

# Public Document Pack

**Committee Administrator**  
**Carole Oliphant**  
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**PLEASE NOTE:** Members of the public wishing to speak to a planning application are requested to contact the Committee Administrator at least 24 hours before the meeting starts. We are unable to accommodate public speakers who have not pre-registered but members of the public are welcome to attend and observe the meeting virtually.

Important - this meeting will be conducted and recorded by Zoom only. Please do not attend Phoenix House. The attached Protocol for Remote Meetings explains how this will work.

To join Zoom Meeting:

<https://zoom.us/j/97468317406?pwd=eUVSc1JoeXFak3JsaFphVjRucEs3UT09>

Meeting ID: 974 6831 7406

Passcode: 965153

One tap mobile

08003582817,,97468317406#,,,,\*965153# United Kingdom Toll-free

08000315717,,97468317406#,,,,\*965153# United Kingdom Toll-free

Dial by your location

0 800 358 2817 United Kingdom Toll-free

0 800 031 5717 United Kingdom Toll-free

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Meeting ID: 974 6831 7406

Passcode: 965153

## **MID DEVON DISTRICT COUNCIL**

### **PLANNING COMMITTEE**

**A MEETING** of the **PLANNING COMMITTEE** will be held remotely on Wednesday, 10 February 2021 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 10 March 2021 at 2.15 pm remotely

#### **STEPHEN WALFORD**

Chief Executive

2 February 2021

**Councillors:** Mrs F J Colthorpe (Chairman), G Barnell, E J Berry, Mrs C P Daw, L J Cruwys, C J Eginton, S J Clist, F W Letch, D J Knowles, R F Radford 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     **REMOTE MEETINGS PROTOCOL** *(Pages 3 - 10)*  
Members to note the Remote Meetings Protocol
  
- 3     **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.
  
- 4     **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.
  
- 5     **MINUTES OF THE PREVIOUS MEETING** *(Pages 11 - 20)*  
Members to consider whether to approve the minutes as a correct record of the meeting held on 13<sup>th</sup> January 2021
  
- 6     **CHAIRMAN'S ANNOUNCEMENTS**  
To receive any announcements the Chairman may wish to make.
  
- 7     **DEFERRALS FROM THE PLANS LIST**  
To report any items appearing in the Plans List which have been deferred.
  
- 8     **THE PLANS LIST** *(Pages 21 - 76)*  
To consider the planning applications contained in the list.
  
- 9     **APPEAL DECISIONS** *(Pages 77 - 78)*  
To receive for information a list of recent appeal decisions.

**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.**

### Covid-19 and meetings

The Council will be holding some meetings in the next few weeks, but these will not be in person at Phoenix House until the Covid-19 crisis eases. Instead, the meetings will be held remotely via Zoom and you will be able to join these meetings via the internet. Please see the instructions on each agenda and read the Protocol on Remote Meetings before you join.

If you want to ask a question or speak, email your full name to [Committee@middevon.gov.uk](mailto:Committee@middevon.gov.uk) by no later than 4pm on the day before the meeting. This will ensure that your name is on the list to speak and will help us ensure that you are not missed – as you can imagine, it is easier to see and manage public speaking when everyone is physically present in the same room. Notification in this way will ensure the meeting runs as smoothly as possible.

If you require any further information please contact Carole Oliphant on:  
E-Mail: [coliphant@middevon.gov.uk](mailto:coliphant@middevon.gov.uk)

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## **Mid Devon District Council - Remote Meetings Protocol**

### **1. Introduction**

The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations permit remote attendance in Local Authority meetings.

Remote attendance is permitted as long as certain conditions are satisfied. These include that the Member is able to hear and be heard by the other Members in attendance. Also, being able to hear and be heard by any members of the public entitled to attend the meeting (in line with the public participation scheme). A visual solution is preferred, but audio is sufficient.

This also relates to members of the public attending the meeting also being heard.

The regulations are clear that a meeting is not limited to those present in the same place, but includes electronic, digital or virtual locations (internet locations, web addresses or conference call telephone numbers).

### **2. Zoom**

Zoom is the system the Council will be using for the time-being to host remote / virtual meetings. It has functionality for audio, video, and screen sharing and you do not need to be a member of the Council or have a Zoom account to join a Zoom meeting.

### **3. Access to documents**

Member Services will publish the agenda and reports for committee meetings on the Council's website in line with usual practice. Paper copies of agendas will only be made available to those who have previously requested this and also the Chair of a virtual meeting.

If any other Member wishes to have a paper copy, they must notify the Member Services before the agenda is published, so they can arrange to post directly – it may take longer to organise printing, so as much notice as possible is appreciated.

Printed copies will not be available for inspection at the Council's offices and this requirement was removed by the Regulations.

### **4. Setting up the Meeting**

This will be done by Member Services. They will send a meeting request via Outlook which will appear in Members' Outlook calendar. Members will receive a URL link to click on to join the meeting.

### **5. Public Access**

Members of the public will be able to use a weblink and standard internet browser. This will be displayed on the front of the agenda.

## 6. Joining the Meeting

Councillors must join the meeting early (i.e. at least five minutes before the scheduled start time) in order to avoid disrupting or delaying the meeting. Councillors should remember that they may be visible and heard by others, including the public, during this time.

## 7. Starting the Meeting

At the start of the meeting, the Member Services Officer will check all required attendees are present (viewing the participant list) and that there is a quorum. If there is no quorum, the meeting will be adjourned. This applies if, during the meeting, it becomes inquorate for whatever reason.

The Chair will remind all Members, Officers and the Public that **all microphones will be automatically muted**, unless and until they are speaking. This prevents background noise, coughing etc. which is intrusive and disruptive during the meeting. The Hosting Officer will enforce this and will be able to turn off participant mics when they are not in use. Members would then need to turn their microphones back on when they wish to speak.

## 8. Public Participation

Participation by members of the public will continue in line with the Council's current arrangements as far as is practicable. However, to ensure that the meeting runs smoothly and that no member of the public is missed, all those who wish to speak must register **by 4pm on the day before the meeting**. They should email their full name to [Committee@middevon.gov.uk](mailto:Committee@middevon.gov.uk). If they wish to circulate their question in advance, that would be helpful.

At public question time, the Chair will invite the public by name to speak at the appropriate time. At that point, all public microphones will be enabled. This means that, to avoid private conversations being overheard, no member of the public should speak until it is their turn and they should then refrain from speaking until the end of public question time, when all microphones will be muted again. In the normal way, the public should state their full name, the agenda item they wish to speak to **before** they proceed with their question.

Unless they have registered, a member of the public will not be called to speak.

If a member of the public wishes to ask a question but cannot attend the meeting for whatever reason, there is nothing to prevent them from emailing members of the Committee with their question, views or concern in advance. However, if they do so, it would be helpful if a copy could be sent to [Committee@middevon.gov.uk](mailto:Committee@middevon.gov.uk) as well.

## 9. Declaration of Interests

Councillors should declare their interests in the usual way. A councillor with a disclosable pecuniary interest is required to leave the room. For remote meetings, this means that they will be moved to a break-out room for the duration of this item and will only be invited back into the meeting when discussion on the relevant item has finished.

## **10. The Meeting and Debate**

The Council will not be using the Chat function.

The Chair will call each member of the Committee to speak - the Chair can choose to do this either by calling (i) each member in turn and continuing in this way until no member has anything more to add, or (ii) only those members who indicate a wish to speak using the 'raise hand' function within Zoom. This choice will be left entirely to the Chair's discretion depending on how they wish to manage the meeting and how comfortable they are using the one or the other approach.

Members are discouraged from physically raising their hand in the video to indicate a wish to speak – it can be distracting and easily missed/misinterpreted. No decision or outcome will be invalidated by a failure of the Chair to call a member to speak – the remote management of meetings is intensive and it is reasonable to expect that some requests will be inadvertently missed from time to time.

When referring to reports or making specific comments, Councillors should refer to the report and page number, so that all Members of the Committee have a clear understanding of what is being discussed at all times.

## **11. Voting**

On a recommendation or motion being put to the vote, the Chair will go round the virtual room and ask each member entitled to vote to say whether they are for or against or whether they abstain. The Member Services Officer will announce the numerical result of the vote.

## **12. Meeting Etiquette Reminder**

- Mute your microphone – you will still be able to hear what is being said.
- Only speak when invited to do so by the Chair.
- Speak clearly and please state your name each time you speak
- If you're referring to a specific page, mention the page number.

## **13. Part 2 Reports and Debate**

There are times when council meetings are not open to the public, when confidential, or "exempt" issues – as defined in Schedule 12A of the Local Government Act 1972 – are under consideration. It is important to ensure that there are no members of the public at remote locations able to hear or see the proceedings during such meetings.

