so that all matters could be reconsidered.
- The views of the agent for the applicant with regard to the fact that amendments to the 3 Heads of terms would enable the development to be unlocked, the safeguarding of the land for a period of 15 years for the rugby club, the policy changes within the emerging Local Plan which had an impact on the Gypsy and Traveller site and that the flexibility within the S106 agreement would allow for the funding of the proposed cycle path.
- The views of the Chairman of Sandford Parish Council with regard to the vision of a footpath/cyclepath between the development and Sandford village
- The view of the representative from Upton Hellions Parish Meeting with regard to the financial package and the need for further consultation to benefit both the parishes impacted upon by the development.
- The views of the Ward Members with regard to the flexibility within the S106 to contribute towards a footpath between the development and Sandford Village. The need for consultation with the local communities, the need for community engagement, cycling/walking routes should be encouraged and flexibility within the S106 for sustainable travel.
- Clarification from officers that the cycleway could be formed from the flexibility within the S106 agreement
- The provision of the school on the site

RESOLVED:

- a) That the revisions to the s106 agreement as set out in paragraph 3.1 be agreed and a S106 agreement be entered into in line with the proposed revisions.
- b) That delegated authority be given to the Head of Planning, Economy and Regeneration in consultation with Chairman and Vice Chairman of the Planning Committee and local Ward Members to allow minor changes to wording of planning conditions as reported within the committee report to allow for a phased approach to development across the site.

(Proposed by the Chairman)

Notes:

- i) Cllr Mrs F J Colthorpe declared a personal interest as the applicant was known to her;
- ii) Cllr F W Letch declared a personal interest as he had attended a presentation at the rugby club;
- iii) Cllrs: E J Berry Mrs F J Colthorpe, Mrs C P Daw, Mrs C Collis, L J Cruwys, S J Clist, F W Letch, E G Luxton, D J Knowles, R F Radford, Mrs M E Squires , Miss E Wainwright and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had received correspondence from the applicant/agent;
- iv) Mr Graves spoke on behalf of Crediton Rugby Club;
- v) Mr Smith spoke as agent;
- vi) The Chairmen of Sandford parish Council and Upton Hellions Parish Meeting spoke;
- vii) Cllrs Mrs M E Squires and Miss E Wainwright spoke as Ward Members;
- viii) The following late information was reported:

Sandford Parish Council has enquired whether S106 contributions identified towards improvements to the existing Public Rights of Way network could be used to deliver a footpath/cycleway between the Pedlerspool site (Creedy Bridge) to the village of Sandford. Through a meeting with the Local Highway Authority it was explained that the S106 monies contained within the Heads of Terms have been allocated to identify projects and therefore changes at this late stage are not possible.

The scheme for the Sandford Path has not been worked up to a point to show exact costings involved with confirmation obtained by land owners but an alternative route of achieving this project following further work such as through the Boniface Trail (which has Cabinet support from Devon County Council) has been outlined to Sandford Parish Council.

Extract from officers report to highlight changes being proposed

3.1 The proposed changes to the planning obligations heads of terms 1, 2 and 4 are as follows:

1. The safeguarding of a 1.1ha site for a Primary School and obligations securing the transfer of said site to Devon County

Council if required by the County Council within an agreed time period running from Commencement of Development and expiring 5 years after any Commencement on the western development parcel.

2. The setting out of a 0.3ha site for provision of up to 5 pitches for the Gypsy and Traveller Community or (if approved by the Council pursuant to the approved scheme) provision of a site with equivalent capacity off-site (or the expansion of an existing Gypsy and Traveller Site) and the following provisions regards delivery and operation:

Prior to Occupation of more than 75% of Dwellings:

- (i) Provision of 5 serviced pitches on-site prior to Occupation of more than 75% of Dwellings; OR
- (ii) If approved by the Council in writing (having regard to criteria under DM7) provision of 5 serviced pitches off-site (new site or extension to existing) OR provision of land off-site and contribution of £500K for Council to deliver.

Prior to Occupation of more than 43% of Dwellings:

- (i) Submission and approval of scheme confirming which of the above options is proposed

Cascade:

If offer the pitches/site (whether on or off site) to RP's for more than 12 months (and then Council) for nominal consideration and Owner is unable to find party willing to contract to take the G&T site then Owner may opt instead to discharge obligation through the provision of 5 extra Affordable Housing Units (either on the G&T site pursuant to new full application for said land or elsewhere within the Development). Mix of said units to be 60/40 rented/intermediate as per existing Affordable Housing units.

4. The safeguarding of 8.6ha of land shown edged [] on Plan x appended hereto for the relocation of the Crediton Rugby Club and provisions requiring:

- said site to be transferred to the Council or its nominee (i.e. the Rugby Club) if called for within a period expiring at the date 15 years from the grant of the planning permission; and
- the provision of a suitable temporary and permanent access road to the boundary of said site.

116 PLANNING PERFORMANCE 2019/20 - QUARTER 3 (2-56-38)

The Committee had before it and **NOTED** a *report of the Head of Planning, Economy and Regeneration providing the Committee with information on the performance of aspects of the planning function of the Council for Quarter 3 of 19/20.

The Interim Group Manager for Development outlined the contents of the report stating that improvements had been made between Quarter 2 and Quarter 3, although the target for the 'number of applications over 13 weeks without a decision' still need some improvement

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

117 **PROBITY IN PLANNING REVISED ADVICE FOR COUNCILLORS AND OFFICERS MAKING PLANNING DECISIONS. (2-59-57)**

The Committee had before it and **NOTED** a *report of the Head of Planning, Economy and Regeneration providing it with information with regard to changes to the guidance.

The Interim Group Manager for Development outlined the contents of the report highlighting the updated guidance.

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

(The meeting ended at 5.30 pm)

CHAIRMAN

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PLANNING COMMITTEE AGENDA - 11th March 2020

Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	19/01862/FULL - Change of use of farm buildings to mixed B1/A2/B8 use and retention of external works at Land and Buildings at NGR 299326 114323, Bradford Farm, Uplowman. RECOMMENDATION Grant permission subject to conditions.
02.	19/01840/FULL - Erection of 3 dwellings and part demolition of garage to 1 Gaters Gardens to provide access at Land at Gaters Orchard and 1 Gaters Gardens, Sandford, Devon. RECOMMENDATION Refuse permission.

Application No. 19/01862/FULL

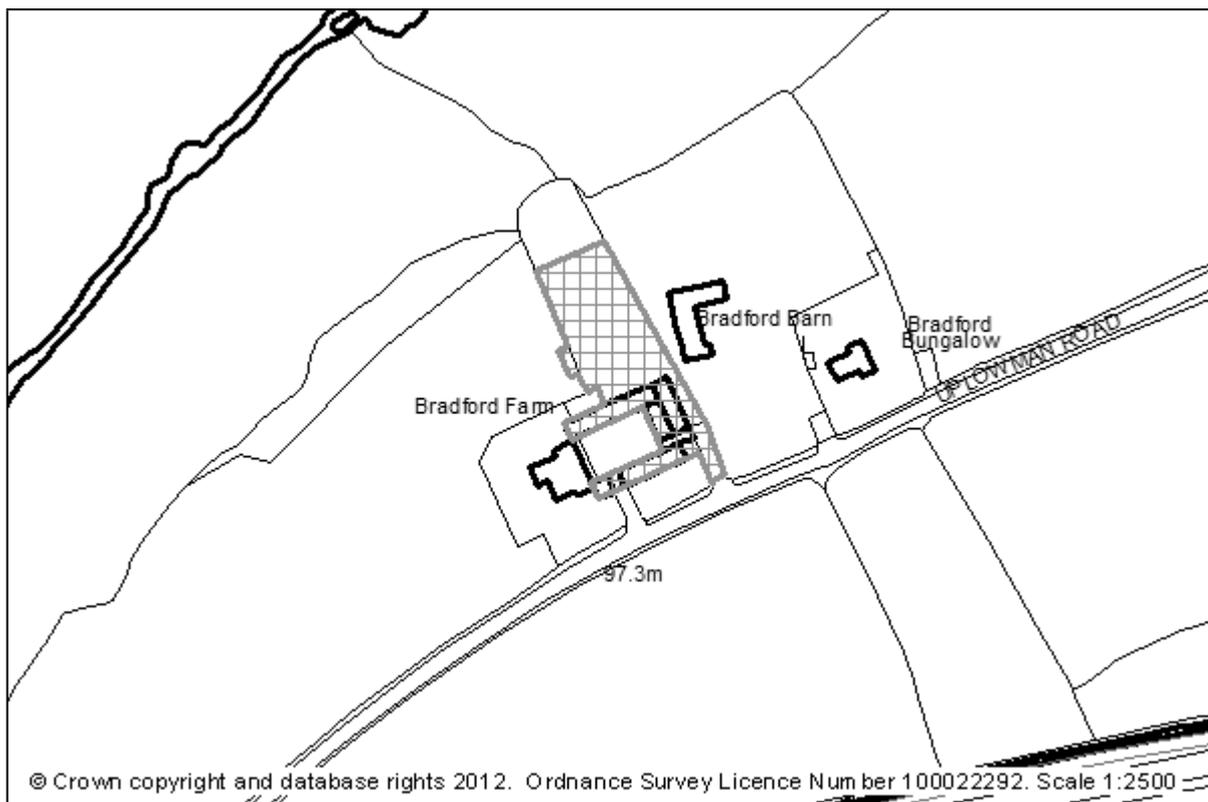
Grid Ref: 299326 : 114323

Applicant: Mr and Mrs A Fields

Location: Land and Buildings at NGR 299326 114323
Bradford Farm
Uplowman
Devon

Proposal: Change of use of farm buildings to mixed B1/B8 use and retention of external works

Date Valid: 12th November 2019



APPLICATION NO: 19/01862/FULL

MEMBER CALL-IN

Called in by Cllr Colin Slade, in order to consider the potential impact of the proposed development on the living qualities of the neighbouring occupiers due to intensification of the existing use leading to increased vehicle movements, noise and light pollution.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

Change of use of farm buildings to mixed B1/B8 use and retention of external works.

The applicant seeks planning permission for the change of use of a range of existing barns to form six units of flexible commercial space falling within use classes B1 and B8, as well as retrospective planning permission for the retention of external works already carried out in association with the proposed change of use, the retention of car park area, and the retention and refurbishment of a portacabin for the storage of bee keeping equipment.

The buildings that are the subject of these applications are a group of buildings originally in agricultural use. They are located to the west of an existing dwellinghouse occupied by the applicant, and form a horseshoe type barn complex around a central courtyard. The buildings immediately adjoining the dwellinghouse are to be retained for domestic purposes in connection with this property, those to the far east of the site are to be retained for agricultural storage purposes, while the remainder would form six units, over two floors, for the proposed use.

APPLICANT'S SUPPORTING INFORMATION

Application form, site location plan, block plan, existing and proposed floor plans and elevational drawings, planning statement, wildlife trigger list, foul drainage assessment, flood map for planning

RELEVANT PLANNING HISTORY

94/00536/FULL - PERMIT date 3rd November 1995

Conversion of redundant farm buildings into four dwellings and formation of new access

94/02187/FULL - PERMIT date 26th January 1995

Erection of two storey extension comprising of sitting room, bedroom and bathroom

00/01037/FULL - PERMIT date 31st January 2001

Conversion of barn to dwelling (amended scheme to that approved for unit 4 under planning permission reference number 4/52/94/536)

18/00657/FULL - WDN date 16th October 2018

Retention of change of use of an existing agricultural building to office with parking

18/02050/PNCOU - PNP date 23rd April 2019

Prior notification for the change of use of an agricultural buildings to 3 dwellings under Class Q

18/02071/FULL - PERMIT date 4th April 2019

Retention of Log store

19/00652/PNCOU - CLOSED date 24th April 2019

Prior Notification for the change of use of agricultural building to Class R (Flexible Business Use) (Under 150sqm)

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan Part 1): COR1, COR2, COR4, COR9, COR12, COR18

Mid Devon Local Plan Part 3 (Development Management Policies): DM1, DM2, DM7, DM8, DM11, DM20

National Planning Policy Framework

CONSULTATIONS

TIVERTON TOWN COUNCIL - Support

HIGHWAY AUTHORITY - 27th January 2020 - Observations:

I have visited the site and have no objections to the proposal, however the inter visibility between the two accesses is substandard and an improvement to provide visibility 2.4m back along the centre line of both accesses and parallel between the two with no obstruction greater than 1.0m should be imposed. Therefore I would advise the following conditions 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. Visibility splays shall be provided, laid out and maintained for that purpose at the site accesses where the visibility splays provide inter visibility between the two accesses at a height of 1.0m metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway shall be 2.40 metres and Parallel between the two.

Reason: To provide adequate visibility from and of emerging vehicles.

PUBLIC HEALTH - Contaminated Land: No objection to the proposals. (16.01.20).

Air Quality: No objection to the proposal. (22.01.20).

Environmental Permitting: No objection to the proposal. (22.01.20).

Drainage: No objection to the proposals. (16.01.20).

Noise & other nuisances: No objection to the proposals. (16.01.20).

Housing Standards: No comment. (15.01.20).

Licensing: No comments. (13.01.20).

Food Hygiene: No comments. (16.01.20).

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.

You must also register with the Local Authority (Mid Devon District Council) any private water supply. Failure to do so may result in a Section 85 Notice, with which failure to comply is an offence.

Please contact Public Health at Mid Devon District Council on completion of proposal.

If mains water is to be used, would have no comment. (13.01.20).

Health and Safety: No comments. (16.01.20).

While raising no objections to the proposal, as submitted, and not requesting any further improvements, the Environmental Protection Officer has agreed that the replacement of the existing drive and car park surface with a solid material such as resin bound surface, or the erection of an acoustic fence (12kg mass), would certainly address concerns relating to noise. In respect to a request to impose an hours of operation condition up to 19:00hours on weekdays, the Environmental Protection Officer also advised that this would raise no concerns in respect to disturbance to neighbouring amenity, however a restriction to 12:00 hours on Saturdays, with no operation on Sundays and Bank Holidays

REPRESENTATIONS

At the time of writing this report, two letters of objection has been received, the first being from the occupiers of the neighbouring property of Bradford Barn with the objections being summarised as follows:

The objection is not on the basis that development is taking place, there is an expectation that they will be converted someday. It is however felt that the proposed use is the wrong type of use for this location, particularly on the scale proposed, which is twice as large as the previous application.