Any Councillor in remote attendance must ensure that there is no other person present – a failure to do so could be in breach of the Council’s Code of Conduct.

If there are members of the public and press listening to the open part of the meeting, then the Member Services Officer will, at the appropriate time, remove them to a break-out room for the duration of that item. They can then be invited back in when the business returns to Part 1.

Please turn off smart speakers such as Amazon Echo (Alexa), Google Home or smart music devices. These could inadvertently record phone or video conversations, which would not be appropriate during the consideration of confidential items.

#### **14. Interpretation of standing orders**

Where the Chair is required to interpret the Council’s Constitution and procedural rules in light of the requirements of remote participation, they may take advice from the Member Services Officer or Monitoring Officer prior to making a ruling. However, the Chair’s decision shall be final.

#### **15. Disorderly Conduct by Members**

If a Member behaves in the manner as outlined in the Constitution (persistently ignoring or disobeying the ruling of the Chair or behaving irregularly, improperly or offensively or deliberately obstructs the business of the meeting), any other Member may move 'That the member named be not further heard' which, if seconded, must be put to the vote without discussion.

If the same behaviour persists and a Motion is approved 'that the member named do leave the meeting', then they will be removed as a participant by the Member Services Officer.

#### **16. Disturbance from Members of the Public**

If any member of the public interrupts a meeting the Chair will warn them accordingly. If that person continues to interrupt or disrupt proceedings the Chair will ask the Member Services Officer to remove them as a participant from the meeting.

#### **17. After the meeting**

Please ensure you leave the meeting promptly by clicking on the red phone button to hang up.

#### **18. Technical issues – meeting management**

If the Chair, the Hosting Officer or the Member Services Officer identifies a problem with the systems from the Council’s side, the Chair should either declare a recess while the fault is addressed or, if the fault is minor (e.g. unable to bring up a presentation), it may be appropriate to move onto the next item of business

in order to progress through the agenda. If it is not possible to address the fault and the meeting becomes inquorate through this fault, the meeting will be adjourned until such time as it can be reconvened.

If the meeting was due to determine an urgent matter or one which is time-limited and it has not been possible to continue because of technical difficulties, the Chief Executive, Leader and relevant Cabinet Member, in consultation with the Monitoring Officer, shall explore such other means of taking the decision as may be permitted by the Council's constitution.

For members of the public and press who experience problems during the course of a meeting e.g. through internet connectivity or otherwise, the meeting will not be suspended or adjourned.

### **19. Technical issues – Individual Responsibility (Members and Officers)**

Many members and officers live in places where broadband speeds are poor, but technical issues can arise at any time for a number of reasons. The following guidelines, if followed, should help reduce disruption. Separate guidance will be issued on how to manage connectivity – this paragraph focusses on the procedural steps. Joining early will help identify problems – see paragraph 6.

- Join public Zoom meetings by telephone if there is a problem with the internet. Before all meetings, note down or take a photograph of the front page of the agenda which has the necessary telephone numbers. Annex 1 to this protocol contains a brief step-by-step guide to what to expect
- Consider an alternative location from which to join the meeting, but staying safe and keeping confidential information secure. For officers, this may mean considering whether to come into the office, subject to this being safe and practicable (childcare etc.)
- If hosting a meeting via Zoom (briefings etc.), consider creating an additional host when setting up the meeting. The additional host can step in if the main host has problems – remember that without a host, the meeting cannot close and any information on the screens will remain on view
- Have to hand the telephone number of another member or officer expected in the meeting – and contact them if necessary to explain the problem in connecting
- Officers should have an 'understudy' or deputy briefed and on standby to attend and present as needed (and their telephone numbers to hand)
- For informal meetings and as a last resort, members and officers may be able to call another member or officer in the meeting who can put the 'phone on loudspeaker for all to hear – not ideal, but it ensures some degree of participation and continuity

- Member Services will hold a list of contact details for all senior officers

## Phone only access to zoom meetings

(Before you start **make sure you know the Meeting ID and the Meeting Password**) – Both of these are available on the agenda for the meeting

**Call the toll free number** either on the meeting agenda or on the Outlook appointment (this will start with 0800 --- ----)

(Ensure your phone is on 'speaker' if you can)

A message will sound saying *"Welcome to Zoom, enter your meeting ID followed by the hash button"*

- **Enter Meeting ID followed by #**

Wait for next message which will say *"If you are a participant, please press hash to continue"*

- **Press #**

Wait for next message which will say *"Enter Meeting Password followed by hash"*

- **Enter 6 digit Meeting Password followed by #**

Wait for the following two messages:

*"You are currently being held in a waiting room, the Host will release you from 'hold' in a minute"*

**Wait.....**

*"You have now entered the meeting"*

### Important notes for participating in meetings

Press **\*6** to toggle between **'mute' and 'unmute'** (you should always ensure you are muted until you are called upon to speak)

If you wish to speak you can **'raise your hand'** by pressing **\*9**. Wait for the Chairman to call you to speak. The Host will lower your hand after you have spoken. Make sure you mute yourself afterwards.

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## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **PLANNING COMMITTEE** held on 13 January 2021  
at 2.15 pm

### **Present**

#### **Councillors**

Mrs F J Colthorpe (Chairman)  
G Barnell, S J Clist, Mrs C P Daw,  
J M Downes, C J Eginton, D J Knowles,  
F W Letch, B A Moore, R F Radford and  
B G J Warren

### **Apologies**

#### **Councillor(s)**

E J Berry and L J Cruwys

### **Also Present**

#### **Councillor(s)**

Mrs E M Andrews, R J Chesterton,  
R J Dolley, D F Pugsley, Mrs M E Squires,  
A Wilce and Mrs N Woollatt

### **Present**

#### **Officers:**

Jenny Clifford (Head of Planning, Economy  
and Regeneration), Eileen Paterson  
(Development Management Manager),  
Maria De Leiburne (Legal Services Team  
Leader), Alison Fish (Area Team Leader),  
Angharad Williams (Area Team Leader),  
John Millar (Principal Planning Officer), Sally  
Gabriel (Member Services Manager) and  
Carole Oliphant (Member Services Officer)

## 112 **APOLOGIES AND SUBSTITUTE MEMBERS (0.03.13)**

Apologies were received from Cllr E J Berry and Cllr L J Cruwys who were substituted by Cllr B A Moore and Cllr J M Downes respectively

## 113 **REMOTE MEETINGS PROTOCOL (0.03.39)**

The Committee had before it, and **NOTED**, the \*Remote Meetings Protocol

Note: \*Remote Meetings Protocol previously circulated and attached to the minutes

## 114 **PUBLIC QUESTION TIME (0.04.15)**

There were no questions from members of the public present

## 115 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (0.04.28)**

Members were reminded of the need to declare any interested when appropriate

#### 116 **MINUTES OF THE PREVIOUS MEETING (0.04.45)**

The minutes of the meeting held on 2<sup>nd</sup> December 2020 were agreed as a true record

#### 117 **CHAIRMAN'S ANNOUNCEMENTS (0.05.53)**

The Chairman made the following announcements:

- She informed Members that Alison Fish, Area Team Leader, was leaving the Council to work for the Planning Inspectorate and wished her well in her new role
- She welcomed Angharad Williams as the new Area Team Leader for the Central Team

#### 118 **DEFERRALS FROM THE PLANS LIST (0.08.06)**

The meeting was informed that Item 1 on the agenda – application 20/01537/HOUSE (19 Lower Millhayes, Hemyock, Cullompton) had been deferred to allow for further investigations to be completed due to information received from representations

#### 119 **THE PLANS LIST (0.08.27)**

The Committee considered the applications in the \*Plans List.

Note: \*List previously circulated and attached to the minutes.

- a) 20/01452/MOUT - Hybrid application for a new cricket facility consisting of an Outline application for a pavilion of up to 2 storeys, indoor cricket centre of up to 2 storeys, scorers hut, ground equipment store, outdoor cricket nets, landscaping and parking (all matters reserved) and a Full application for layout and earthworks for 2 cricket grounds at Land at NGR 305210 108255, Horn Road, Kentisbeare.**

The Principal Planning Officer explained that the purpose of the hybrid application was to allow for an application to be divided into two parts allowing for an outline application for the cricket club pavilion and additional facilities and a full application for the creation of the two cricket pitches. He explained that the proposed Cullompton Relief Road route would go through the current Cullompton Cricket Club site and that there was a Local Plan policy requirement for the Cullompton Cricket facilities to be replaced elsewhere. The Principal Planning officer also advised that the application should be determined on its merits.

The officer then outlined the contents of the report by way of a presentation highlighting the site plan, location plan, illustrative landscape master plan, illustrative master plan, illustrative clubhouse and access point and photographs of the site.

In response to Members questions he explained that although Sport England were not overly supportive of the site they had not raised an in principle objection subject to ensuring the cricket pitches would be ready before the Cullompton Cricket Club left their current site. He further explained that Sport England would only require 1 pitch

and a standard clubhouse but that the Cricket Clubs aspirations went beyond this and that the application was for 2 pitches and a larger 2 storey club house.

With regard to Members concerns with mud on the road during the construction of the pitches the officer explained that any issues with this would be addressed in the construction management plan.

Members then discussed the possibility of alternative locations for the facility and the officer explained that the Cricket Club and the Town Council had been actively looking for a suitable site for a number of years. Issues with identified alternative sites included topography, availability and location. Members requested information as to what a Grampian condition was. In addition concern was raised about the proximity of the site to the Kentisbeare Cricket Club location.

The officer confirmed that S106 contributions were not being sought for the application and the Highways Authority had not requested any improvements to the road network in the location of the site.

In response to Members questions, the officer explained that the site was not within the Culm Garden Village exploration area and was outside of the master planning requirements for the East Cullompton allocation (Local Plan Policy CU7).

Consideration was given to:

- The views of the objectors who stated that the development would have a detrimental effect on Kentisbeare Cricket Club which was an integral part of the village and that it was not sustainable to have two clubs within such close proximity
- The views of the applicant who stated that the club had to relocate due to the relief road and that enhanced facilities were required due to the continued growth of the Cullompton Cricket Club. That they had actively been looking for a suitable site for 8 years
- The views of Cullompton Town Council who fully supported the application who stated it was the best site they had found in 8 years of looking
- The views of Kentisbeare Parish Council who stated that the Cricket Club had dismissed alternative sites for questionable reasons and that the application was being pushed through due to the relief road
- The views of the Ward Member who questioned the need for 2 pitches and that the application did nothing for Kentisbeare
- Concerns of Members that two local councils appeared to be at loggerheads with regard to the application
- Concerns with regard to the increased carbon footprint for people having to drive to the new site
- Competition between the two cricket clubs was not a material consideration
- The application would bring improved sporting facilities to Mid Devon

It was therefore **RESOLVED** that: planning permission be approved subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by Cllr B A Moore and seconded by Cllr D J Knowles)

**Reason for the Decision** – as set out in the report

Notes:

- i.) Cllrs Mrs F J Colthorpe, G Barnell, S J Clist, J M Downes, Mrs C P Daw, C J Eginton, D J Knowles, F W Letch, B A Moore, R F Radford 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 letters and submissions from objectors
  - ii.) Mr S Chappell (objector) spoke on behalf of Kentisbeare Cricket Club
  - iii.) Mr R Stevenson (applicant) spoke
  - iv.) Cllr G Guest spoke on behalf of Cullompton Town Council
  - v.) Cllr N Allen spoke on behalf of Kentisbeare Parish Council
  - vi.) Cllr D F Pugsley spoke as Ward Member
  - vii.) Cllrs S J Clist and Mrs C P Daw requested that their abstention on voting be recorded
  - viii.) Cllr B G J Warren requested that his vote against the decision be recorded
  - ix.) The following late information was reported:

Further correspondence was forwarded directly to Members from Kentisbeare Parish Council following publication of the Planning Committee Report, raising further concerns about the suitability of the site and compliance with Local Plan policies.
- b) **20/00876/MFUL - Construction of Cullompton Town Centre Relief Road comprising new 1350 metre road connecting Station Road to Duke Street and associated works at Land at NGR 302456 107324, Cullompton, Devon.**

The Principal Planning Officer outlined the contents of the report by way of a presentation highlighting the site location plans, proposed key junctions, environmental master plans, construction compound and haulage route, land compensation scheme and photographs of the site.

In response to questions from Members with regard to the priority of the road network at Meadow Lane and Exeter Road the officer explained that the Highways Authority saw no need to change the priority and that traffic could be redirected to the relief road via signage.

Members discussed the representations received from current landowners and the Development Management Manager explained that Members would need to decide if the representations received were related to planning issues. She advised Members that they would need to decide what weight to give them when deciding the application but that representations about land ownership were not material considerations.

The Principal Planning officer explained to Members that the Bowling Club would relocate to part of the current Cricket Club site after the Cricket Club had moved to its new location and that land had been allocated within the development for a replacement site for the Bowling Club.

The Development Management Manager explained that any compulsory purchase orders would be dealt with by Devon County Council and that the relief road would be an asset of the County Council Highways Authority.

Consideration was given to:

- The views of the objector who stated that Tesco had wanted an adequate roundabout at the junction with the existing store but felt the junction proposed was inadequate
- The views of the agent who explained that it was a very complex scheme which had been designed with input from many stakeholders. That they would continue to consult with neighbours, including Tesco to resolve issues going forward
- The views of Cullompton Town Council who were fully in support of the scheme but had concerns with some of the junctions and felt that the CCA fields should be fenced off from the road
- The views of the Ward Member who had concerns with the Meadow Lane junction and requested a suitable surface for the footpaths within the CCA fields
- The views of the Ward Member who stated that the CCA fields were a massive asset for Cullompton and that the District Council were not providing any additional parks within Cullompton
- The views of the adjoining Ward Member who felt that the proposed junction at Meadow Lane was dangerous for children and that there would be a bad accident if this was not addressed
- Members concerns with regard to the safety and priority at the Exeter Road/Meadow Lane Junction and no provision provided for pedestrian crossings which they felt should be mitigated by a condition
- Members concerns with regard to the responsibility of the ongoing maintenance of the proposed footpaths
- Members concerns with regard to the access to and availability of compulsory open spaces and that a schedule of replacement land was required
- Members views that the applicant was willing to listen to concerns of local residents and make adjustments where required

It was therefore **RESOLVED** that: planning permission be approved subject to conditions as recommended by the Head of Planning, Economy and Regeneration and subject to:

1. Amendment to condition 1 to read:

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

2. Amendment to condition 14 to read:

Prior to commencement of any earthworks, drainage works, carriageway construction or other road construction works, a detailed Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP shall be based on the recommendations detailed within the submitted Environmental Statement and include, but not be limited to:

- (a) details of measures proposed in respect to the avoidance of harm to protected species and ecological mitigation, compensation and enhancement;

- (b) details of habitat/biodiversity mitigation, compensation and enhancement, including a timetable for the implementation of the measures and details of future management, maintenance and monitoring;
- (c) details of the final landscaping scheme including the species, size and location of replacement planting, and any earth re-profiling, a timetable for the implementation of the planting, seeding, and earth work, and their future management, maintenance and monitoring. Details of earth re-profiling shall include details for the finish of the replacement land identified as Plot 104-1 in the submitted Cullompton Town Centre Relief Road Open Space Statement and the existing CCA Fields land between Plot 104-1 and the proposed informal details of the removal of non-native invasive plants.

The approved scheme shall be implemented in accordance with the approved details unless otherwise approved in writing by the Local Planning Authority.

3. Amendment to condition 21 to read:

No construction activities impacting on the existing Cullompton Cricket Club site and facilities shall take place until as a minimum a single replacement cricket pitch (consisting of 9 fine turf wickets and 1 non turf artificial wicket) and associated facilities as approved under planning permission 20/01452/MOUT dated 19/01/2021, have been implemented and made available for use.

**Reason:** To ensure delivery of a replacement cricket pitch and facilities of an adequate standard.

4. Introduction of condition 22 to read:

Prior to the commencement of the development, a scheme for

- a) The configuration, prioritisation, signing and marking of the junction between Meadow Lane and Exeter Road
- b) pedestrian crossing arrangements on Meadow Lane shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme shall be implemented and maintained.

**Reason:** In the interests of highway safety, traffic management and pedestrian safety

It was resolved that the application to discharge this condition should be brought before the Planning Committee for determination

5. Introduction of condition 23 to read:

No construction activities impacting on existing open space, including CCA Land, sports pitches and facilities shall take place until a schedule of replacement land provision including open space provision, sports pitches and facilities, with access to that provision, phasing and a timetable for delivery, shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the agreed schedule and timetable.

**Reason:** To ensure delivery of replacement open space and sports provision.

It was resolved to seek the agreement of the Chairman and the Vice Chairman of the Planning Committee as to the acceptability of this condition.