The application does not identify how much use will be for office, storage or distribution. As such, this leads to uncertainty as to what is actually happening with these buildings, as well as raising further questions in respect to the impact of potential traffic movements, and associated impact on living conditions with the close proximity of the track and car park, which is immediately next to the house, its sitting room and bedroom windows, and outside living space.

It is advised that 15 staff are expected to be employed, which would lead to a minimum of 30 additional vehicle movements passing by the neighbouring property. This does not include deliveries and any visitors. This level of vehicle movements is considered to be excessive in a rural location, impacting adversely on neighbouring living conditions.

If the buildings were intensively farmed, the traffic movements would likely be limited to a couple of tractors and possibly livestock passing by. This would be much less than the proposed levels of traffic.

Why can't car parking be located in the existing courtyard? This would not affect neighbouring amenity. It appears that the applicant's want traffic movements affecting their property as far away as possible.

Policy DM20 states that this type of development should only occur where insufficient alternatives are available. There is no formal business plan indicating why this site is necessary for their business or why other sites are unsuitable. There should be a details assessment of other available sites.

Hours of work could be conditioned, however it is unlikely that these times will be adhered to, especially at weekends. Such a condition is realistically unenforceable as no enforcement officers work at weekends or on bank holidays.

There is no mention of external lighting. If uncontrolled, this could adversely impact on neighbouring amenity.

The works that have taken place are detrimental to the character of the barns with the use of inappropriate materials both on the building and the landscape. This has changed the setting drastically.

The application should have been supported by a wildlife survey. The council has a duty to discharge its obligation under the Wildlife Act to make sure any development will not impact on protected species. The barns are ideal for bat roosts and a report should have been provided.

The other letter of objection was received from a Planning Consultant (XL Planning) acting on behalf of the objector Mr M Blackmore of Bradford Barn with the objections summarised as follows:

- Our client's objection to the proposal still stands from the previous application (18/00657/FULL), which was withdrawn following a recommendation of refusal by the Council's Planning Committee.
- The new agents explanations with regard to policy justification on the location being suitable for the proposed change of use, is minimal at best and provides no robust information with which to consider against policy DM20.
- The planning statement sets out potential uses of B1, A2 and B8, stating that there are no more than 32 anticipated vehicle movements per day, with only 16 parking spaces being required. The statement, however does not address the likely potential, within its traffic calculations, that the buildings could be used solely for B8 (storage and distribution use). The application does not set out the areas of use within the buildings or specify quantities within its plans. The B8 use class is a much more intensive use and has the potential to generate many more trips than B1a (office). The applicant may argue that this is not the intention, however the planning statement sets out that they are looking to offer potential users flexible B1/A2/B8 uses. The calculated figure does not take into consideration potential visitor numbers to the building and also does not facilitate parking provision within its layout for any visitors. There is no specific Transport Assessment, the calculated 32 trips should be considered the minimum daily movements, not the maximum. It is felt that the proposal has failed to adequately demonstrate that the change of use meets with criteria a) of Local Policy DM20.
- The statement refers to there being no building within the locality as justification for the location, however it can be clearly demonstrated (as it was in the previous objection letter) that there are sufficient employment locations within Tiverton which would suit this new enterprise. Tiverton Town centre is less than 2 miles from the application site and Tiverton's settlement limit is now only less than one mile away and this would be considered as immediate in policy terms. Having briefly reviewed the commercial property for sale website www.rightmove.co.uk. It shows six properties within Tiverton available for rent or sale which would be suitable and more appropriate than the proposed location at Bradford Farm.
- The location is considered to be inappropriate for this size and type of development. The rural setting has been significantly eroded by the unauthorised works that have taken place, and still not regularised. It is contended that the development proposed will clearly

impact upon the barns themselves and their associated heritage values, both physically and visually. The barns have the potential to be considered important unlisted Heritage Assets.

- It is stated in the planning statement that the proposal is an improvement on the “previously unkempt nature of the former ‘yard’.” Photos of the site taken prior to works taking place show the form and shape of the immediate surrounding land being very much in keeping with the rural character of the location, with the ‘yard’ in question being a field, which is now domesticated through unauthorised works.
- Overall, it is considered that the impact of the proposed development is greater than that of the previous application in that this application is for the change of use of all of the barns, not part of the site, and this will cause a significant and detrimental level harm to the historic and aesthetic values of the buildings due to changes to the setting and the erosion of integrity is unacceptable. The further domestication of the barns will erode their integrity and authenticity and will be irreversible. The proposal to convert these buildings to offices is not considered to be in line with Local Plan Policy DM11 or DM20 and therefore should be refused.

Further correspondence has been received from the Planning Consultant acting on behalf of the objector Mr M Blackmore requesting that in the event of planning permission being approved, the following conditions be applied:

1. The drive and car park area be tarmac, not loose clipping, in order to reduce noise impacts of vehicles next to the residential property.
2. To protect the light and privacy of neighbouring ground floor windows, a solid shiplap fence be erected some 5 metres back from the beech edge and a series of tree planting in the 5m area to re-establish the previous rural aspect of the original paddock and protect the amenity of the neighbouring property.
3. The removal of the shipping container which is not necessary given the amount of buildings available to be converted through the change of use.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main material considerations in respect of this proposal are:

- 1) Principle of development
- 2) Parking and access
- 3) Design and impact on the character and appearance of the surrounding area
- 4) Impact on residential amenity
- 5) Other issues

- 1) Principle of development

The proposed development is for the change of use of existing redundant former agricultural barns to business use comprising six flexible commercial units (Use Classes B1 and B8). The proposal also includes retrospective consent for alterations carried out to the buildings, primarily being small scale external works, and for the creation of a gravelled parking area to the rear of the buildings. The proposals also include the retention of an existing temporary cabin for the storing of bee keeping equipment. This also involves timber cladding the structure and providing a pitched roof with slate covering.

This planning application follows an enforcement investigation relating to unauthorised works with the outcome being the submission of previous planning application 18/00657/FULL, which was for

the retention of the change of use of a smaller part of these barns to office with parking at Bradford Farm. That application was ultimately withdrawn following a resolution of the Planning Committee that Members were minded to refuse planning permission and therefore wished to defer the application for consideration of an implications report to consider the following issues:

- Whether the proposal had an unacceptable impact on the neighbouring property (especially the car parking area) and therefore did not comply with policies DM11 and DM20
- The intensification of the use of the premises
- Whether this was an inappropriate location for the proposal
- Was there more appropriate facilities nearby
- The impact of the development on the amenity of the neighbouring property especially with regard to lighting issues

This latest application is submitted to regularise the existing unauthorised works and the status of the building, with consideration given to the concerns raised during the previous application. The applicant contends that they have appropriately addressed these concerns so as to allow the application to be granted planning permission.

In determining this application, 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 NPPF), is noted as one such material consideration.

Of the six units identified on the submitted plans, one of these (Suite 3A) is already in use as flexible commercial use B1/B8, being so permitted by rights exercised under Schedule 2 Part 3 Class R of the Town and Country (General Permitted Development) (England) Order 2015 (the GPDO). The business being carried out within this part of the building is the applicant's own business. The other five proposed suites would be newly created with the intention to provide opportunities for businesses carrying out B1 and B8 operations. This may be an office for a designer/architect, financial advisor, or similar 'professional' user, light industrial use, or a low-key storage use such as storage of documents, antiques, household items, seasonal goods, etc. Following further discussions with the applicant, it is agreed that it would be appropriate to limit any B8 use to storage, without associated distribution, to encourage a smaller scale use than may be potentially operated under a full B8 use.

As a starting point, the site is located to the north east of Tiverton, to the north of the A361, and approximately 400m from the most north easterly edge of the Tiverton Eastern Urban Extension allocated site. As this is an open countryside location, Policy COR18 of the Mid Devon Local Plan (Core Strategy) applies. This seeks to restrict development to that which would enhance the character, appearance and biodiversity of the countryside whilst promoting sustainable diversification of the rural economy. Furthermore, COR18 states that detailed development control policies will permit agricultural and other appropriate rural uses, subject to appropriate criteria, which includes: *"appropriately scaled retail, employment, farm diversification and tourism related development (including conversion of existing buildings)."*

Policy DM20 of the Development Management Policies (Part 3 of the Mid Devon Local Plan) supports the principle new-build employment development or expansion of existing businesses, provided that the development is of an appropriate use and scale for its location. It is stated that proposals must demonstrate that:

- a) *The development would not lead to an unacceptable impact on the Local road network.*

- b) *There would not be an unacceptable adverse impact to the character and appearance of the countryside; and*
- c) *There are insufficient suitable sites or premises in the immediate area to meet the needs of the proposal.”*

This particular policy consideration is referred to in the objections received, which raise concerns over the suitability of the site for new employment use, also questioning whether it has been appropriately demonstrated that there are no alternative sites that could provide for the need identified, as required by policy DM20. This matter was also raised in consideration of the previous application, being one of the reasons members were minded to refuse.

Notwithstanding the above concern, the proposed development is not proposing ‘new build’ commercial development, in this case seeking to make use of existing redundant buildings, which is supported in principle by policy DM11 of the Local Plan Part 3 (Development Management Policies). Policy DM11 is worded as follows:

“The conversion of redundant or disused rural buildings of substantial and permanent construction which positively contribute to an area’s rural character for residential, tourism or employment uses will be permitted where:

- a) *A suitable access to the building is in place or can be created without damaging the surrounding area’s rural character and the road network can support the proposed use;*
- b) *The building can be converted without significant alteration, extension or rebuilding;*
- c) *The design will retain the original character of the building and its surroundings;*
- d) *The development will retain any nature conservation interest associated with the site or building, and provide net gains in biodiversity where possible.”*

In this case, the buildings are a range of stone built barns in excellent condition, which can be viewed prominently from the public highway to the south. They are of very substantial and permanent construction and do contribute to the area’s rural character. As such, they are buildings suitable to be considered in accordance with policy DM11. The above criteria will be considered in the more detailed assessment of the scheme below.

The retention of the existing temporary building is submitted as part of this application, however is not proposed for commercial purposes. It is currently used for the storage of bee keeping equipment by a local bee keeping group. This is used in connection with bee keeping activities taking place on land immediately to the north of this building. On the basis that this is a small scale non-commercial activity, there are no objections in principle subject to assessment of the impacts of this element of the development against relevant local and national planning policy considerations. The contributor has objected on the grounds that this building has been sited without the necessary planning consent, and therefore should be removed, however the purpose of this application is to seek to regularise this unauthorised development, in which case any harm will be assessed.

2) Parking and access

The proposed development seeks to make use of an existing former agricultural access, which leads to the car park area. In addition, limited parking will be made available for electric car charging within the existing courtyard, which is accessed via a second access point to the west. Otherwise the courtyard parking will be restricted to use of the applicant’s household.

In considering the proposed use, the Highway Authority initially advised that Standing Advice should be applied. Noting the sensitivity of the site, previous and current concerns raised, more

detailed comments were requested. As a result, the Highway Officer has visited the site and provided further comment. In this response, no objections are raised from a highway safety point of view, with the access and parking arrangements, including sufficient parking provision, considered to be appropriate subject to improvements to visibility. Specifically it is requested that there is no obstruction to visibility above 1 metre, set back 2.4m between the two existing access. The applicant has agreed to these improvement, which would be required to be provided proper to any of the new units being occupied, should planning permission be required. Consideration will also need to be given to the visual impact of these works, which will be discussed in more detail below.

In order to ensure that the parking numbers remain appropriate for the proposed uses, and that there isn't a further increase in usage of the access, it is considered necessary to impose conditions restricting the type of uses that may be carried out. These would be limited to B1 use and B8. In respect to B8, as discussed earlier, this would be limited to storage use only, with distribution from site restricted to encourage small scale storage use rather than a larger distribution-based enterprise. A2 use, which would have visiting members of the public is not included within the use recommended for approval.

Taking the comments of the Highway Authority into account, and noting that appropriate conditions can be imposed to require necessary improvements to visibility, as well as limiting the type of business that can be carried out

Overall, the proposed development is deemed to be acceptable from a highway safety point of view, according with policy COR 9 of the Core Strategy and policies DM8 and DM11 of the Development Management Polices (Local Plan Part 3).

3) Design and impact on the character and appearance of the surrounding area

The commercial element of the development involves the reuse of the existing buildings, with some minor external alteration consisting primarily the replacement of existing windows and provision of roof lights facing into the central courtyard, in addition to the formation of the car parking area to the rear of the site.

The works that have been carried out to the building are considered to be acceptable. No new windows openings have been created with the new frames inserted into already present openings. New roof lights have been added to serve the first floor areas, however these are discreetly located within the enclosed courtyard area where they are not readily visible from public vantage points. The buildings are not listed, or identified as being locally listed heritage assets on the Devon Historic Environment Record. Nonetheless they are of very high quality. Overall the works have been carried out sensitively, respecting the key characteristics of these traditional buildings.

The creation of the gravelled car parking area is one of the primary concerns of the contributor, with objections principally citing its visual impact and the impact on living conditions of the occupiers of the neighbouring house, Bradford Barn, as a result of vehicle movements close to this property. In considering wider visual impact of the proposal, this does represent a change to the adjoining agricultural land, however it is not considered cause demonstrable harm so as to warrant recommending refusal. These works are now complete, with landscaping works carried out on the land immediately to the north, which include grassing and tree planting, with the car park edge defined with rail stock fencing with shrub planting in front. This will create defined boundary between the car park and adjoining countryside. In terms of the spread of development, this is noted but is not readily perceivable from wider public views. Similarly, it is noted that it does not extend as far as the built development comprising the converted barn and wider residential site immediately to the north east (Bradford Barn). Due to the close proximity of the two sites, and the

presence of similar gravel drive and parking areas present at this adjoining property, it is not considered that the car park works adequately respect the character of the surrounding area, without harming the rural context.