(Proposed by Cllr B A Moore and seconded by Cllr G Barnell)

**Reason for the Decision** – as set out in the report

Notes:

- i.) Cllrs Mrs F J Colthorpe, G Barnell, S J Clist, J Downes, Mrs C P Daw, C J Eginton, D J Knowles, F W Letch, B A Moore, R F Radford 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 letters and submissions from objectors
- ii.) Cllr Mrs F J Colthorpe declared a personal interest as she was also a Devon County Councillor
- iii.) Cllr R F Radford declared a personal as he was also a Devon County Councillor and owned industrial units adjacent to the site
- iv.) Cllrs S J Clist and J M Downes declared personal interests as they had family living in proximity of the site
- v.) Cllr Mrs N Woollatt declared a personal interest as she lived inside the relief road route
- vi.) Cllr A Wilce declared a personal interest as he used the CCA fields
- vii.) Cllr Mrs E M Andrews declared a personal interest as the Chairman of the CCA
- viii.) Mr J Berry (objector) spoke on behalf of Tesco
- ix.) Ms D Fitzsimmons (agent) spoke on behalf of the applicant
- x.) Cllr G Guest spoke on behalf of Cullompton Town Council
- xi.) Cllr Mrs N Woollatt and Cllr A Wilce spoke as Ward Members
- xii.) Cllr Mrs E M Andrews spoke as adjoining Ward Member
- xiii.) The following late information was reported:

Following review of the proposed conditions, revised wording is suggested to condition 1 and 14, should planning permission be granted. The amended conditions are as follows, with the revised wording underlined:

- a. Condition 1: The development hereby permitted shall be begun before the expiration of ten years from the date of this permission.
- b. Condition 14: Prior to commencement of any earthworks, drainage works, carriageway construction or other road construction works, a detailed Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP shall be based on the recommendations detailed within the submitted Environmental Statement and include, but not be limited to:
  - (a) details of measures proposed in respect to the avoidance of harm to protected species and ecological mitigation, compensation and enhancement;
  - (b) details of habitat/biodiversity mitigation, compensation and enhancement, including a timetable for the implementation of the

measures and details of future management, maintenance and monitoring;

(c) details of the final landscaping scheme including the species, size and location of replacement planting, and any earth re-profiling, a timetable for the implementation of the planting, seeding, and earth work, and their future management, maintenance and monitoring. Details of earth re-profiling shall include details for the finish of the replacement land identified as Plot 104-1 in the submitted Cullompton Town Centre Relief Road Open Space Statement and the existing CCA Fields land between Plot 104-1 and the proposed informal details of the removal of non-native invasive plants.

The approved scheme shall be implemented in accordance with the approved details unless otherwise approved in writing by the Local Planning Authority.

- c. Further correspondence has also been received and forwarded to Members from an objector, Mr Veysey, who owns land that is proposed to be used as part of the CCA Fields compensation package. Mr Veysey has highlighted the impact that the loss of this land would have on his sheep rearing enterprise.

## 120 **PLANNING PERFORMANCE 20/21 - QUARTER 3 (3.31.30)**

The Committee had before it, and **NOTED**, a \*report of the Head of Planning, Economy and Regeneration providing Planning and Building Control performance for quarter 3.

The Development Management Manager outlined the contents of the report and explained that the Government monitored planning performance in terms of speed and quality of decision making.

She explained that the first speed measure was the percentage of major applications determined within 13 weeks as measured over a 2 year period and the second was the percentage of non-major applications determined within 8 weeks as measured over a 2 year period.

The quality measures were the percentage of all major applications and non-major applications determined over a 2 year period that had been overturned at appeal.

The officer explained that the service had met its performance targets and exceeded the targets but the performance was not as high as the performance of other Councils. The new procedures had been introduced to resolve Extension of Time issues.

The officer explained that new planning applications had dropped off at the beginning of 2020 due to the pandemic but this was improving. She also explained that enforcement action had reduced during the pandemic and that there were currently 212 outstanding cases. The new Area Planning Team Leader was tasked with revisiting old cases and getting these resolved so that they could be closed.

The officer informed Members that Building Control had met all its targets.

In response to a question asked she confirmed the Area Team Leaders as:

- Angharad Williams (Central)
- Alison Fish (Eastern)
- Adrian Deveraux (Western)

Note: \*Report previously circulated and attached to the minutes

#### 121 **APPEAL DECISIONS (3.45.44)**

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.

(The meeting ended at 6.15 pm)

**CHAIRMAN**

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## PLANNING COMMITTEE AGENDA - 10th February 2021

### Applications of a non-delegated nature

| <u>Item No.</u> | Description                                                                                                                                                                                                                       |
|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 01.             | 20/00146/FULL - Erection of 9 dwellings with associated vehicular and pedestrian access at Land at NGR 295241 122012, South of Elizabeth Penton Way, Bampton.<br><b>RECOMMENDATION</b><br>Grant permission subject to conditions. |
| 02.             | 20/01985/HOUSE - Erection of porch at Wilcombe House, Lewis Avenue, Tiverton.<br><b>RECOMMENDATION</b><br>Grant permission subject to conditions.                                                                                 |
| 03.             | 20/01584/MOUT - Outline for the erection of a 50 bedroom nursing home at Langford Park Nursing Home, Langford Road, Langford, Newton St Cyres<br><b>RECOMMENDATION</b><br>Grant permission subject to conditions.                 |
| 04.             | 20/00059/HOUSE - Retention of retaining walls, widening of access and formation of hardstanding for the parking of vehicles at 27 Downeshead Lane, Crediton, Devon.<br><b>RECOMMENDATION</b><br>Refuse permission.                |
| 05.             | 20/00061/LBC - Listed Building Consent for removal of boundary wall at 27 Downeshead Lane, Crediton, Devon.<br><b>RECOMMENDATION</b><br>Refuse Listed Building Consent.                                                           |

Application No. 20/00146/FULL

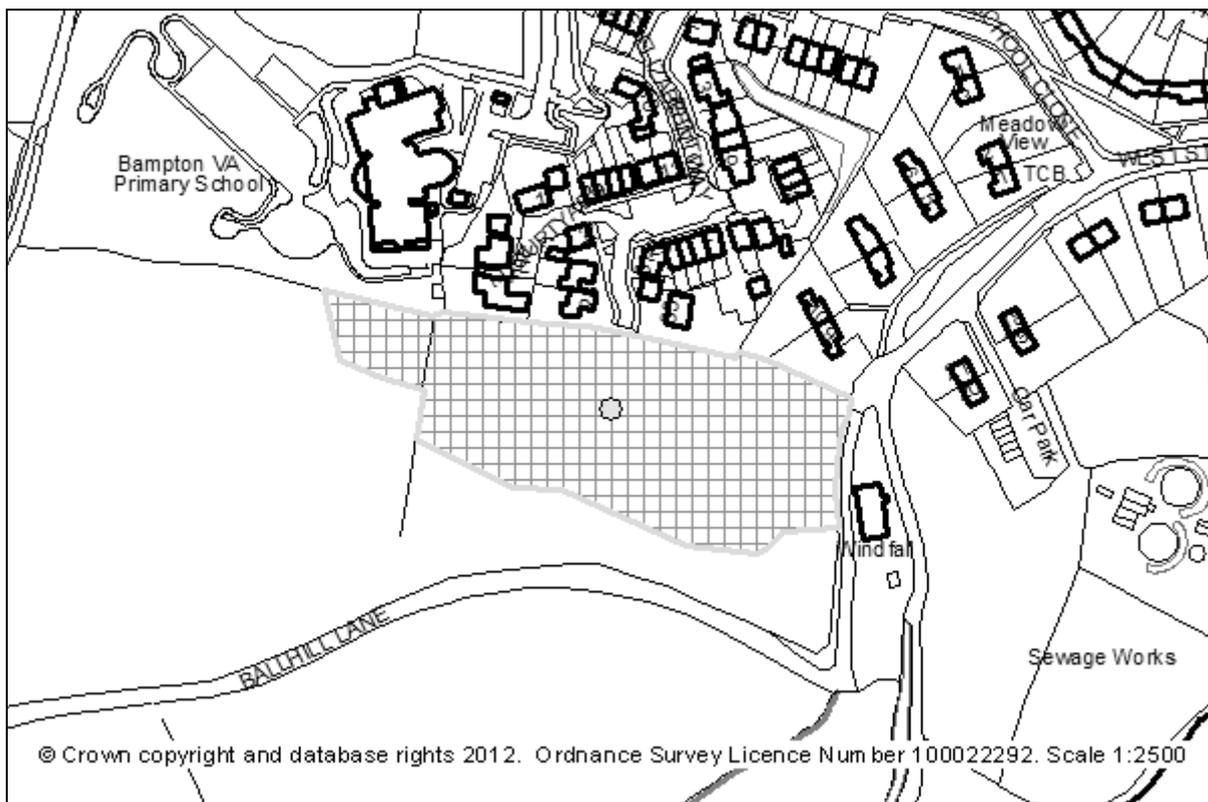
Grid Ref: 295241 : 122012

Applicant: 3 Rivers Developments Ltd

Location: Land at NGR 295241 122012  
South of Elizabeth Penton Way  
Bampton  
Devon

Proposal: Erection of 9 dwellings with associated vehicular and pedestrian access

Date Valid: 3rd February 2020



## **APPLICATION NO: 20/00146/FULL**

**Site Visit: Yes or No    Date of Site Visit:**

The case officer has not been able to undertake a site visit due to the current restrictions imposed by the Government due to the Covid19 Pandemic. As such, the officer has relied upon Google Maps, representations, and the planning history of the site to come to a recommendation.

The application is required to be determined by the Planning Committee as the applicant is 3 Rivers, the Council's own development company.

### **RECOMMENDATION**

Grant permission subject to conditions and S106 for education, open space and affordable housing review mechanism. Members will be provided with an update at the Committee as to the open space contributions.

### **PROPOSED DEVELOPMENT**

The application is a full planning application for the erection of 9 dwellings with associated vehicular and pedestrian access. The scheme seeks full planning permission for 4no. four bed houses and 5no. three bed houses. Vehicular access will be obtained from Elizabeth Penton Way (in line with the previous approval) and each dwelling is provided with a rear garden, in addition to communal landscaped areas.

The site is roughly rectangular in shape and is bound by existing hedgerows on the north and eastern boundaries and by the remainder of a larger field on the western and southern boundaries. Due to the sloping nature of the site, the layout of the dwellings have been designed to follow the contours of the land, with drainage crates provided towards the front of the site. The site layout is shown in the image below for ease of reference.

The application site equates to approximately 0.86ha and relates to one of the Council's Local Plan allocations known as 'BA4 – School Close' Bampton.

The site is subject to a number of previous planning applications and gained outline planning permission in 2010 for the development of up to 26 units. A reserved matters application was subsequently submitted and approved in 2016, with the approved access to the site commencing in 2018.

The subject application sees a reduction from the approved 26 units to a scheme of just 9 dwellings.



- A** Elizabeth Penton Way
- B** West Street
- C** Ballhill Lane
- 1** Vehicular access from Elizabeth Penton Way
- 2** Street to adoptable standards
- 3** Private drives
- 4** Houses following the contours
- 5** Houses perpendicular to the slope
- 7** Meadow planting with drainage crates below
- 8** Roof terraces over car ports
- 9** Rear gardens
- 10** Green breaks / corridors
- 11** Communal landscaped areas
- 12** Retained and reinforced boundary planting

## APPLICANT'S SUPPORTING INFORMATION

- Site Location Plan
- Supporting information including:
  - Design and Access Statement;
  - Viability report affordable housing;
  - Wildlife Survey;
  - Landscaping schedule;
  - Accommodation schedule;
  - Flood Risk Assessment;
  - Arboricultural Impact Assessment;
  - Tree Survey.
- Proposed Plans including
  - House Type Plan;
  - Boundary Treatments Plan

- Parking Layout
- Bin storage Strategy
- Landscaping
- Site Sections
- Drainage Strategy Layout
- Typical sections of soft tree pit
- Tree Protection Plan

## **RELEVANT PLANNING HISTORY**

01/00062/DET - CLOSED date 8th August 2013 Potential for residential development

09/00542/MOUT - WDN date 29th July 2009 Outline for the erection of 26 dwellings with associated vehicular and pedestrian accesses

09/01163/MOUT - DELETE date 7th April 2010 Outline for the erection of 26 dwellings with associated vehicular and pedestrian accesses (Revised scheme)

10/00510/MOUT - PERMIT date 11th April 2013 Outline for the erection of 26 dwellings with associated vehicular and pedestrian accesses (Revised scheme)

NMA-18/01003/NMA

16/00473/MARM - PERCON date 28th September 2016 Reserved Matters for the erection of 26 dwellings with associated vehicular and pedestrian accesses

18/01003/NMA - PERMIT date 5th September 2018 Non-Material Amendment for 10/00510/MOUT to allow variation of conditions (5) and (7) regarding pre-commencement requirements

20/00146/FULL - PCO date Erection of 9 dwellings with associated vehicular and pedestrian access

## **OTHER HISTORY**

15/01411/PREAPP - CLO date 29th September 2015

PROTECT: Proposed variation of planning permission 10/00510/MOUT to allow changes to the number of dwellings approved

17/01442/PREAPP - CLO date 17th July 2020

PROTECT - Erection of dwellings

19/02114/PREAPP - ALLOC date 19th December 2019

PROTECT: Erection of 9 dwellings and associated infrastructure

## **DEVELOPMENT PLAN POLICIES**

### **National Planning Policy Framework**

#### **Mid Devon Local Plan Review 2013 – 2033**

Policy S1 – Sustainable Development Priorities;

Policy S3 – Meeting housing needs;

Policy S5 – Public Open Space

Policy S9 – Environment

Policy S13 – Villages

Policy BA4 – School Close, Bampton;

Policy DM1 – High quality design;

Policy DM2 – Renewable and low carbon energy;

## CONSULTATIONS

### **Bampton Town Council**

No objection in principle – asked the Council to consider the access and water run-off.

### **Highway Authority**

Development is considered acceptable. Recommends the following conditions:

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

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

2. When once constructed and provided in accordance with condition 1 above, the carriageway, vehicle turning head, footways and footpaths shall be maintained free of obstruction to the free movement of vehicular traffic and pedestrians and the street lighting and nameplates maintained to the satisfaction of the Local Planning Authority

REASON: To ensure that these highway provisions remain available

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

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

- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

### **Devon County Education**

Requests that a contribution be made towards secondary school transport costs due to development being a further 2.25 miles from Tiverton High.

Formulas as follows: 1.35 Secondary pupils =  
£3.18 per day x 1.3 pupils x 190 academic days x 5 years = £4,078.

The County Council also wish to recover legal costs incurred and do not expect them to exceed £500.

### **Public Health**

Recommends the following conditions:

1) Before the development hereby approved is commenced, a site investigation and risk assessment shall be carried out to determine the nature and extent of land contamination that may be present and the likely impact on all receptors that may result. A full report of the investigation and risk assessment shall be forwarded to the LPA for approval. No work shall proceed on site until either the LPA grants written consent for the development to commence or the requirements of condition (2) below are met.

2) Where actual or probable significant pollutant linkages are found following the investigation and risk assessment required by condition (1) above, the applicant shall submit a remediation statement together with a timescale for completion of the required works for approval in writing by the LPA.

3) Following completion of any works required by condition (2) above, a remediation validation report shall be submitted to the LPA for approval in writing. Occupation on the site, or parts of the site affected by land contamination, shall not take place until approval of the validation report has been granted.

Reason: In the interests of public health and the protection of the environment. (05.02.20).

### **Air quality**

No objection

### **Environmental Permitting**

No objection

### **Drainage**

No objection

### **Noise and other nuisances**

Recommends the following condition:

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

Licencing

No comments

Environment Agency

No comment

## REPRESENTATIONS

At the time of writing, a total of 5 objections have been received and 3 representations. The representations relate to comments from members of the public that are not comments of support, nor objection but that require attention.

The objections raise concern regards the following matters:

- Overlooking and impact on existing properties to the north
- Access
- Health and safety of children
- Impact on wildlife
- Design of the development
- The proposals compliance with policy
- Drainage
- Construction impact.

The representations make comment that the development is an improvement upon the original 26 units; but still raise concern over the disruption the development would cause. There is also a request for T3 tree as identified in the supporting reports to be kept and not pruned significantly. Having reviewed the submitted application plans, it appears that T3 is identified as a retained tree.

## MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

- **Principle of the development**
- **Impact on neighbouring properties**
- **Design of the development and impact on the landscape**
- **Impact on Biodiversity**
- **Highways impact**

Principle of the development

The site falls within the settlement boundary and within the Local Plan allocation of BA4. As such, the principle of the development is acceptable.

Policy BA4 (School close, Bampton), outlines that such an allocation will permit residential development subject to the following:

- a) 26 dwellings with 30% affordable housing;
- b) Access to be achieved off West Street;
- c) Traffic calming measure along West Street;
- d) Provision of a pedestrian footpath along West Street to link with the entrance to the site on West Street, and;
- e) Provision of a Drainage Strategy and a Sustainable Urban Drainage Scheme to deal with all surface water from the development and arrangements for future maintenance.

a) 26 dwellings with 30% affordable housing:

The application seeks full planning for a total of 9 units only. This is a reduction from the originally permitted 26 in previous approved applications. It is understood that such a reduction has been made due to site constraints and their impact on the schemes viability.

As the policy supports the provision of residential development, the quantity of 9 units is considered to be acceptable subject to its accordance with other policies within the plan.