The drive and access point are existing and despite the change in appearance due to the resurfacing, which in itself would not require planning permission, there is no change proposed that would be harmful to visual character. In discussing highway safety issues above, it is noted that the Highway Authority requested improvements to visibility between the two existing access on to the site by removing any obstruction higher than 1 metre above the adjoining carriageway, at a point 2.4m back from the carriageway edge. At present the existing roadside wall is approximately 1 metre in height, with higher sections of stonework adjoining the accesses. There would be a need to lower the higher sections and possibly a small part of the roadside wall to provide this visibility, however this is not considered to be harmful to the character of the area, or the traditional character of the building and wider site. With the exception of the higher sections, the roadside boundaries of both the application site, and adjoining residential property, are characterised by their low stone walls. The required alterations would have a limited visual impact, respecting the existing character sufficiently. It is considered appropriate to impose a condition requiring details of these works, including details of repointing, coping stones, etc, to be provided and agreed prior to the works being carried out.

In considering the existing temporary building, which is proposed to be retained, this is closely related to the existing buildings and also does not represent a significant expansion of built form into adjoining countryside that would be considered reasonable to recommend refusal. The building at present is clearly in a state of deterioration and does not respect the character of the area. It is however proposed to clad in timber and roof in slate, which would significantly improve its appearance. These materials would match those used in an adjoining wood store building, thereby appropriately mitigating against the current harm caused by this building. In order to ensure a satisfactory outcome and speedy resolution to this current enforcement issue, it is considered appropriate to impose a condition requiring these works to be carried out in a reasonable period of time, say 3 months following any approval.

The use of the bee keeping storage building is a very small-scale use with very limited vehicle movements associated with it. A condition would be sensible to exclude its use for business purposes, thereby limiting its use in connection with a higher intensity use on site.

Overall, the works as carried out and proposed, are considered to be acceptable, complying with policy DM2 (high quality design) and criteria c) of policy DM11 of the Local Plan Part 3 (Development Management Policies).

4) Impact on residential amenity

The site is in a sparsely developed countryside location just beyond the edge of Tiverton, with two neighbouring properties to the east, Bradford Bungalow that is well separated from the site, and Bradford Barn, which immediately adjoins the access track and car parking area. The occupier of Bradford Barn has objected to the development for several reasons, however one of the main reasons for objecting to this particular scheme, is the impact that the use, particularly as a result of vehicle movements close to their property, will have on their living conditions. Concerns include the generation of noise disturbance as a result of vehicles moving close to the property, especially over the loose gravel, and headlights shining into the main sitting room and some bedrooms. There are also concerns about the potential for increased vehicle movements depending on the use of the buildings as there is some ambiguity over the end use with 'flexible use' referred to in the planning statement, which could potentially include B1, A2 and B8.

In respect to the use of the units, this has been clarified, and discussed further in the 'parking and access' section of this report. With the exception of Suite 3A, which already benefits from a flexible use, which includes full B1 and B8 use, it is proposed to limit the use of the other five units to a B1 use, which would include office, light industrial, and research and development, and B8 storage, with distribution use excluded. This would allow for 'professional' users such as a designer/architect, financial advisor, etc, or a low-key storage use such as storage of documents, antiques, household items, seasonal goods, etc. Such uses are considered to be acceptable and would be compatible with a residential setting. As such, the actual use of the buildings is not considered to be harmful to residential amenity. It is also noted that the buildings nearest the neighbouring property are not included within the change of use application, allowing a degree of separation between the two sites.

In respect to disturbance from vehicle movements, the Public Health team have raised no objections to the proposal. Further discussion have taken place with the Council's Environmental Protection Officer, specifically in relation to the comments received from the neighbouring occupier. Despite the increase in scale of development from the previous application (18/00657/FULL), the Environmental Protection Officer has advised that he does not consider the level of usage proposed would cause such disturbance that this would be sufficient to represent an unacceptably adverse impact on neighbouring amenity to justify refusing planning permission. No improvements are considered necessary, however it is suggested that the installation of an acoustic fence along the neighbouring boundary would adequately address the concerns in relation to noise from the car park, and light from headlights. The replacement of the gravel with a hard surface such tarmac or resin bound gravel would also reduce noise from vehicles accessing the site and manoeuvring in the car parking area.

While it is noted that improvements are not considered necessary, the applicant has agreed to make improvements in the form of replacement of the gravel or the installation of an acoustic fence, in accordance with the Environmental Protection Officer's suggested specification. A condition to this effect may be imposed on any consent granted. It is also noted that it is the applicant's own desire that any users of the site are limited in the time that they can work on the site. As such, they are agreeable to a condition limiting hours of operations. Following consultation with the Environmental Protection, a condition restricting hours to between 8am to 7pm on weekdays and 8am to 1pm on Saturdays, with no operation on Sundays or Bank Holidays. Such a condition would limit the use of the site in unsociable hours, also restricting how late any business could operate, thereby removing the opportunity for headlights to cause disturbance through shining into the adjoining house at unreasonable times. It is also noted that there is a planted boundary between the two properties that would further reduce this impact.

Taking the above into account, it is not considered that the living conditions of occupiers of Bradford Barn, or other nearby properties, would be unacceptably harmed as a result of the proposed development. The proposal is therefore considered to comply with policy DM2 of the Local Plan Part 3 (Development Management Policies), in respect to not having an unacceptably adverse effect on the privacy or amenity of neighbouring properties.

5) Other issues

In regard to other planning matters, with respect to ecology, there is an objection that the application should have been supported by a wildlife survey as the barns are ideal for bat roosts. Despite these concerns, this is not something that is necessary for this application. The works to the roof space of these buildings has already been carried out. With the exception of the change of use, for which this application seeks permission, internal works are also not classed as development and therefore can be carried out without the need for planning permission. This does not relieve the applicant of their legal obligations in respect to protected species and other wildlife,

however this is dealt with outside of the planning process as these works have already taken place. When these works were considered in the previous application, it was noted at the time that a survey had been carried out prior to works being carried out and no protected species were noted.

On this basis, with no physical works proposed to the building and only the proposed change of use being considered, it is not necessary to require an ecology survey. In carrying out the works however, it is noted that some biodiversity improvements have been implemented, including the provision of a range of nesting boxes for birds.

Questions have been raised about the efficiency of the enforcement process in dealing with existing breaches, however this application is received in response to those investigations, seeking to regularise all of the outstanding matters. Should permission be granted, these will have been appropriately resolved. If refused, a decision will need to be taken about proceeding with the next stages of the enforcement process.

CONCLUSION

Overall, despite the objections received, the proposed change of use of these traditional buildings and the associated works to the site, and the retention and improvement of the temporary building, are considered to be appropriate in this location, will have no adverse impact on local landscape character or highway safety and will cause no unacceptable harm to residential amenity.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The change of use and conversion of this existing range of buildings for business purposes is considered to be acceptable as the works involve an existing building of satisfactorily substantial and permanent construction which positively contributes to the area's rural character, and which has been converted without significant alteration, extension or rebuilding. The associated works, including the retention of the car parking area, and the other part of the scheme comprising the retention of the temporary building for use in connection with bee keeping activities is considered to be acceptable too, appropriately respecting and relating to the character of the site and its surroundings. Notwithstanding the relationship with a neighbouring property, it is not considered that the development would lead to an unacceptably adverse effect on the amenity of the occupiers of this or any other property. Furthermore the site is of sufficient size to accommodate adequate parking and turning facilities, as necessary, and is served by a suitable access. It is considered appropriate to recommend approval with conditions necessary to ensure the success of the development in this location. As such, it is considered that the proposed development satisfactorily accords with policies DM1, DM2, DM7, DM8, DM11 and DM20 of the Mid Devon Local Plan Part 3 (Development Management Policies), COR1, COR2, COR4, COR9 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1) and the aims and objectives of the National Planning Policy Framework.

CONDITIONS

1. The date of commencement of this development shall be taken as 12th November 2019, the date the application was registered by the Local Planning Authority.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.

3. The business use hereby permitted shall not be operated outside of the hours of 08:00 to 19:00 Monday to Friday and 0800 to 13:00 Saturday and shall not be operated on Sundays and Bank Holidays.
4. The areas allocated for parking on the approved plans shall be kept clear of obstruction and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.
5. No means of external illumination/lighting shall be installed within the application site unless details have first been submitted to and agreed in writing by the Local Planning Authority. Any external lighting installed shall be in accordance with the agreed details.
6. Visibility splays shall be provided, laid out and maintained for that purpose between the two accesses serving Bradford House and the application site, where the visibility splays provide inter visibility between the two accesses at a height of 1.0 metre above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway shall be 2.40 metres and parallel between the two. Such visibility shall be fully provided before any of the business units hereby permitted are first occupied and shall thereafter be maintained at all times. Prior to any works being carried out on in relation to the provision of the visibility splays, details of the works required in relation to the lowering of the existing stone boundary wall shall first be submitted to and approved in writing by the Local Planning Authority. Such details shall include identification of the area of wall requiring removal and details of making good including the specification of mortar mix and capping. The works shall thereafter be constructed in accordance with the approved details.
7. The bee keeping storage building hereby approved, comprising the retained temporary building, shall be clad and roofed in accordance with the details indicated on the approved plans, within three months of the date of this decision.
8. Prior to any of the business units hereby permitted first being occupied, noise reduction and mitigation measures shall be provided in the form of the erection of an acoustic fence (2m high with a mass of at least 12kg) along the eastern boundary of the site, forming the boundary with the neighbouring property (Bradford Barn), or the replacement of the existing gravel track and car park serving the development hereby permitted with a properly consolidated surface (not loose stone or gravel), as agreed in correspondence dated 12th February 2020 (email from Ian Firth to John Millar). Prior to their installation, details of the noise reduction and mitigation measures shall be submitted to and agreed in writing by the Local Planning Authority. Such measures shall be carried out in accordance with the agreed details and shall thereafter be maintained at all times.
9. The business unit referred to as 'Suite 3A' on the approved plans shall be used for purposes falling within Use Classes B1 and B8 only and for no other purpose (including any other purpose in any Use Class of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), or any other use permitted under 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).
10. The business units referred to as 'Suites 1, 2A, 2B, 2C and 3B' on the approved plans shall be used for purposes falling within Use Classes B1 and B8 (storage) only and for no other purpose (including for use as a B8 distribution place or other purpose in any Use Class of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision

equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), or any other use permitted under 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).

11. The bee keeping storage building hereby approved shall at all times be used for purposes ancillary to the bee keeping activities taking place on site and shall not be used for any commercial activity.

REASONS FOR CONDITIONS

1. In order to establish a legal commencement date for the development to enable the development to be monitored by the Local Planning Authority.
2. For the avoidance of doubt in the interests of proper planning.
3. In the interests of residential amenity in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies), and the aims and objectives of the National Planning Policy Framework.
4. In the interests of highway safety, in accordance with policies DM2, DM8 and DM11 of the Local Plan Part 3 (Development Management Policies), and the aims and objectives of the National Planning Policy Framework.
5. In the interests of residential amenity in accordance with Policy 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 highway safety, in accordance with policies DM2, DM8 and DM11 of the Local Plan Part 3 (Development Management Policies), and the aims and objectives of the National Planning Policy Framework.
7. To safeguard the visual amenities of the area, in accordance with policies COR2 of the Mid Devon Core (Local Plan Part 1) and DM2 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 Policy DM2 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 and in the interest highway safety and of assuring adequate parking remains available for any alternative use to accord with policies DM2, DM8 and DM11 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 in the interest highway safety and of assuring adequate parking remains available for any alternative use to accord with policies DM2, DM8 and DM11 of the Local Plan Part 3 (Development Management Policies), and the aims and objectives of the National Planning Policy Framework.
11. In the interests of residential amenity and in the interest highway safety and of assuring adequate parking remains available for any alternative use to accord with policies DM2, DM8

and DM11 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.

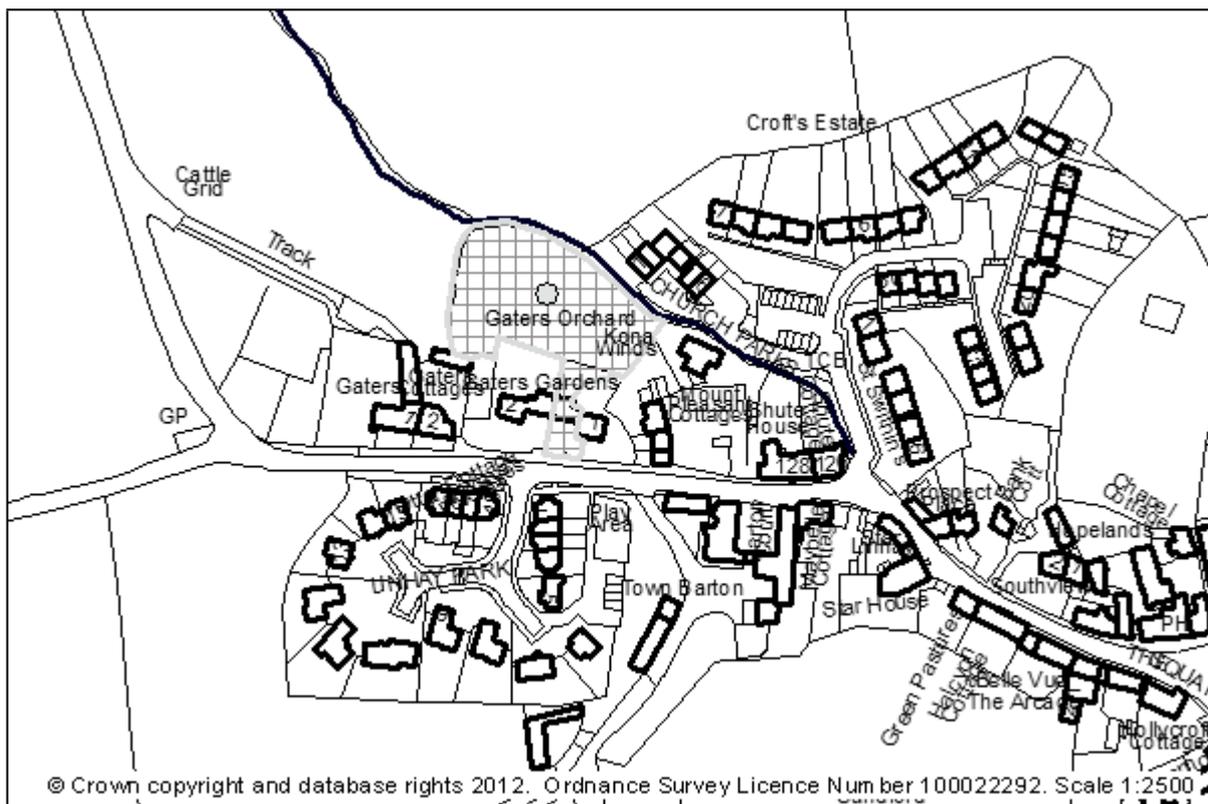
Application No. 19/01840/FULL

Applicant: Ms E Cole

Location: Land at Gaters Orchard and 1 Gaters Gardens
Sandford
Devon

Proposal: Erection of 3 dwellings and part demolition of garage to 1 Gaters Gardens to provide access

Date Valid: 23rd October, 2019



APPLICATION NO. 19/01840/FULL

MEMBER CALL-IN

Called in by Cllr Margaret Squires for the following reasons:

1. To consider the proposed development within the settlement of Sandford in relationship to the conservation area, given the proximity of the listed buildings but also with the relationship of modern development on either side.
2. To consider if the number proposed is right for the site
3. To consider the access width and alignment with the road in connection with the amount of traffic be generated.