In respect to the 30% affordable housing, the development should provide up to 2.7 affordable units (rounded to 3). This also accords with the requirements of Policy S3, which in this instance is also relevant due to the number of units proposed. Policy S3 advises that on sites between 6-10 dwellings outside of Tiverton, Cullompton and Crediton, a financial contribution can be made as opposed to on-site delivery of the affordable units in order that a different (potentially more suitable) location can be identified for their delivery.

In response to these policy requirements, the applicant has submitted a Viability report in support of the application. The report advises that due to the various constraints of the site, it is not viable to deliver the necessary affordable housing contribution of 30%.

The applicant is entitled to submit a viability report in accordance with National Planning Policy. Paragraph 57 of the National Planning Policy Framework (NPPF) outlines

*“Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available”*

Such a report has been assessed via an Independent Viability Assessor who has been instructed on behalf of the Council. The assessor has agreed with the conclusions of the applicant's viability report, and therefore a S106 obligation for the provision/financial contribution of 30% affordable housing has not been included at this time. However, as recommended by the assessor, it is considered necessary to require the applicant to review the financial circumstances in due course, and as such, it is recommended that the S106 be drafted with a review mechanism which requires the applicant to review the outcome of this matter in due course.

As a result, there is a recommendation for the s106 agreement to include a late stage review mechanism so the viability can be reviewed based on actual revenue and costs.

**b) Access to be achieved off West Street**

Previous applications on the site have sought access off West Street. However, due to the lower number of only 9 units proposed, the access on this occasion is being sought from Elizabeth Penton Way with a pedestrian route to West Street.

This proposal reduces the number of units from previously approved applications and the Highways Officer considers that the proposed access is suitable for the development and does not have any objections. Conditions are recommended however and these have been included within this report.

**c) Traffic calming measure along West Street**

As above, the proposal reduces the number of units previously sought and the Highways Officer does not present any objection to the proposal. With a reduced number of units being proposed, traffic calming measures are not considered necessary.

**d) Provision of a pedestrian footpath along West Street to link with the entrance to the site on West Street**

The S38 plan submitted in support of the application illustrates a pedestrian footpath from the development onto West Street.

**e) Provision of a Drainage Strategy and a Sustainable Urban Drainage Scheme to deal with all surface water from the development and arrangements for future maintenance.**

The application is supported by a Flood Risk Assessment and Drainage Strategy. This advises that the development will be drained via an underwater attenuation system towards the north east of the development. In terms of foul water, this is proposed to go into the existing SWW foul sewer network at Broadway Road. The Council's Drainage Officer has reviewed this report and has no objections to the proposals.

Overall whilst the application does not wholly comply with Policy BA4, it is considered that the development is acceptable given that weight in favour of the application is given to the provision of new homes within a Local Plan allocation, and that the access to such does not raise concerns with the highways officers. Whilst the density of the development is lower than the identified 26 units, the proposed homes are considered to be of a good design quality, and results in a lower impact on the highway network.

**Impact on neighbouring properties**

The nearest neighbours to the site include the existing residents of Elizabeth Penton Way to the north. Whilst planning permission has been granted at the site for a previous scheme of 26 units, the impact on neighbouring properties has still been taken into account, as have the representations that have been received.

The nearest property to the development will be approximately 19m away at the nearest point. This is considered to be a suitable distance away from a property in terms of respecting amenity. Furthermore, the dwellings are constructed at a split level, with the kitchen, dining area located at first floor level.

As noted on the proposed Landscaping Plan, there will be trees planted to the northern boundary for further screening and the windows on the proposed are such that they will largely look across to existing blank elevations thereby reducing concerns of overlooking. A suitable condition has

been recommended to ensure that the landscaping proposed (including trees) will be planted within an acceptable timescale and managed thereafter in perpetuity.

#### Design of the development and impact on the landscape

The proposed dwellings have been designed to have traditional barn forms, which are simplistic in form and reflect the rural nature of the village. The material palette will be as follows:

- Stone cladding to the ground floor;
- Metal cladding to the upper floors in earthy tones to match the stone on some buildings;
- Light coloured render to other units;
- Dark grey or bronze coloured windows;
- Timber front doors.

Taking account of the surrounding development, it is noted that render is largely used on residential development, with dark coloured tiles.

The proposed development therefore does introduce a contemporary approach to the area's character, but is not considered to negatively impact given the rural nature of the locality. The barn like approach is typical of what would be seen in a countryside location and is considered to work well with the surroundings and contours of the land. Whilst the site is steeply sloping, the layout does allow for breaks in-between the buildings to allow for natural light. The split level approach also deals well with the change in levels, and prevents the development from appearing over dominating in the landscape.

Landscape planting is proposed and will include new trees and native Devon hedgebanks which will soften the appearance of the development as well as help screen it.

It should be noted that there is a requirement for the development under Policy S5 to provide a certain amount of public open space. This is currently being discussed and there will be an update available for members at the Committee which will advise on the s106 contribution required.

The development is therefore considered to be of a suitable design and appearance which meets the criteria of Policy DM1 and will meet Policy S5.

#### Impact on Biodiversity

The application is supported by a Wildlife Survey prepared by Clarkson and Woods.

An extended Phase 1 habitat survey has been undertaken and advised that the site had the potential to support the presence of a number of protected species. As such, there is a recommendation for a prior to commencement condition for the provision of a Biodiversity Mitigation and Enhancement Plan, together with the need for a reptile mitigation strategy given the likely presence of slow worms.

Furthermore, all retained trees and hedgerows will need to be protected during construction works with appropriate fencing, and again, a condition has been recommended on this basis.

A stone/earth mound with ruderal vegetation is also present near to the northern boundary and a corrugated metal structure is located at the northern site boundary, this could offer habitat for night roosting bats and as such, a suitable condition has been recommended. Lighting measures also need to be controlled to ensure that this does not cause impact on bat flight paths. A condition for bat and bird boxes on each of the proposed units is also recommended.

Given the site's potential for foraging badges, an update survey will also need to be undertaken prior to commencement.

Subject to the provision of the above, the development is considered to be acceptable and in accordance with Policy S1 and S9.

### **Highways impact**

As noted, the proposed development is to be accessed off Elizabeth Penton Way. There have been concerns from local residents in regards to this access being used given the proximity of the nearby school and the generation of extra traffic. However, The Highways Officer considers the access to be suitable for the number of units proposed. The Highway Authority has recommended a number of conditions that have been included within this report, including provision of a Construction Management Plan (CMP). The provision of such a plan prior to commencement will ensure that construction can take place safely and not cause significant disturbance to the neighbouring properties, or cause an unsafe environment for local school children.

In accordance with Policy DM5, the development should be providing up to 1.7 spaces per unit. The development provides a ratio of 2.44 spaces per unit together with visitor parking.

The scheme does not currently propose any cycle storage. Whilst within a residential estate, one could store their bikes to the rear of their property. A suitable condition has been recommended.

### **Summary & reason for recommending approval**

The development proposes a development of 9 units within a site allocated under the Mid Devon Local Plan 2013 - 20233 The principle of development on this site has been previously been accepted; the proposed development of 9 houses is acceptable and the impacts caused by the development can be mitigated. The dwellings are of a suitable design for the area and the proposal largely complies with the policies and provisions of the Local Plan. Where it falls short, it is considered that within the planning balance, weight should be given to the provision of new residential units at this location within a Local Plan allocation, subject to the recommended conditions and S106. The development is therefore considered to meet Policies S1, S3, S5, S9, S13, BA4, DM1, DM2 and DM5 of the Mid Devon Local Plan 2013-2033.

### **S106**

- Education – secondary school transport contribution – a total of £4,078 and monitoring fees no more than £500.
- Affordable housing review mechanism following the sale of the 9 units.
- Open space – to be confirmed

### **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 complete accordance with the application form and the following approved plans:
  - Site Location Plan L0101 Rev A
  - Site Layout – L 0201 Rev D
  - House Type Plan L 0202 Rev C
  - Boundary Treatments L 02 03 Rev B

- Parking Layout L0204 Rev C
  - Bin storage strategy L0205 Rev B
  - Landscape General Arrangement L0301 Rev B & L0302 Rev B
  - Site Sections SE0201 Rev A
  - Proposed Floor Plans HT0105 Rev A
  - Proposed Elevations HT0106 Rev A
  - Proposed Floor Plans HT A AS – HT0101 Rev B
  - Proposed Elevations HT A AS – HT 0102 Rev B
  - Proposed front and rear elevations HT A AS – HT0103 Rev B
  - Proposed Floor Plans – HT B – HT0201 Rev A
  - Proposed Elevations – HT B- HT0202 Rev A
  - Proposed variation 1 AS Floor Plan HT B – HT0203 Rev B
  - Proposed variation 1 Elevation AS HT B – HT0204 Rev B
  - Proposed variation 2 Floor Plan HT B – HT0205 Rev A
  - Proposed variation 2 Elevation HT B – HT0206 Rev A
  - Proposed OPP Floor Plans Variation 1 HT B – HT0207
  - Proposed OPP Elevations Variation 1 HT B
  - Proposed Floor Plans HT C - HT0301 Rev A
  - Proposed Elevations HTC – HT0302 Rev B
  - Proposed Floor Plans HT D –HT0401 Rev A
  - Proposed Elevations HT D – HT0402 Rev A
  - Tree Protection Plan 05378 TPP 180220
  - Drainage Strategy Layout 1004PL02
  - Typical Soft Tree Pit 190910D 0401
  - Typical Post and Wire Hedgerow 190910 D 0402
  - Highway Layout 2101 PL01
  - S38 Layout 2101PL01
3. The development hereby approved shall be strictly undertaken in accordance with mitigation measures outlined within the hereby approved Ecological Impact Assessment report as prepared by Clarkson and Woods.
  4. The development hereby approved shall be strictly undertaken in accordance with the hereby approved Flood Risk and Drainage Assessment as prepared by Sands.
  5. Notwithstanding the submitted details, a Landscape Management Plan will be submitted to and approved in writing by the Local Planning Authority prior to commencement above dpc level. The management plan will provide details of the timescale in which the landscaping will be implemented including trees and hedgerow and will outline how the landscaping will be managed in perpetuity. The development will be carried out in accordance with the approved details.
  6. No part of the development hereby approved shall commence until a strategy for the removal and deposit of the excess soil created through the construction of the development has first been submitted to and approved in writing by the Local Planning Authority. The development will thereafter be undertaken in accordance with the approved strategy.
  7. Prior to the commencement of development on each relevant phase a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. In respect to the protection of residential amenity and the

local environment, 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. The following specific details should also be included in respect to highway safety:

- (a) the timetable of the works;
  - (b) daily hours of construction;
  - (c) any road closure;
  - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
  - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
  - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
  - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
  - (h) hours during which no construction traffic will be present at the site;
  - (i) the means of enclosure of the site during construction works; and
  - (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
  - (k) details of wheel washing facilities and obligations
  - (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
  - (m) Details of the amount and location of construction worker parking.
  - (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;
8. Notwithstanding the submitted plans, details including elevations and materials of all boundary treatments as shown on approved plan L0203 Rev B will first be submitted and approved in writing by the Local Planning Authority prior to their implementation. No dwelling will be occupied until such details have been approved and implemented.
  9. No dwelling shall be occupied until the parking has been laid out in accordance with the approved parking plan L0204 Rev C and. Once laid out, the parking for each property will be retained and maintained thereafter.
  10. Prior to any development commencing, a Biodiversity Mitigation and Enhancement Plan shall be submitted and approved in writing by the Local Planning Authority. Such a plan will include within it details of protection for badgers, hedgehogs, and protection of the existing corrugated metal structure on site. The Plan will also include construction-phase mitigation measures and operational-phase management and enhancement measures. The measures are to be implemented in strict accordance with the approved plan.
  11. Prior to any development commencing, a Reptile Mitigation Strategy will first be submitted and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved strategy which shall include details of exclusion fencing;

enhancement of the receptor site, translocation, habitat degradation, and destructive search.

12. All retained hedgerows grass margins and trees will be protected during construction with appropriate fencing and a minimum 2m Biodiversity Protection Zone (BPZ) or the Root Protection Zone (RPZ) of the trees, whichever is greater, details of which will first be submitted to and approved in writing by the Local Planning Authority, prior to development commencing. No hedgerow removal will take place unless preceded by a check for nesting birds and conducted under a watching brief from a competent ecologist who holds a dormouse licence.
13. Each dwelling hereby permitted shall be fitted with a built in bat or bird box prior to occupation of the dwellings hereby approved. The owner will notify the Local Planning Authority in writing once installation of the bat or bird boxes has been completed.
14. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins, For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.
15. When once constructed and provided in accordance with condition 13 above, the carriageway, vehicle turning head, footways and footpaths shall be maintained free of obstruction to the free movement of vehicular traffic and pedestrians and the street lighting and nameplates maintained to the satisfaction of the Local Planning Authority.
16. Before the development hereby approved is commenced, a site investigation and risk assessment shall be carried out to determine the nature and extent of land contamination that may be present and the likely impact on all receptors that may result. A full report of the investigation and risk assessment shall be forwarded to the LPA for approval. No work shall proceed on site until either the LPA grants written consent for the development to commence or the requirements of condition (2) below are met.
  - 2) Where actual or probable significant pollutant linkages are found following the investigation and risk assessment required by condition (1) above, the applicant shall submit a remediation statement together with a timescale for completion of the required works for approval in writing by the LPA.
  - 3) Following completion of any works required by condition (2) above, a remediation validation report shall be submitted to the LPA for approval in writing. Occupation on the site, or parts of the site affected by land contamination, shall not take place until approval of the validation report has been granted.
17. The development shall not be carried out otherwise than in strict accordance with the details of the finished floor level(s) of the building(s) which shall have first been submitted to and approved in writing by the local planning authority prior to the commencement of the development. The development shall thereafter proceed in accordance with the approved details.
18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting

that Order with or without modification) no development of the types described in Classes [A];[B];[C] of Part [1] of Schedule 2 shall be undertaken on the premises (other than those expressly authorised by this permission)

19. Prior to the dwellings hereby approved being occupied, a plan illustrating provision for cycle storage for each dwelling shall first be submitted to and approved in writing by the Local Planning Authority. The approved details will thereafter be implemented on site before the dwellings are occupied.

## **REASONS FOR CONDITIONS**

1. In accordance with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt in the interests of proper planning.
3. For the conservation and protection of legally protected species and for the enhancement of biodiversity.
4. To ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream.
5. In the interests of local amenity and protection of the character and appearance of the local area.
6. In the interests of local amenity and protection of the character and appearance of the local area. Required prior to commencement to ensure proposals put forward are acceptable prior to impact on local area.
7. In the interests of protecting local amenity and to minimise the impact on the highway network and nearby residential properties during the construction period. Required prior to commencement to ensure proposed management plans are acceptable before operation comes into force.
8. In the interests of protecting local amenity and protection of the character and appearance of the local area.
9. To ensure there is adequate parking available at all times for the development, thereby minimising any impact on the nearby estate roads, and in the interests of protecting the local amenity.
10. For the conservation and protection of legally protected species and for the enhancement of biodiversity. Required prior to commencement to ensure suitable mitigation measures are put in place.
11. For the conservation and protection of legally protected species and for the enhancement of biodiversity. Required prior to commencement to ensure suitable mitigation measures are put in place.

12. For the conservation and protection of legally protected species and for the enhancement of biodiversity.
13. For the conservation and protection of legally protected species and for the enhancement of biodiversity.
14. To ensure that adequate information is available for the proper consideration of the detailed proposals.
15. To ensure that these highway provisions remain available
16. In the interests of public health and the protection of the environment. Required prior to commencement to ensure no works associated with the development disturb possible contamination.
17. In the interests of protecting local amenity. Required prior to commencement in order that the development does not cause impact on the landscape or neighbouring properties until satisfactory details have been submitted and approved.
18. To ensure that the character and appearance of the locality are protected and to avoid overdevelopment in the interests of local amenity.
19. In order to provide suitable storage provision for bicycles in view of ensuring sustainable transport options and in accordance with Policy DM5 of the Mid Devon Local Plan 2013-2033.

## **INFORMATIVES**

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

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

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.

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

The development proposes a development of 9 units within a Council allocation. The principle of development is acceptable and the impacts caused by the development can be mitigated. The dwellings are of a suitable design for the area and the proposal largely complies with the policies and provisions of the Local Plan. Where it falls short, it is considered that within the planning balance, weight should be given to the provision of new residential units at this location, subject to the recommended conditions and S106. The development is therefore considered to meet Policies S1, S3, S9, S13, BA4, DM1, DM2 and DM5 of the Mid Devon Local Plan 2013-2033.