RECOMMENDATION

Refuse planning permission.

PROPOSED DEVELOPMENT

This planning application proposes the creation of three dwellings, to be accompanied by parking and amenity spaces, along with shared access arrangements, on land that mostly sits outside the settlement limits of Sandford. The three dwellings would be detached, two-storey, pitch-roofed structures built into a hill-side. The two eastern-most units would be single-storey on their southern sides and double-storey on their northern sides, reflecting the changing ground levels. The western-most unit would be the largest of the three and would be accompanied by a garage.

The site is located on land that rises up from the north and east, and sits 2-6m above existing development located to the north and east, with the highest ground being located at western end of the site. The site is undeveloped and contains a number of mature trees. It is located within the Sandford conservation area, and adjoins open land to the west and north, and existing residential development to south, north, and east. Two of the adjoining properties to the south are Grade II Listed.

APPLICANT'S SUPPORTING INFORMATION

Application Form, plans, and supporting information.

PLANNING HISTORY

There are no previous planning decisions of particular relevance to the proposal.

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

- COR1 - Sustainable Communities
- COR2 - Local Distinctiveness
- COR3 - Meeting Housing Needs
- COR7 – Previously Developed Land
- COR9 - Access
- COR12 - Development Focus
- COR17 - Villages
- COR18 – Countryside

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

AL/IN/3 - Public Open Space
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

National Planning Policy Framework (“the NPPF”)

CONSULTATIONS

Sandford Parish Council – 18th November 2019

The Parish Council recently held a site Meeting to discuss this application with the Applicants and Architect.

We understand that Consultation has been ongoing regarding the proposed Development with MDDC since 2018, with Simon Trafford (MDDC Planning Office) prior to his departure.

Whilst the Parish Council in principle are IN FAVOUR of the proposal there are a number of issues that we wish to highlight:-

Eco Friendly/Energy Efficiency - We are aware of the current Climate Crisis debate and the need for Eco Friendly new homes to be constructed. It is not obvious from the application what/if any Environmentally Friendly features have been incorporated above those required by building regulations. Will the new homes be Energy Efficient?

Access of increased traffic on to the busy West Sandford Road - This is a busy road and a bus route. Cars are permanently parked against the pavement on the other side of the road, and the proposed access is directly opposite the entrance to the 16 homes at Linhay Park. The Parish Council would like confirmation that the Highway Authority are happy with the proposal for more vehicles to exit on to the West Sandford road at this location?

Could we request that provision is included, if permission is granted, that two parking spaces are provided in front of 1 Gaters Gardens prior to the Garage being demolished. Also could additional parking spaces be incorporated within the curtilage of the Development?

The Parish Council are also concerned at the increase in "On street parking", particularly during the construction period, and thereafter, which will inevitably occur if the application is approved.

Disposal of surface water - We were told that this has yet to be decided. As to whether this will be dealt with by being sent off the site down on to the Stream at the bottom of the Site, or taken away from the front of the current property. We would like to recommend that whatever is deemed to be the "Greenest" Option is adopted. We already have problems, and concerns over the increased flow of water that feeds into the Shute Stream at the bottom of Crofts which does flood on

occasions. Any new homes are inevitably going to add to the volume of the water entering the Shute Stream.

Parking during Construction - We are also concerned over the high volume of traffic that will occur during the time of construction of the new homes, given that Building suppliers' lorries etc. will need to access the site to offload materials, notwithstanding the provisions of the Control of Pollution Acts. Has a Construction Phase Site Management Plan been drawn up for material deliveries and contractor parking, as these elements have the potential to cause significant impact with inconvenience for Residents and difficulty for through traffic, particularly agricultural traffic and public transport ? If a Plan has been produced can we please see a copy or request that one is produced if not. Additionally could deliveries be prohibited before say 8.30 and after 16.30 hrs?

Highway Authority – 28th November 2019

The site is accessed from a private drive and the Highway Authority has no objection to the concept. However the access should be minimum of 4.5m for the first 10 m to allow two vehicles to pass. In addition given the narrow nature of the road fronting the site and its use as a bus route parking should be suitable and the Highway Authority would seek 2 spaces for each dwelling, this can be achieved by a realignment of the plots.

Also there are downstream issues with surface water and the Highway Authority would seek details of the surface water proposals. Therefore the Highway Authority would seek an amended plan and additional detail to address these issues.

Recommendation:

The Head of Planning, Transportation and Environment, on behalf of Devon County Council, as Local Highway Authority, may wish to recommend conditions on any grant of planning permission

Public Health – 13th November 2019

Contaminated Land - No objection to this proposal

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 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.

Housing Standards - No comment

Licensing - No comments

Food Hygiene – Not applicable

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. You must also register with the Local Authority (Mid Devon District Council) any private water supply. Failure to do so may result in a Section 85 Notice, with which failure to comply is an offence.

Please contact Public Health at Mid Devon District Council on completion of proposal.

If mains water is to be used, would have no comment.

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.

Historic Environment Team – 2nd December 2019

Devon County Historic Environment Team Ref: Arch/DM/MD/34918a

I refer to the above application. The proposed development site lies in an area of archaeological potential. Possible prehistoric or Romano-British activity is recorded within 150 metres to the northwest of the application area in the form of cropmarks identified through aerial photography. Further evidence of prehistoric activity is located to the east of the site, evidenced by another cropmark of which its form pertains to a possible ring ditch. 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 presence and significance of any heritage assets with archaeological interest that will be affected by the development. 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.

Natural England - 22nd November 2019

No comments

Conservation Officer – 23rd January 2020

Following my initial response on 10th December 2019 and undertaking a site visit with architects on 23rd January 2020 which included viewing the site from local vantage points to the west on the access lane down to No 1 Gater Cottages and on the road above Sandford toward Kennerleigh.

As previously commented the orchard site is recognised formerly in the Conservation Area designation as an important green space to the north of the valley that's runs down into the Sandford village from the west. In addition there are two listed thatched cottages on the north side of lane that runs west out of the village that abut the orchard site. Mount Pleasant Cottage to south east and Gater Cottages to the south west.

The site has a flat terrace about 12 m x 40 m that appears to have been created between 5 – 10 years ago to the centre of the site immediately behind the garden area to No. 2 Gater and it slopes steeply down from the terrace to the north and north east toward the stream at the boundary. The site is used informally as garden space by the owners of No. 1 Gater Gardens.

The historic mapping shows the orchard was related to Mount Pleasant Cottage along with the small field now occupied by Gater Gardens No. 1 & 2.

The proposal is to create an access sharing the existing access to No.1 Gater Gardens and making access through to the terrace at the rear of the garden by demolition of the double garage. A new two storey side extension is proposed to No. 1 Gater Cottage adjoining the new access.

Three new dwellings are proposed on the orchard. A large detached dwelling to the far end of the terrace and cut into the bank immediately below the cob outbuilding to 2 Gater Cottages. The house would appear as single storey from the terrace level and two storey to the north and garden area where the ground would continue to slope away to the valley. The outlook and orientation from the dwelling is to the north and west across the valley. This dwelling will have a separate double garage block on the terrace edge.

Two smaller detached dwellings separated by a steep set of concrete steps are cut into the edge of the terrace so that they would be single storey to the terrace and full two storey to the north elevation with an orientation to the north and the valley. A single parking space each is indicated for the two dwellings.

The access road and turning area will effectively take up the existing terrace area with the new dwellings cut into the sloping land to the edge. The applicant has indicated the extent of a retaining wall required for the larger dwelling but it is also expected that similar retaining walls would be cut into the slope to form the level patio garden spaces to the back garden (north) of the other two dwellings.

The extent of this level of development including a new access, three large detached dwellings hardstanding, turning areas, retaining walls and levelling and domestication of additional garden /patio spaces would have a substantial harmful impact on the character of the existing open slopes of the orchard and would be considered an overdevelopment.

The three dwellings would be considered an incongruous and harm the character of the Conservation Area directly and would not achieve the minimal requirement to preserve the character.

It would also affect the wider views especially in the winter with a group of three dwellings extending the village edge out across this important open edge to the Conservation Area. There is existing trees and hedgerow boundary screening treatments but especially in the winter the visual incursion is considered harmful to the character of the Conservation Area.

The proposed development of three dwellings is also considered to affect the setting of the two listed buildings. Gater Cottage and its outbuilding setting would be directly affected by the large detached dwelling which would sit within 10 m from the curtilage listed outbuilding. While Mount Pleasant would be harmed by the detached pair of new dwellings and by the modifications to the existing 1. Gater Garden in the street scene.

It is considered that the pair of dwellings at Gater Gardens are of some significance as an architectural pair in the street scene and the loss of the garage block and the large extension and remodelling of 1. Gater Gardens would be detrimental to the existing street character of the Conservation Area and setting of the listed building either side. As too would any alteration to the stone retaining wall along the lane to provide the access.

The proposal needs to be substantial revisited any as the site is outside the development boundary for the development there is an in principle objection to any development. In terms of harm to designated heritage assets and their setting it is considered the only potential for development would be a single detached building located on the existing terrace and this would need to be explored carefully in design terms through a pre- app process, if there is scope for this in the context of wider planning polices to consider such a development.

Conservation Officer – 10th December 2019

The site lies within the Sandford Conservation Area. There is no Appraisal for the CA.

The site would be created by removing the existing link garage and forming a new access route to the site, a separate orchard, accessed through the rear garden area.

The orchard forms an important green space and the north side of the valley running down into the village of Sandford. The open character of the orchard forms an important sloping green edge to the setting of the Conservation Area.

There are two listed buildings Mount Pleasant Cottages to the east and Gater Cottages to the west that sit on a ridge of the valley and both have settings that include the orchard sloping away from them to the north.

It appears on historic mapping the orchard was related to the listed Mount Pleasant Cottage as was the area where 1 and 2 Gater Gardens have been in filled into a former walled field /market garden area between the two listed properties Gaters Cottages to the west and Mount Pleasant to the east in the 1960's.

1 and 2 Gater Gardens with their link garage form a visual continuous development pair and form part of the Conservation Area. Of particular significance is the street frontage that is formed by a an historic retaining stone wall that connects with the walling that runs all the way down the road toward the village connecting the garden frontages from Gater Cottage to Mount Pleasant. The wall has been adapted when Gater Gardens were built to form a visibility splay.

In terms of the proposed three new dwellings located in the orchard. The orchard has a natural sloping profile but has an existing but recent terrace feature cut into the slope and located to the north of 2 Gater Gardens. The orchard is used informally as garden by No1 Gater Gardens. The terrace feature does not appear in aerial photographs until 2015 (2010 has the area used a vegetable garden). The development is to locate an access road on the terrace and have three dwellings cut partly into the natural slope of the land from the terrace.

Two of the new dwellings appears as a pair with a steep set of steps between them and a larger detached dwelling at the west end of the orchard adjacent to the outbuildings at the rear of listed Gater Cottage.

The proposed dwellings are considered to appear incongruous in views into and across this part of the Conservation Area and would be detrimental to the open character of the orchard and valley and the setting of North West edge of the Conservation Area and village of Sandford.

It is considered that the pair of dwellings at Gater Gardens are of some significance as an architectural pair in the street scene and the loss of the garage block and the large extension and remodelling of 1. Gater Gardens would be detrimental to the existing street character of the Conservation Area and the street setting of the listed building either side. As too would any alteration to the retaining wall.

The proposed development of three dwelling is considered to affect the setting of the two listed buildings to less than substantial harm. Gater Cottage directly by the large detached dwelling while Mount Pleasant would be harmed by the detached pair of new dwellings and by the modifications to the existing 1. Gater Garden.

I would therefore strongly object to the proposal.

REPRESENTATIONS

Representations have been received from three neighbouring occupiers objecting to the proposal on the following grounds:

- Poor access arrangements;
- Loss of trees and harm to wildlife;
- Harm to the conservation area;
- The site is located outside settlement limits;
- The effect on surface water drainage;
- The height of the proposed buildings;
- Harm to amenity during the construction process;
- Potential impacts in relation to ground stability;
- Potential damage to property as a result of construction traffic.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

1) Principle of Development:

Policy COR7 of the Core Strategy states that development will be guided towards the most sustainable locations available, including previously developed or underused land in settlements. The site is mostly located beyond the settlement limits of Sandford, and the proposal would result in the creation of three residential properties in the open countryside. Policy COR18 of the Local Plan stipulates the circumstances in which development in the open countryside will be supported; the proposed open market housing does not meet the criteria of this policy.

Whilst Mid Devon is able to demonstrate more than a five year supply of housing land, as a number of its strategic policies, including COR18, are out of date, the tilted balance applies and, as per the NPPF, there is a presumption in favour of permitting sustainable development where up-to-date policies do not indicate otherwise.

The site straddles the settlement boundary of the village and is within walking distance of a bus stop, village post office and shop, and a public house. In light of the above circumstances, in terms of its location, the proposal is considered to be sustainable, in accordance with the guidance contained in the NPPF, and acceptable in principle. However, in order for the proposal to constitute sustainable development, the three objectives being economic, social and environmental would all need to be achieved and this matter is considered further on within this report.

2) Impact on Character and Heritage Assets

Policy DM2 of the Local Plan states that the design of new development must be of high quality and demonstrate a number of principles, including efficient and effective use of the site, an understanding of the local context, and appropriate siting, layout, scale, and other design characteristics to ensure visually attractive and well integrated development. Policy DM14 states that new housing should be designed to deliver high quality, taking account of context, local character, density, and land use mix. Policy DM27 refers to the importance of heritage assets and their settings, and includes criteria for their preservation and enhancement.

The application site is located within the Sandford Conservation Area and, whilst not mentioned in the Conservation Area Appraisal, is considered by the Council's Conservation Officer to make a positive contribution to its character. Local Planning Authorities have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

The Council's Conservation Officer has objected to the proposal on the grounds that it would result in unacceptable harm to the settings of two listed buildings and because it would not, as a minimum, preserve the character or appearance of the conservation area. The application site is an open green space containing a number of trees and is on raised ground in relation to the north and east. The western-most proposed dwelling would be located around 9m from the curtilage area and listed outbuilding relating to Gaters Cottages (Grade II listed). Whilst the eastern-most proposed dwelling would be located within 7m of the curtilage of Mount Pleasant Cottages (Grade II listed) and 17m of the buildings themselves. The proposal would result in the creation of a vehicular access between the two existing dwellings known as Gaters Gardens, which currently present a symmetrical appearance within the street-scene located, as they are, between the two aforementioned listed sites.

The proposal would result in the part-demolition of No.1 Gaters Gardens, and the erection of a two-storey side extension in relation to that dwelling, to replace the double garage to be sacrificed for the creation of the proposed access to the site. The addition of a large, two-storey side extension and the loss of symmetry would result in a visually incongruous effect that would be harmful to the character of the street-scene, the conservation area, and the settings of the two listed buildings either side of Gaters Gardens. The introduction of three, two-storey dwellings and associated development, within what is currently an open and verdant site, would also be visually harmful, and being in close proximity to two listed buildings, would be harmful to the settings of those buildings along with the character of the conservation area. The harm to the setting of the conservation area would be particularly evident when viewed from the north and east, where two-storey dwellings, built into the hill side, would sit on raised ground above the existing village located to the north and east.

For the reasons discussed above, it is considered that the proposal would result in less than substantial harm to heritage assets and public benefits, that outweigh the identified harm, have not been demonstrated.

Given the proposal's siting, scale, and design, it is considered that it would result in an over-development of the site. The three two-storey buildings and associated development, including an access road running between two existing properties, vehicle parking, fencing, domestic garden areas, and retaining structures, necessitating the removal of trees, on what is a well vegetated, greenfield site would result in a crowded, harsh and visually intrusive form of development particularly when viewed from the lower ground located to the north and east.

The proposal would result in unacceptable harm to the character of the area and to heritage assets and is therefore contrary to Policies DM2, DM14, and DM27 of the Local Plan, and the guidance contained in the NPPF.

3) Amenity and Quality of Accommodation

Policy DM2 of the Local Plan states that proposals should not result in unacceptable impacts on the privacy and amenities of those occupying existing or proposed dwellings. Policy DM14 states that new housing should be designed to provide adequate internal living space and room for various types of storage, including for refuse and bicycles; adequate levels of natural light and privacy in relation to internal and external spaces; and suitable amounts of private amenity space. Policy DM15 stipulates the required internal space standards for new dwellings. Policy DM7 of the Local Plan states that development will be permitted where the effects of pollution would not have unacceptable impacts in relation to health, the natural environment, and general amenity.

The proposal would provide adequate amounts of internal living space and outdoor amenity areas and therefore an acceptable standard of living accommodation for the enjoyment of future occupiers.

Given the proposal's siting, scale, and design, and its relationship to neighbouring properties, it is considered that the proposed dwellings would not result in unacceptable harm to the amenities of neighbours, in terms of their outlook, privacy or access to light. However, it is considered that the introduction of a new access and road serving three properties, to be located in between Nos.1 and 2 Gaters Gardens, would be harmful to neighbouring amenity. The proposed access road would have a 'tight' relationship to these two properties, running alongside the dwellings and their curtilage areas. The comings and goings of vehicles associated with the proposed development is likely to result in an unacceptable level of disturbance to the occupiers of the Gaters Gardens properties.

As such, the proposal is contrary to Policy DM2 of the Local Plan.

4) Access Arrangements

Policy DM2 of the Local Plan states that new development should be safe and accessible. Policy DM8 states that sufficient vehicle parking and bicycle storage must be provided.

The Highway Authority has raised no objections to the proposal in principle but has stated that, given the limitations of the public highway where the site access would be located, that the proposed access road should be 4.5m in width for a length of 10m back from the highway, to allow two vehicles to pass one another, and that two parking spaces per dwelling should be provided. Whilst Unit 3 would be served by at least two parking spaces, the other two units would only be served by one off-street parking space each, and this falls below the requirements of Policy DM8. Moreover, the width of the access road would be around 3.5m in width, rather than the 4.5m required by the Highway Authority. This will prevent two vehicles being able to pass one another, and possibly result in vehicles waiting in, or even reversing into, the public highway. The insufficient number of parking spaces may result in overspill parking in the highway. These factors, along a narrow part of the highway where there is a bus stop and on-street parking is likely to compound existing congestion, and result in unacceptable harm to highway safety and amenity. As such, the proposal is contrary to Policies DM2 and DM8 of the Local Plan.

5) Legal Agreement

In accordance with Policy AL/IN/3 of the Allocations and Infrastructure Development Plan Document, the grant of any planning permission should be subject to the completion of a legal agreement to secure financial contributions towards open space, calculated at 3 x £1205. In addition to this, in line with Policy AL/CRE/8 (Crediton Air Quality) a financial contribution towards Air Quality mitigation in the Parish of Crediton based on the calculation of 3 x £4434 would be required. However given the concerns to the principle of the development, these contributions have not been pursued but would be in the event of any planning appeal submitted.

6) Other Considerations

Archaeology

The County Historic Environment Team has raised no objections to the proposal, subject to the use of a planning condition to secure a scheme of archaeological investigation and works. This condition can be imposed should planning permission be granted.

Ecology

The submitted ecological assessment has concluded that the proposal would not result in unacceptable harm to protected species, and that further survey work is not required, but does recommend the use of mitigation and enhancement measures, such as the installation of bat boxes, which can be secured through the use of a planning condition, should planning permission be granted.

Drainage Arrangements

The proposed method of foul drainage would be to the mains sewer, whereas the surface water drainage arrangements would make use of soakaways. There is a lack of detailed information available about the proposed means of surface water drainage, however, it is envisaged that an acceptable scheme can be achieved to ensure that the proposal would not result in unacceptable

surface water run-off. Should planning permission be granted, a condition should be imposed to secure an acceptable scheme of surface water drainage at the site.

7) Conclusion

The proposal is considered unacceptable, having regard to the Development Plan and all other material considerations, and planning permission should therefore be refused.

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.

DECISION REASON

Unacceptable harm has been identified in terms of the effects the proposal would have on the character of the area, heritage assets, neighbouring amenity, and highway safety and amenity. The proposal is therefore considered to be contrary to Policies DM2, DM8, and DM27 of the Mid Devon Local Plan. In the absence of a completed legal agreement to secure financial contributions towards the provision of public open space, the proposal is also contrary to Policy AL/IN/3 and AL/CRE/8 of the Mid Devon Local Plan.

REFUSAL REASONS

1. Given its siting, scale, and design, the proposal would result in a crowded and visually incongruous development on an open and verdant site, which occupies a prominent position within the village, and therefore unacceptable harm to the character of the area. The proposal would also result in less than substantial harm to heritage assets where sufficient public benefits, outweighing this harm, have not been demonstrated. As such, the proposal is contrary to Policies DM2 and DM27 of the Mid Devon Local Plan, and the guidance contained in the National Planning Policy Framework.
2. The proposed access road, intended to serve the three new residential properties, which would straddle two existing residential properties, would result in an unacceptable level of disturbance to the amenities of those occupying Nos.1 and 2 Gaters Gardens, contrary to Policy DM2 of the Mid Devon Local Plan.
3. The narrowness of the proposed access road, which would not allow two vehicles to pass one another off the highway, and an insufficient number of parking spaces in relation to proposed Units 1 and 2, is likely to exacerbate congestion along the public highway near to the site, and cause unacceptable harm to highway safety and amenity, contrary to Policies DM2 and DM8 of the Mid Devon Local Plan.
4. In the absence of a completed legal agreement to secure financial contributions towards public open space and towards Air Quality mitigation in the Parish of Crediton, the proposal is contrary to Policies AL/IN/3 and AL/CRE/8 of the Mid Devon Local Plan adopted Allocations and Infrastructure Development Plan Document.

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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Major Applications with no Decision (Since last Committee Close Date)

Members are asked to note that some major applications will be dealt with under the delegation scheme. Members are also requested to direct any questions about these applications to the relevant case officer. It was resolved at the meeting of Planning Committee on 21st March 2018 that with the exception of small scale proposals, applications for ground mounted solar PV arrays recommended for approval be brought before the Committee for determination.

<i>Item No.</i>	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>	<i>Expected Decision Level</i>	
							<i>Delegated</i>	<i>Committee</i>
1	2	11/05/2020	20/00249/MOUT	Outline for a mixed use development of up to 21 dwellings and 1000 sq. m. of B1 employment space with all matters reserved except for access	Land at NGR 295599 122818 (North of Frog Street) Bampton Devon	Miss Lucy Hodgson	DEL	

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LIST OF APPEAL DECISIONS FROM 30 January 2020 to 27 February 2020

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
18/01669/TPO	Application to reduce the height of 1 Beech tree by 3.5m and reduce the crown by approximately 4m, protected by Tree Preservation Order 88/00002/TPO	The Mews Deep Lane Credon Devon EX17 2BY	Refuse consent	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed

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PLANNING COMMITTEE
11th March 2020

REPORT OF THE HEAD OF PLANNING AND REGENERATION

19/01608/HOUSE – Tanglewood Dukes Orchard Bradninch Exeter

Erection of single storey extension and separate garage/annex/workshop accommodation

Reason for Report:

At the Planning Committee meeting on 12th February 2020, Members advised that they were minded to refuse the above application and invited an implications report for further consideration.

RECOMMENDATION(S)

Grant planning permission subject to conditions.

Relationship to Corporate Plan:

Homes

- Planning and enhancing the built environment

Environment

- Protect the natural environment

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.

Legal Implications:

The report identifies the risks in proceeding with an appeal based on the reasons given by the Committee on 12th February 2020 – both in terms of outcome of an appeal and the risk of a costs decision. The Council will still need to prepare draft planning conditions for the appeal.

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.

Consultation carried out with:

1. Statutory Consultees

1.0 BACKGROUND:

1.1 At the meeting on 12th February 2020, Members indicated they were minded to refuse the application and therefore wished to defer the application for consideration of an implications report to consider the proposed reasons for refusal, that of: the proposal was not in accordance with Policies DM13 (a) and (c) of the Local Plan Part 3 (Development Plan Policies)

a) Respect the character, scale, setting and design of existing dwelling;

c) Will not have a significantly adverse impact on the living conditions of occupants of neighbouring properties.

and DM2 (a) and (e) of the Local Plan Part 3 (Development Plan Policies)

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

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 on and fenestration

iv) Materials, landscaping and green infrastructure

2.0 FURTHER OFFICER ADVICE:

2.1 With regards to the concerns raised by Members at their previous meeting, your officers would advise as follows:

2.2 The proposed development is not in accordance with policies DM13 (a) and DM2 (a) and (e)

Policy DM2 requires development to demonstrate a number of positive development principles including a clear understanding of the characteristics of the site, its wider context and the surrounding area and creating visually attractive places that are well integrated with surrounding buildings, streets and landscapes taking in to account architecture, siting, layout and massing, materials, landscaping and green infrastructure.

Policy DM13 requires that extension to existing dwellings and other ancillary development will be permitted provided that they respect the character, scale setting and design of the existing dwelling.

In respect to the visual impact of the proposed development, and its impact on the character of the area, your officers noted in the committee report that the garage/workshop/annexe would be large in scale and prominently positioned to the southern edge of the application site, where it would be more visible from views within Dukes Orchard. On balance, the officer's view was that the proposal would have an acceptable impact.

The consideration of matters such as design and overall impact on the character and appearance of the area is a subjective matter and in assessing the application, Members are perfectly entitled to take a different view to that of the recommending officer. Despite the

officer's recommendation, the proposed garage/workshop/annexe would be a large structure, highly visible from public vantage points.

With this in mind, your officers do not consider that a reason for refusal in relation to the visual impact of the proposed building, and its failure to respect and relate to the character of the area, would be unreasonable.

2.3 The proposed development is not in accordance with policies DM13 (c) and DM2 (e)

Policy DM2 requires development to demonstrate a number of positive development principles including a clear understanding of the characteristics of the site, its wider context and the surrounding area and creating 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

Policy DM13 requires that extension to existing dwellings and other ancillary development will be permitted provided that they will not have a significantly adverse impact on the living conditions of occupants of neighbouring properties.

In respect to the impact of the proposed development, on the residential amenity of the neighbouring occupiers, in particular the occupier of no. 2 Dukes Orchard, your officers advised in the committee report that the garage/workshop/annexe would close to the western boundary of the site, adjoining 2 Dukes Orchard, however due to its location to the north east of this adjoining bungalow, 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.

In considering the opportunities for overlooking, the areas of concern identified were potential 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, conditions could be imposed to require 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, through overlooking.

In respect to general overbearing impact, the property most likely to be affected was identified again as being 2 Dukes Orchard. In considering the impact, it is 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, which would 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, your officer's view was that the proposal would be acceptable. Notwithstanding this, the proposed garage/workshop/annexe is a large structure near to the boundary of 2 Dukes Orchard, projecting to the rear and side of this property. While the officer's recommendation was one of approval, this was a very balanced recommendation.

While it is not considered that the proposal would create harm as a result of overlooking or overshadowing, for the reasons identified above, there will be some harm from general overbearing impact due to the presence close to the boundary, and due to its size and scale. As with design and visual impact, there is an element of subjectivity in assessing impact on residential amenity, and apportioning the level of harm where this is identified. As such, it is perfectly reasonable for Members to come to a different conclusion to the officer's recommendation.

With the above in mind, your officers do not consider that a reason for refusal based on harm as a result of overlooking or overshadowing, in this instance, would be successful. It is not however considered that a reason for refusal based on general overbearing impact, would be unreasonable.

3.0 REASONS FOR REFUSAL:

3.1 Members are advised that while the officer's recommendation is one of approval, the matters discussed are subjective. In neither case is it considered unreasonable for Members to come to a different view of the recommending officer, provided that these concerns have been properly debated and cogently articulated in the reasons for refusal.

If, having considered all the above further, Members still consider that the proposal should be refused, then consideration should be given to the following reasons for refusal:

1. The proposed garage/store/annexe by reason of its siting, layout, scale and mass, fails to respect or relate to the character, scale and setting of the existing dwelling and its surroundings. As such it would have a detrimental impact on the character and appearance of the locality due to its failure to demonstrate a clear understanding of the characteristics of the site, its wider context and the surrounding area. The proposal is therefore contrary to policies DM2 and DM13 of the Local Plan Part 3 (Development Management Policies) and the aims and objectives of the National Planning Policy Framework.
2. The proposed garage/store/annexe by virtue of its height, bulk and close proximity to the boundary of the site would result in an overbearing and unneighbourly form of development that will have an unacceptably adverse effect on the residential amenity of the occupiers of 2 Dukes Orchard. As such, the proposal is contrary to policies DM2 and DM13 of the Local Plan Part 3 (Development Management Policies) and the aims and objectives of the National Planning Policy Framework.

Contact for any more information	John Millar [ext. 4218]
Background Papers	Application file and previous committee report
File Reference	19/01608/HOUSE
Circulation of the Report	Cllr Graeme Barnell

Application No. 19/01608/HOUSE

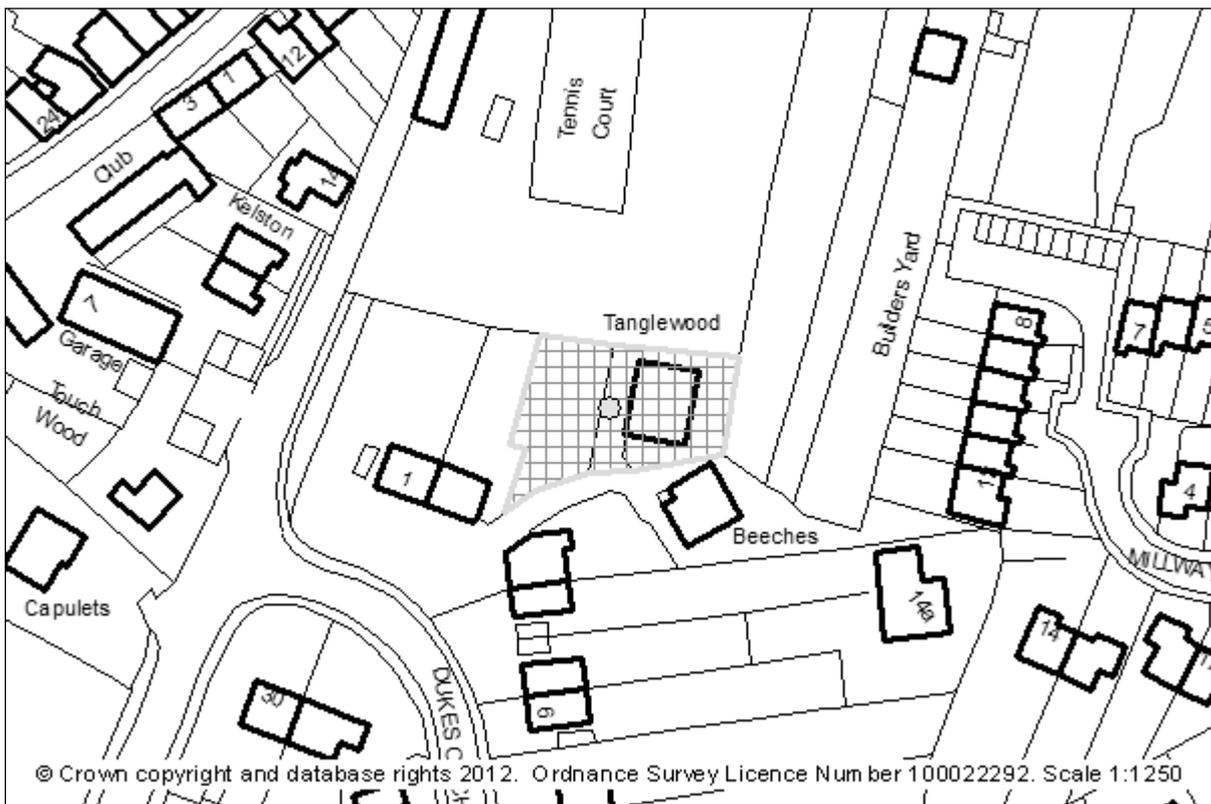
Grid Ref: 299869 : 103868

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

Update

This application was considered on the 17th December 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 proposal on the neighbouring property
- The access to the site
- Any possible overlooking issues

The site visit of the Planning Working Group has now taken place with the notes taken as follows:

PLANNING WORKING GROUP – 9 January 2020

Application 19/01608/HOUSE – Erection of single storey extension and separate garage/annex/workshop accommodation – Tanglewood, Bradninch

There were 7 Members of Planning Working Group present.

Also present – the agent, an objector and a representative of the Town Council.

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

- The impact of the proposal on the neighbouring property
- The access to the site
- Any possible overlooking issues

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

The Principal Planning Officer outlined the application which would include removing part of the fence and widening the parking area. He highlighted concerns that the proposal would impact on the neighbouring property and the conditions that had been proposed to mitigate these issues, with the stairs to the rear being screened and the accommodation only for ancillary use.

The group walked onto the site and considered the fence line and where the separate garage would be located, identified by props and cord, which gave a clear indication of the ridge height of the proposal. Consideration was given to the impact of the proposal on the neighbouring property; it was confirmed that there would be no windows on the first floor of the building.

The objector addressed the group, explaining her concern with regard to the height of the proposal and that it would be built too close to her fence. She felt that she would lose her privacy and would be looking at a wall and a roof from her conservatory which she felt was unfair and overbearing.

The agent stated that the building would be set into the ground to avoid any impact on the neighbouring property. The fence was not a planning matter and the construction of building was a building control matter. The application had been designed so that privacy could be maintained. He felt that there would be no overlooking nor over shadowing and little impact on the neighbouring property.

The representative from the Town Council explained that town councillors had visited the site and that the props had been very useful. The Town Council felt that the building was too high and very overbearing, there was concern about the closeness of the building to the fence. The council had been happy to support the extension but not the garage due to its height and overbearing issues.

The group then visited the neighbour's garden to consider the impact the proposal would have and asked questions with regard to light issues, screening and privacy.

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

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 story 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 – Sustainable Communities

COR2 – Local Distinctiveness

COR13 - Tiverton

COR17 - Villages

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 – Presumption in Favour of Sustainable Development

DM2 – High Quality Design

DM8 - Parking

DM13 – Residential Extension

DM27 – Development Affecting Heritage Assets

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 the 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 condition 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 provide a very small element of ancillary accommodation, which would not be 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 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 (Local Plan Part 1), 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 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 (Local Plan Part 1), 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 (Local Plan Part 1), 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 (Local Plan Part

1), 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 (Local Plan Part 1), Policies DM2 and DM13 of the Local Plan Part 3 (Development Management Policies) and the aims and objectives of the National Planning Policy Framework.

INFORMATIVES

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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PLANNING COMMITTEE

REPORT OF THE HEAD OF PLANNING AND REGENERATION

19/01156/FULL – Land at NGR 302839 111143 Lloyd Maunder Road Willand

Description of Development:

Installation of a 24MW Reserve Power Plant with associated infrastructure.

REASON FOR REPORT:

To consider the reasons for refusal proposed by the Planning Committee at the meeting of 12th February 2020.

RECOMMENDATION

Grant permission subject to conditions.

Relationship to Corporate Plan:

Environment

- *Seek new ways to improve our operational efficiency, reducing energy use and lowering our carbon footprint*

Financial Implications:

Any 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.

Legal Implications:

The report identifies the risks in proceeding with an appeal based on the reasons given by the Committee on 12th February, 2020 – both in terms of outcome of an appeal and the risk of a costs decision. The Council will still need to prepare draft planning conditions for the appeal. External legal representation may be required if the appeal proceeds to a public inquiry.

Risk Assessment:

If the Planning Committee decides to refuse the application for reasons that cannot be sustained at appeal there is a risk of a successful costs claim against the Council for reasons of unreasonable behaviour.

At the Planning Committee held on 12th February, 2020 Members of the Planning Committee resolved that they were minded to refuse the above application, contrary to officer recommendation, and requested a further report to consider –

1. The Committee's draft reasons for refusal and
2. The implications of refusing the application

REFUSAL The Committee was minded to refuse the application on the following grounds:

- In the open countryside
- Not producing renewable energy
- Not an energy efficient measure
- Not in accordance with Policies COR5, DM5 or COR 18(f) of the Local Plan
- Cumulative impact with other Devon renewable energy plants in the area.

1. The Committee's reasons for refusal

Set out below are two reasons for refusal which could appear on the planning decision notice, and these combine the above factors, apart from "energy efficiency", which is not a material planning consideration and therefore does not belong on a decision notice:

- A) The proposed development would result in the creation of a power plant in the open countryside, which would not generate renewable energy. As such, the proposal does not meet the criteria for acceptable development outside settlement limits and is contrary to Policy COR18 of the Mid Devon Local Plan.
- B) Taken together with other energy facilities in the locality, the proposal would have an adverse impact on the visual and general amenities of the area, contrary to Policy DM2 of the Mid Devon Local Plan.

2. The implications of refusing the application

- 2.1 In respect of the determination of planning applications, the planning Acts (section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004) state that they should be determined in accordance with the Development Plan unless material indications indicate otherwise. The Development Plan is therefore the primary consideration and the NPPF acts as non-statutory guidance, which should be taken as a material.

3. Consideration of the proposed reasons for refusal

- 3.1 The following section will assess the evidence to support the aforementioned suggested reason for refusal.

3.2 Reason for Refusal A)

The proposed development would result in the creation of a power plant in the open countryside, which would not generate renewable energy. As such, the proposal does not meet the criteria for acceptable development outside settlement limits and is contrary to Policies COR5 and COR18 of the Mid Devon Local Plan.

- 3.3 The proposed development is not an obvious renewable energy facility in the way that a wind or solar farm is. The proposal would involve the installation of gas-fuelled plant, which generates electricity for the national grid. Whether or not the proposal

can be defined as a renewable energy facility will depend on the nature of the gas being used to fuel it. If the fuel is natural gas, then the facility would be fuelled using a fossil fuel and could not reasonably be considered a renewable energy facility. If, however, the gas is from a renewable source, such as biomass, then the facility could reasonably be considered a renewable energy power plant. Whether or not the proposal generates renewable energy is of significance because the site is located in the countryside, and Policy COR18 of the Local Plan, whilst generally resisting development outside settlement limits, does allow for exceptions, and these include renewable energy development.

- 3.4 The applicants have stated that the plant would be fed by gas directly from the neighbouring anaerobic digester (AD) facility and from gas derived from the national grid. The gas received from the AD facility is renewable because it is derived from biomass. Gas from the national grid is from a range of sources and includes gas derived from biomass (renewable) and natural gas (non-renewable). All of this gas, derived from many sources, is mixed together once it is within the national gas infrastructure. In order to provide a guarantee that renewable gas would be used to fuel the facility, the applicants have pledged to sign up to the Green Gas Certification Scheme (GGCS) using Renewable Gas Guarantees of Origin (RGGO), and your officers have recommended a planning condition to secure this arrangement.
- 3.5 The GGCS provides a means of tracking the commercial transactions of bio-methane through the supply chain. It tracks the green gas from its injection into the gas distribution network and its sale to a supplier or trader, through to when it is sold on to an end-use consumer. It is important to note that the GGCS tracks the contractual flows of green gas rather than the physical flows of green gas. Since each unit of green gas injected into the network displaces the need for a unit of conventional, or natural gas, the contracts are the only practical means of tracking the green gas from production to end use.
- 3.6 The GGCS system labels each registered kWh of green gas electronically with a unique identifier known as a Renewable Gas Guarantee of Origin (RGGO), rounded to the nearest kWh. This identifier contains, for each kWh of green gas, information in code form about:
- the technology and feedstock from which it was produced (e.g. biogas from AD, landfill gas or syngas from gasification)
 - the month and year in which it was produced (MM/YY)
 - the part of the UK in which it was produced (England, Wales, Scotland, N. Ireland)
 - the registered producer
 - the kWh number, part of a sequence or range relating to that producer's green gas injected into the grid that month.
- 3.7 Once a licensed supplier registers a sale of gas to an end-use consumer, the GGCS system issues an electronic Green Gas Certificate in the consumer's name. The Certificate is the guarantee of the authenticity and origin of the equivalent amount of green gas injected into the network as it cites the relevant range of RGGOs attached to it. The consumer, in making any claims concerning the green gas, whether for regulatory, commercial or other purposes, can back up the claim with the relevant RGGOs listed on the certificate.
- 3.8 In light of the above, Planning Officers are satisfied that a suitable monitoring and audit scheme can be secured through the use of a planning condition to ensure that the gas being used to fuel the proposed facility is from renewable sources. This being the case, if the audit evidence provided on request does not convincingly

demonstrate that renewable fuel is being used, then enforcement action could be taken. This might involve requiring the operator to compensate for the unacceptable use of any non-renewable gas through the retrospective purchase of renewable gas units, with a failure to do so resulting in a requirement that the use of the facility ceases until such time as the required actions have been taken and confirmed in writing to the satisfaction of the Local Planning Authority. The operator can be required to provide an annual report to the Council detailing the use and source of the facility's fuel, with a failure to do so by the required date, or a failure to demonstrate that the fuel is of acceptable provenance, resulting in sanctions, such as the closure of the facility until such time as acceptable information has been received. The exact form that the monitoring plan would take would be the subject of discussions and agreement between the Council and the applicants, but the main point to take away is that a robust scheme is achievable.

3.9 In relation to costs applications, the Planning Practice Guidance states that Local Planning Authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. The following are examples given in the Guidance:

- *Preventing or delaying development which should clearly be permitted, having regard to its accordence with the Development Plan, national policy and any other material considerations;*
- *Failure to produce evidence to substantiate each reason for refusal on appeal;*
- *Refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead.*

3.10 Given that officers are satisfied that a robust scheme of monitoring and compliance can secure the use of sustainable gas, and therefore a renewable energy facility, to refuse the proposal on the grounds that it would not produce renewable energy could be deemed unreasonable. There is an absence of evidence to substantiate the claim that the proposal would not be a renewable energy facility, and it appears that planning permission would be refused despite there being conditions available that, as discussed above, could address the matter at hand. As such, an award of costs is considered to be a distinct possibility should an appeal and corresponding costs application be made.

3.11 Reason for refusal B)

Taken together with other renewable energy facilities in the locality, the proposal would have an adverse impact on the visual and general amenities of the area, contrary to Policy DM2 of the Mid Devon Local Plan.

3.12 Officers have formulated this draft reason based on the draft minutes from the committee meeting, where it was stated that the proposal would have an unacceptable cumulative effect when considered in conjunction with other renewable facilities in Devon. It is not sufficient to say that a proposal would have an unacceptable effect: it must be stated what the alleged harmful effects would be in relation to, and officers have therefore suggested visual and amenity impacts as examples.

3.13 Members' attention is drawn to the following example of unreasonable behaviour in the Planning Practice Guidance, and liable to result in an award of costs:

- *Vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.*

3.14 It is unclear which other Devon renewable energy facilities the proposal is being considered in relation to as far as the claimed cumulative impact is concerned, and it is unclear precisely how their combined effects are harmful. In terms of visual impact for instance, which other facilities can the proposal be seen in combination with in the wider landscape? The site is located alongside existing large-scale industrial facilities, including the AD facility and a manufacturing site, and the proposal would be dwarfed in scale by the structures associated with these. It is also possible to secure a scheme of landscaping to help to screen the proposal. There are no sensitive land uses located nearby that could be affected by the proposed development in terms of noise or other forms of nuisance, and the harm to amenity is therefore unclear.

3.15 Given the shortcomings of the above reason for refusal, an award of costs is considered to be likely should an appeal and corresponding costs application be made. A more robust reason for refusal might relate to the proposal's visual impact in terms of the site itself, where the proposed plant, equipment, and associated features would result in a significant change compared to the existing situation, where the site is currently an open field.

Conclusion:

Your Officers are of the opinion that the refusal of this current planning application in relation to both reasons is not defensible and should not be pursued. There is a real risk of an award of costs in relation to both reasons, as they currently stand, based on the information available.

Contact for any more information

Maria Bailey
01884 234348

Background Papers

Committee report

File Reference

19/01156/FULL

Circulation of the Report

Cllr Barnell
Members of Planning Committee

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Application No. 19/01156/FULL

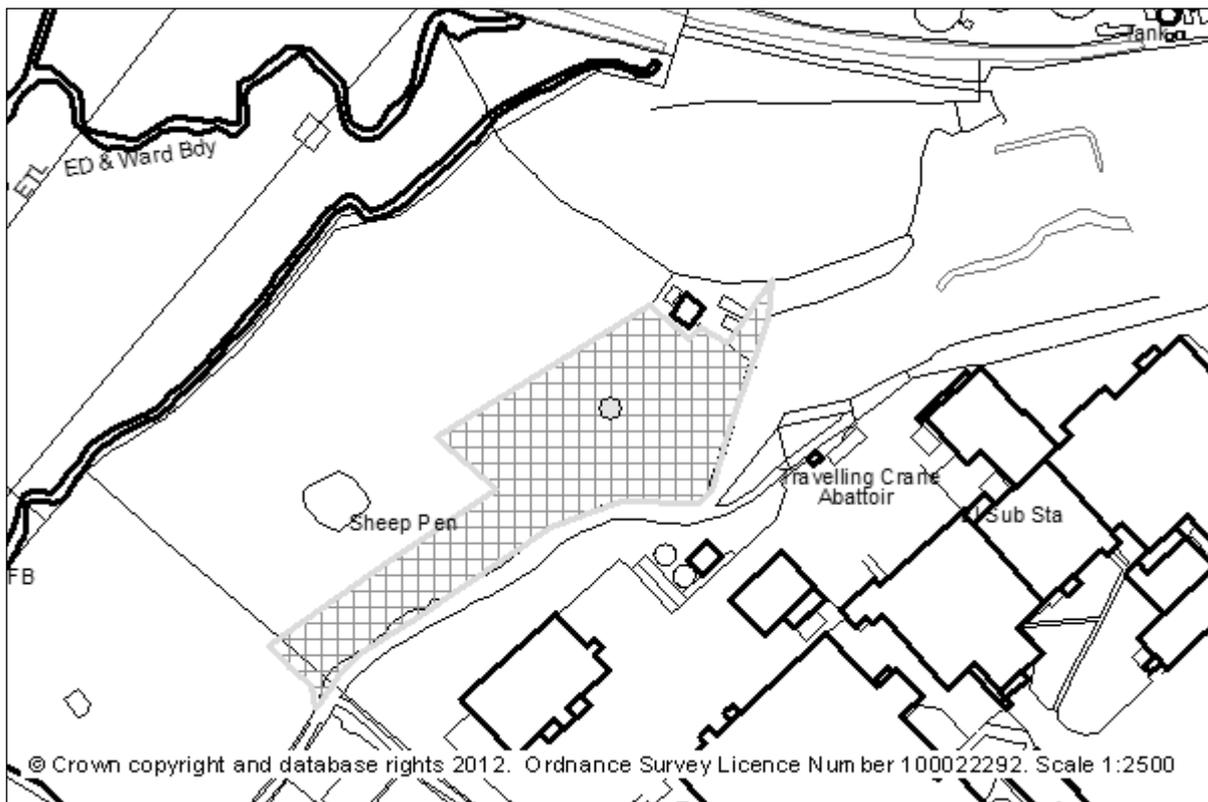
Grid Ref: 302789 : 111147

Applicant: Mr W Green, Amzco Development Ltd

Location: Land at NGR 302839 111143
Lloyd Maunder Road
Willand
Devon

Proposal: Installation of a 24MW Reserve Power Plant with associated infrastructure

Date Valid: 21st August 2019



APPLICATION NO: 19/01156/FULL

MEMBER CALL-IN

The application was called in by Councillor Barry Warren, for the following reasons:

1. The proposed site, although adjacent to the current AD plant, is outside of the Willand Settlement limit and therefore should be treated as open Countryside.
2. There is no evidence produced of need or agreement with Western Power other than the statement of the agent.
3. The capacity of the current planning permission for the AD plant is given as the equivalent of 2MW of electricity, which falls well short of the capacity being sought.
4. Cumulative impact of this and other proposals.

RECOMMENDATION

Grant planning permission, subject to the conditions detailed below.

PROPOSED DEVELOPMENT

This planning application proposes the installation of a 24 megawatt (MW) power plant with associated infrastructure on land off Lloyd Maunder Road in Willand. The site is a 0.5ha area of open agricultural land outside settlement limits, but located in close proximity to existing development, mainly to the east and north of the site, which has an industrial character. The M5 motorway is located around 200m to the east. The nearest residential property is located approximately 160m to the south west.

The site's south-eastern boundary adjoins land occupied by a food manufacturer and characterised by a complex of large industrial buildings. The north-eastern boundary lies adjacent to an anaerobic digestion (AD) facility. The north-western and south-western boundaries mostly adjoin open fields, although there is a small abattoir located immediately to the north of the site. The site would be accessed from a lane running north-west from Lloyd Maunder Road, and would also be connected to the AD facility.

The proposal would result in the creation of a compound containing:

- 24 containerised combined heat and power (CHP) units in two rows of twelve, and each measuring 115sqm in area and 3.4m in height, although each would have a chimney measuring 6m in height.
- Two switchboard buildings in 12.2m long and 2.6m high shipping containers.
- Four transformer and metering position units measuring up to 3.7m in height.
- Subsurface run-off culvert measuring 45m in length.
- 530m of export cabling.
- 110m of gas connection piping.
- Access track.

Whilst not mentioned on the submitted plans, the proposal would presumably involve the construction of an area of hardstanding to support the above elements, along with fencing to secure the compound. The proposal would be a generally passive land use, providing employment for two full-time members of staff.

The submitted information states that the proposed power plant would be fuelled using bio-methane, derived from both the national grid and the neighbouring AD facility. The applicant has stated that

the proposed location has been chosen for its proximity to the AD facility; the location of a mains gas connector; and the Western Power compound to the north for an electricity connection. In terms of the need for the development, it is stated that:

“The purpose of the project is to support a supply of secure, sustainable and affordable electricity. To achieve this the UK needs investment in new generation projects...”

The National Grid experiences a large fluctuation of demand throughout the day and throughout different times of the year. During periods of high demand, the National Grid aim to increase supply to maintain a 20% supply margin which is essential in seeking to eliminate, as far as possible, the risk of power shortages and blackouts, when there is an unexpected change in demand, or a sudden loss of supply. Historically, conventional power stations could be operated with some certainty. However, as the UK moves towards a more environmentally sustainable energy supply system, with an increase in renewable energy sources, there is an increased risk of electricity supply fluctuations, depending on prevailing weather conditions, and therefore an increased need for RPPs. Thus, the proposed development will support the increase in renewable energy generation and the transition to a lower carbon energy supply system throughout the UK.”

It is anticipated that the proposal would be used for around four hours per day, during the mornings and evenings when demand for electricity peaks.

APPLICANT’S SUPPORTING INFORMATION

Application form, plans, supporting information.

RELEVANT PLANNING HISTORY

The previous planning decisions of most relevance to the proposal are as follows, and relate to the neighbouring land to the north-east:

DCC/4153/2019 - County Matter Application relating to variation of Condition 7 of DCC/4074/2018 to alter the current restriction on road delivery tonnage from 55,000 tonnes per annum to 120,000 per annum.

DCC/4074/2018 - Extension to site area of Existing AD plant to accommodate: 1 additional digestate storage tank, 2 separated digestate tanks (relocated from within the existing approved site layout); 2 new batch tanks; 1 new lime storage tank; 3 new propane tanks; 1 new feeder tank and extension to viewing gantry; and Variation of Condition 2 of Permission DCC/4037/2017 Amendment to layout of existing AD plant area to accommodate: 1 Additional Purac “Puregas” gas upgrade unit; 2 new boiler units; 1 additional Siemens gas grid entry point; 1 additional flare, chiller and blower unit; 2 additional buffer tanks and the removal of 2 separated digestate tanks at Willand AD Plant.

DCC/4037/2017 - Variation of Condition 6 of permissions DCC/3725/2014 and DCC/3850/2016 to remove the restriction on the importation of poultry products by road; Willand Anaerobic Digester, Lloyd Maunder Road, Willand.

DCC/3850/2016 - Variation of condition 2 (to enable revised plant design) of planning permission DCC/3725/2014 for Construction of a 2MW anaerobic digestion plant with new access road and weighbridge on land adjacent to existing abattoir at Lloyd Maunder Road, Willand and construction of two bay silage clamp with hardstanding and turning area at Burn Rew Farm, Willand.

DCC/3725/2014 - Construction of 2MW Anaerobic Digestion Plant with new access road and weighbridge on land adjacent to existing Abattoir at Lloyd Maunder Road, Willand and construction of two bay silage clamp with hardstanding and turning area at Burn Rew Farm, Willand.

DEVELOPMENT PLAN POLICIES

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The National Planning Policy Framework is noted as one such material consideration.

Mid Devon Core Strategy (Local Plan 1)

COR2 – Local Distinctiveness

COR5 – Climate Change

COR9 - Access

COR18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM2 – High Quality Design

DM5 – Renewable and Low Carbon Energy

DM7 - Pollution

The National Planning Policy Framework (“the NPPF”)

CONSULTATIONS

Willand Parish Council – Objection raised on the following grounds: the proposal does not appear to be for renewable energy; there is a lack of information about the noise impact; the submitted plans and information lack details about the associated AD plant and connections to the power infrastructure; the impact on highway capacity and safety is unclear; the proposal is contrary to policy; the site is not allocated for development and is located outside development limits.

Public Health – No objections.

DCC Historic Environment Team – No objections; condition recommended in relation to archaeology.

Highway Authority – No objections.

Western Power – Notification requested if planning permission is to be given.

Wales and West Utilities – Information provided about their gas infrastructure. Notification requested if planning permission is to be given.

Environment Agency – No comments received.

Campaign to Protect Rural England (CPRE) Devon – Objects to the proposal on the following grounds:

- The proposal would largely be powered by natural gas so would not be a renewable energy facility. The proposal would not be a low carbon facility either.
- No evidence has been provided about the grade of the agricultural land to be developed as part of the proposal.

- The proposed development is contrary to Local Plan policies intended to protect the countryside, promote renewable energy development, and protect the environment, along with the guidance contained in the NPPF.

REPRESENTATIONS

A letter of support has been received from a member of the general public stating that the proposal is needed to provide backup power as the UK moves more and more towards the use of less consistent forms of energy generation, e.g. solar and wind power, which depend on weather conditions. The proposal would allow for the use of renewable energy generated at the neighbouring AD facility, and could support local industries.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1) Principle of Development:

Objections have been received from a Ward Councillor, the Parish Council, and the CPRE stating that the AD facility would not provide sufficient gas to power the proposal and therefore that it would not constitute renewable energy in what is open countryside, and also that the proposal would be contrary to policies intended to protect the countryside and the environment, and encourage renewable energy. It is also stated that the need for the development has not been demonstrated.

Paragraph 148 of the NPPF states that:

“The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.”

Paragraph 154 of the NPPF states that:

When determining planning applications for renewable and low carbon development, local planning authorities should:

a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and

b) approve the application if its impacts are (or can be made) acceptable...”

Policy COR5 of the Local Plan states that the development of renewable energy capacity will be supported in locations with an acceptable local impact.

Policy COR18 states that development in the countryside, outside settlement limits, will be strictly controlled, however, exceptions will be permitted under certain circumstances, and these include renewable energy. Policy DM5 states that proposals for renewable and low carbon energy will be permitted, subject to given criteria, and that any significant impacts will be balanced against the wider benefits of delivering renewable and low carbon energy.

Proposals for the development of renewable energy or low carbon facilities in the open countryside are therefore considered to be acceptable in principle.

The NPPF defines renewable energy in the following way:

“Renewable energy covers those energy flows that occur naturally and repeatedly in the environment – from the wind, the fall of water, the movement of the oceans, from the sun and also from biomass and deep geothermal heat. Low carbon technologies are those that can help reduce emissions (compared to conventional use of fossil fuels).”

Biomass is natural material derived from living or recently dead plants, trees and animals. The neighbouring AD facility uses organic waste to generate methane gas, and the gas generated at that facility is therefore considered to be a renewable form of energy, based on the definition provided in the NPPF. The gas generated is transferred to the national grid.

The proposal is for a 24MW gas-fired power plant comprising twenty-four 1MW CHP units. The submitted information states that the proposal would not run on a permanent basis, but only to serve as a backup when demand requires. This is likely to be for around four hours per day, during periods of peak demand in the mornings and evenings. The gas required to fuel the facility would be derived from the neighbouring AD facility and from mains gas, with the proposal being connected to both.

The original planning permission for the AD facility stated that it would produce enough gas to generate 2MW of electricity, which is equivalent to 48MW hours per day, since the facility operates 24 hours per day. The applicant has stated that the proposed power plant would be restricted to 48MW/hr per day. On this basis, the AD facility could provide the bulk of the gas required based on a 24-hour day. Indeed, it is understood that the amount of gas produced by the AD facility has been higher than 2MW in practice, and planning permission has subsequently been sought, and granted, to increase the facility’s capacity (permission reference DCC/4074/2018). A planning application is also currently under consideration to significantly increase the amount of organic waste that can be imported.

Whilst the gas being produced by the AD facility, over a 24 hour period, would be sufficient to provide for the proposal’s daily fuel needs, as the power plant would only be in use for limited periods each day, the gas needed would have to be drawn from the national grid to ensure there is sufficient availability of fuel during the specific peak hours it is required. In order to ensure that the proposal is fueled using bio-methane rather than natural gas, which is a fossil fuel, the applicant is committed to enrolling in the following:

- a) The Renewable Energy Guarantees of Origin scheme, which is regulated by Ofgem and provides transparency to consumers about the proportion of electricity that suppliers source from renewable generation.
- b) The Green Gas Certification Scheme, which tracks bio-methane (‘green gas’) through the supply chain for those who buy it.

A planning condition is recommended to ensure that only green gas is used to fuel the proposed power plant. This would involve the approval of a scheme that would involve the operators enrolling in the above schemes and providing the Council with documentary evidence, on request, to demonstrate that the power plant’s fuel needs are being met exclusively through the use of renewably sourced gas. This would allow the operators to use the methane generated at the neighbouring AD plant, and gas from the national grid that is also produced in a sustainable way. A further condition is recommended to require the installation of the gas connection to the AD plant prior to the first use of the power plant. Subject to the use of these conditions, it is considered that the proposal would constitute a form of renewable energy generation and is therefore in accordance with Policy COR18 of the Local Plan.

It is also noted that, by providing backup power on-demand, the proposal would help to support the development of a low carbon, renewable energy supply in general given the challenges that exist, certainly for the time being, in maintaining a consistent supply of power from these, often weather-dependent, sources. In this sense, the proposal would also have indirect environmental benefits. Both National Grid and Western Power have publicly stated their support for such sources of energy to help iron out the fluctuations inherent in renewable energy provision.

2) Visual Impact

Policy DM2 of the Local Plan states that the design of new development must be of high quality and demonstrate a number of principles, including efficient and effective use of the site, an understanding of the local context, and appropriate siting, layout, scale, and other design characteristics to ensure visually attractive and well integrated development. Policy DM5 states that proposal's for low carbon or renewable energy will be permitted where they do not have significant adverse impacts on the character, amenity, and visual quality of the area, including cumulative impacts of similar developments.

The site is located at the interface between two areas of dramatically contrasting character. Immediately to the north and east, the site area is dominated by large-scale development, including the AD facility and sewage treatment works along with a complex of manufacturing buildings. Immediately to the south and west, the site is mostly bounded by open countryside.

The proposed development would introduce a range of very functional, plant-like structures into what is currently an area of open grassland. The site comprises greenfield, agricultural land, and forms part of the open, rural landscape stretching to the west beyond the aforementioned facilities. To introduce the proposed development, which would have an industrial appearance and be up to 6m in height, would have an effect on the site's character, and represent encroachment into the rural landscape.

In terms of the impact on the wider landscape, the proposal's visual impact could be mitigated through the introduction of additional landscaping. The submitted plans indicate further tree planting to the south-west and north-west of the site to complement existing mature vegetation located to the north-west. This planting can be secured through the use of a planning condition. The site is already well screened to the north and east given the presence of a significant area of existing development, which has an industrial appearance and is of a greater scale than the proposal. It is worth bearing in mind that, when viewed from the south and west, in addition to any existing vegetation already present within the landscape, and the additional planting proposed, that the proposal would be set against the backdrop of this largescale development, which adjoins the site area.

Given the proposal's siting, scale, and design, and the site's context, it is considered that there would not be unacceptable visual harm within the wider landscape, subject to the use of a condition to secure a scheme of tree-planting, and a condition to secure an appropriate, i.e. inconspicuous, colour scheme for the various plant and equipment. Details relating to any proposed fencing, external lighting, and CCTV apparatus should also be secured through the use of a planning condition.

In terms of the site itself, there would be a significant change of appearance and some visual harm as a result of the proposal, even if this harm is limited by the site's very mixed context and that the site area is of limited scenic value. Policy DM5 is clear that where significant impacts are identified, that these will be balanced against the wider benefits of delivering renewable energy. The proposal's benefits in providing renewable energy and assisting in the wider roll-out of a renewable energy supply, as discussed in the previous section, are considered sufficient to outweigh the identified visual harm in this case.

Subject to the use of the aforementioned conditions, the proposal is considered to be acceptable having regard to Policies DM2 and DM5 of the Local Plan.

3) Amenity

Policy DM2 of the Local Plan states that development proposals should not result in unacceptable impacts on the privacy and amenities of those occupying existing or proposed dwellings. Policy DM5 states that renewable and low carbon energy development will be considered in relation to the environmental amenities of nearby properties. Policy DM7 of the Local Plan states that development will be permitted where the effects of pollution would not have unacceptable impacts in relation to health, the natural environment, and general amenity.

The Parish Council has raised concerns about the proposal's potential noise impacts.

The nearest residential property is located around 160m away from the proposal. The Council's Environmental Protection team have raised no objections to the proposal in terms of its noise, air quality, contamination, or other impacts. Given the proposal's siting, scale, and design it is considered that it would not result in unacceptable harm in terms of neighbouring or local amenity. In this respect, the proposal is in accordance with Policies DM2, DM5 and DM7 of the Local Plan.

4) Access Arrangements

Policy DM2 of the Local Plan states that new development should be safe and accessible. Policy DM8 states that sufficient vehicle parking and bicycle storage must be provided.

The Parish Council has raised concerns about the proposal's impact on highway safety and amenity.

The proposal would be a generally passive use employing two full-time staff. Gas would be received through the mains supply and from a piped connection to the neighbouring AD facility. There appears to be adequate space at the site for the parking of staff and other vehicles that might need to visit the facility. The number of vehicle movements that the proposal is likely to give rise to is not considered to be of such a scale that there would be unacceptable harm to highway safety or amenity, and it is noted that the Highway Authority has not raised any objections to the proposal.

A condition can be imposed to secure the details and provision of a parking and manoeuvring area to accommodate any vehicles that might need to access the site.

Subject to the use of this condition, in terms of its access and parking arrangements, the proposal is considered to be in accordance with Policies DM2 and DM8 of the Local Plan.

5) Drainage Arrangements

The proposal would involve the use of an underground culvert and soakaways for the management of surface water drainage. Subject to the use of a condition to secure these arrangements, the proposal is considered to be acceptable and in accordance with Policy DM2 of the Local Plan.

6) Nature Conservation

Policy DM5 of the Local Plan states that proposals for renewable energy and low carbon development must consider the effects on biodiversity and avoid habitat fragmentation.

The submitted ecological assessment concludes that the proposal would not result in unacceptable harm to protected species or biodiversity in general subject to the use of mitigation and enhancement measures. Subject to the use of conditions to secure these arrangements, the proposal is considered to be acceptable and in accordance with Policy DM5 of the Local Plan.

7) Agricultural Land Classification

Policy DM5 of the Local Plan states that proposals for renewable energy and low carbon development must consider the quality and productivity of the best and most versatile agricultural land.

Paragraph 170 of the NPPF states that:

"Planning policies and decisions should contribute to and enhance the natural and local environment by....

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land..."

The CPRE has objected to the proposal stating that the agricultural grade of the land has not been demonstrated.

The submitted information includes information from the Department of the Environment, Food and Rural Affairs, which demonstrates that the site is classified as Grade 4 agricultural land, which means that it is low quality. The proposal would not result in the loss of the most versatile agricultural land.

8) Conclusion

The proposal is considered to be unacceptable, having regard to the Development Plan and all other material considerations, subject to the use of the conditions outlined below.

REASON FOR DECISION

The following conclusions are reached subject to the use of those conditions detailed. The proposal would result in the creation of a power plant which conditions can ensure would be fuelled using renewably sourced gas. As a renewable energy facility, the proposal's location within the countryside is acceptable in principle according to Policy COR18 of the Mid Devon Local Plan. The limited visual harm that the proposal would give rise to would be outweighed by the environmental benefits of allowing it. It is considered that the proposal would not result in unacceptable harm in terms of local and residential amenity; highway safety; surface water drainage arrangements; ecology or in relation to the availability of agricultural land.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.

3. No development shall take place until a scheme to ensure the use of renewable gas has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall detail the measures proposed to ensure that the approved power plant is only fuelled using bio-methane or renewable electricity for battery recharge. Such measures shall include enrolment in the "Renewable Energy Guarantees of Origin" scheme and the "Green Gas Certification Scheme", and a system of rigorous documentary recording, to demonstrate to the Local Planning Authority on request, that all of the gas being used is in accordance with the above schemes. The development shall be operated at all times in accordance with the approved scheme, for the life of the development.
4. Prior to the first use of the development hereby approved, the bio-methane outflow infrastructure connecting the proposal to the neighbouring Anaerobic Digester facility, and depicted on the approved plans, shall be fully installed and thereafter retained for the life of the development.
5. Prior to the first operation of the development hereby approved, a scheme of hard and soft landscaping, including specimens to be retained, shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding and turfing comprised within the approved scheme shall be carried out in the first planting season following the commencement of development and any trees or plants, including existing specimens to be retained, which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species. The approved hard landscaping shall be provided within four weeks of the development being brought into use, and shall be retained for the life of the development.
6. The installation or construction of all plant, equipment, and buildings shall be undertaken using a colour scheme which has previously been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be retained in accordance with the approved colour scheme.
7. The development hereby approved shall not be brought into use until the surface water drainage arrangements, including the sub-surface storm water attenuation depicted on the approved plans, have been provided in full. The approved measures shall thereafter be retained for the life of the development.
8. Prior to the first operation of the development hereby approved, sufficient on-site space shall be provided to allow for the parking of vehicles at the site and to allow for manoeuvring so that vehicles can exit the site in a forward gear, in accordance with details which shall previously have been submitted to and approved in writing by the Local Planning Authority. Once provided, these approved elements shall be retained for the life of the development.
9. No development shall take place until a detailed scheme of ecological mitigation and enhancement measures, in accordance with the recommendations of the submitted Ecological Appraisal (Dated September 2018), has been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include proposals for protective measures during the construction process; external lighting; and planting, including a timetable for implementation. The development shall thereafter be undertaken in accordance with the approved details.

10. Boundary fencing, CCTV apparatus, and external lighting at the site shall be installed in accordance with details which shall previously have been submitted to and approved in writing by the Local Planning Authority and shall thereafter be retained as such.

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 that the development is for the development of renewable energy, so that it accords with Policy COR18 of the Mid Devon Core Strategy (Local Plan Part 1).
4. To encourage synergies between the proposal and the neighbouring anaerobic digester facility and to encourage the use of renewable gas in the approved facility so that it accords with Policy COR18 of the Mid Devon Core Strategy (Local Plan Part 1).
5. In the interests of local character, and in accordance with Policies DM2 and DM5 of the Mid Devon Local Plan Part 3 (Development Management Policies).
6. In the interests of local character, and in accordance with Policies DM2 and DM5 of the Mid Devon Local Plan Part 3 (Development Management Policies).
7. In the interests of sustainable drainage and in accordance with Policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).
8. In the interests of highway safety and amenity, and in accordance with Policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).
9. In the interests of biodiversity and in accordance with Policy DM5 of the Mid Devon Local Plan Part 3 (Development Management Policies).
10. In the interests of local character, and in accordance with Policies DM2 and DM5 of the Mid Devon Local Plan Part 3 (Development Management Policies).

INFORMATIVES

Protected Species

All bats are protected by law. If bats are found, works must immediately cease and further advice be obtained from Natural England and / or a licensed bat consultant. Works must not resume until their advice has been followed. Nesting birds are also protected by law. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds and reptiles all of which are protected under the Wildlife

& Countryside Act 1981 (as amended). Where works are to involve cutting or clearance of shrubs, hedges or other vegetation, which can form nesting sites for birds, such operations should be carried out at a time other than in the bird breeding season (which lasts between 1 March - 15 September inclusive in any year). Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.

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.