Application No. 20/01985/HOUSE

Grid Ref: 296435 : 112560

Applicant: Mr & Mrs May

Location: Wilcombe House  
Lewis Avenue  
Tiverton  
Devon

Proposal: Erection of porch

Date Valid: 24th November 2020



## **APPLICATION NO: 20/01985/HOUSE**

**Site Visit:** No    **Date of Site Visit:** N/A

**Decision Delayed Reason:** Application form submitted incorrectly

### **MEMBER CALL-IN**

The application is presented to committee as the applicant is a member of staff

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

Erection of porch

### **RELEVANT PLANNING HISTORY**

03/00306/PE - REC date new dwelling  
84/00883/FULL - PERMIT date 25th June 1984 Rebuild and enlarge garage  
05/00644/PE - REC date 26th April 2005 Erection of a dwelling  
06/00463/FULL - REFUSE date 18th April 2006 Erection of 1 no. dwelling  
06/01483/PE - REC date Proposed dwelling  
06/02143/FULL - PERMIT date 29th November 2006 Erection of dwelling  
80/01550/FULL - PERMIT date 16th October 1980 Erection of a garage to replace existing  
20/01985/HOUSE - PCO date Erection of porch

### **DEVELOPMENT PLAN POLICIES**

#### **Mid Devon Local Plan 2013 – 2033**

S1 – Sustainable Development  
S9 – Environment  
S10 – Tiverton  
DM1 – High Quality Design  
DM11 – Residential Extension

### **CONSULTATIONS**

**Tiverton Town Council** – 8 December 2020  
Support

**Highway Authority** – 07 October 2020

No comments

**Environment Agency** -  
Standing advice – flood zone 1

## **REPRESENTATIONS**

None received

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

- 1. Impact on character and appearance of the area**
- 2. Impact on neighbours**

### **Impact on character and appearance of the area**

This application is for the erection of a replacement porch to the front of Wilcombe House, Lewis Avenue, Tiverton. The site is located on the junction with The Avenue and Hermes Avenue. The area comprises a mix of mainly late Victorian/Edwardian villas to the east and mid-20C planned housing to the west.

The existing porch has a single aspect roof. The proposed replacement porch would have a dual pitched roof which would have a slate roof. It would be externally clad with Cedral weatherboard above a brick plinth. The windows would be white uPVC. The proposed porch would have a slightly larger footprint than the existing porch.

Policy DM11 permits extensions to existing dwellings and other ancillary development will be permitted provided that they respect the character, scale, setting and design of existing dwellings and do not result in over-development of the dwelling curtilage.

The porch would be set off the boundary wall to the south and west and, having regard for its design, scale, materials and proportions, would respect the character of the existing dwelling without resulting in overdevelopment of the plot. It is therefore considered to accord with policy DM11 in terms of its visual impact.

### **Impact on neighbours**

The porch would be located to the front of the property and would be single storey.

Paragraph 127(f) of the NPPF states that developments should create a high standard of amenity for existing and future users. This is reflected in Policy DM1 of the Local Plan Review 2013-2033 which states that proposals should not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses.

Policy DM11 states that extensions and other ancillary development will be permitted provided they will not have a significantly adverse impact on the living conditions of occupants of neighbouring properties.

Given the scale of the proposed development and the distance it would be located from other properties nearby it is not considered that the proposal would have an adverse impact on the residential amenities currently enjoyed by local residents.

## **SUMMARY/REASON FOR APPROVAL**

The replacement porch is considered acceptable in policy terms. It is not considered that the development has an unacceptably adverse effect on the privacy and amenity of the neighbouring property or adversely affects the character and appearance of the area. There are no highways implications. As such the proposal is considered to be in accordance with the Mid Devon Local Plan 2013-2033 Policies S1, S9, S10, DM1 and DM11 and the advice contained in 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.

The case officer has not carried out a site visit in the determination of this application due to Covid-19 travel and social distancing restrictions which are currently in place. The officer has instead considered the application using information from google maps considers that to determine the application without a site visit would not prejudice any interested party.

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission

In accordance with the National Planning Policy Framework, the Local Planning Authority has also involved the community in the consideration of this application.

## **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.

## **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.

Application No. 20/01584/MOUT

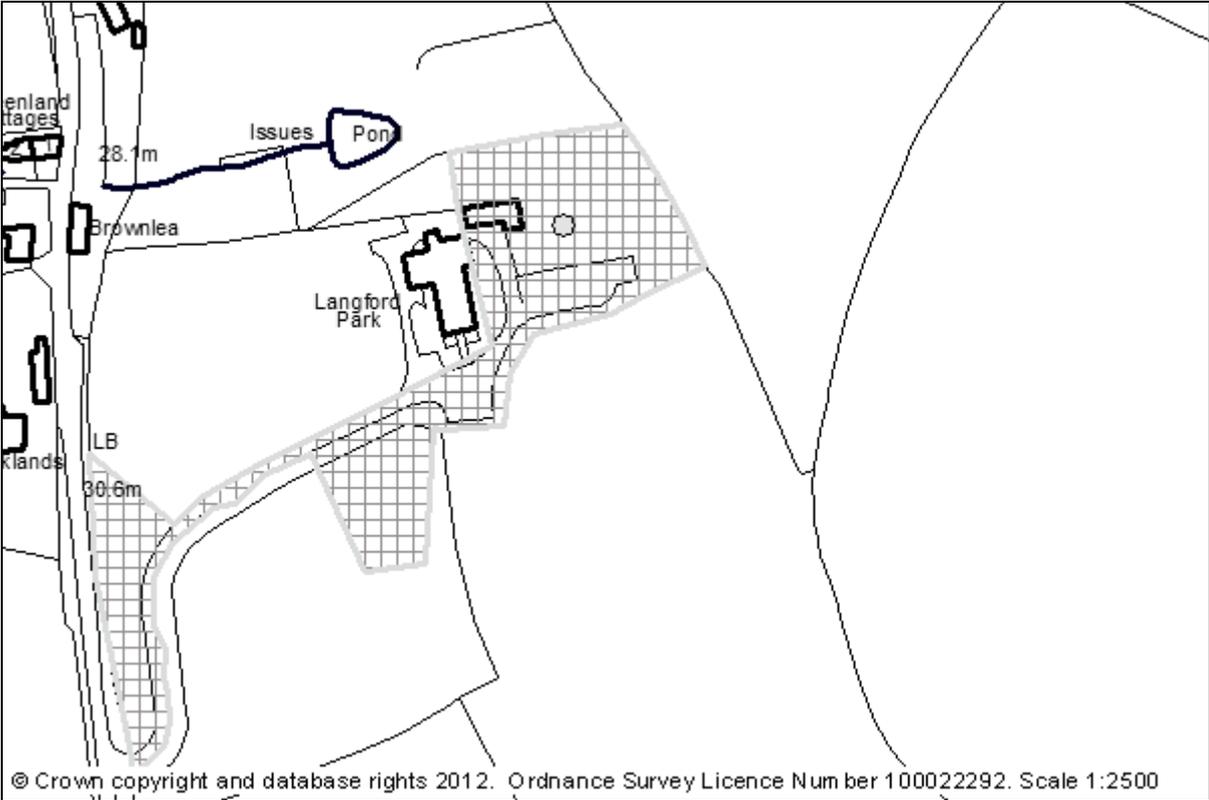
Grid Ref: 290195 : 97365

Applicant: Mr B Griffith

Location: Langford Park Nursing Home  
Langford Road  
Langford  
Newton St Cyres

Proposal: Outline for the erection of a 50 bedroom nursing home

Date Valid: 21st October 2020



## **APPLICATION NO: 20/01584/MOUT**

### **MEMBER CALL-IN**

This application has been called in by Councillor Barnell for Committee to consider:

- The road safety of pedestrians (especially staff) walking to and from the bus stop on the main road using an unlit lane without pavements.
- Capacity issues relating to foul drainage within the area
- Matters which may need to be conditioned at this stage to inform the reserved matters application submission such as the final design and appearance of the building to ensure:-
  - It is in keeping with the surrounding village community.
  - Does not result in overlooking of neighbouring houses.

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

This application seeks outline planning permission for the erection of a 50 bedroom nursing home at Langford Park Nursing Home, Langford Road, Langford, Newton St Cyres. The application has been made in outline form with all matters reserved so consideration of this application relates to the overall principle of the development. The site is outside of any village with a settlement limit, outside of any landscape designation and sited to the south of residential dwellings within the village of Langford.

The proposal is outlined as being for the creation of a new 50 bedroom nursery home operating in connection with the existing nursing home on site. Indicative plans submitted show a new unit being a three storey detached building with single rooms with en suite for residents designed to meet current CQC standards and arranged into 5 no. 10 bedroom nursing clusters. As part of the proposal, any new development would allow for purpose built staff accommodation to replace the existing mobile home staff accommodation on site. An extended access driveway with car parking, service access and turning space would be possible with an enhanced landscape design across the site. The case is made that this unit is required primarily for less able bodied residents in need of an increased level of care with the new building to include staff accommodation resulting in the removal of existing caravans on site and a number of outbuildings/structures.

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

Completed application form, site location plan, indicative plans for a 50 bed nursing home, Design and Access Statement, Ecological Appraisal, Transport Statement, Disposal of Medication Policy and procedure, Clinical Waste Disposal Policy and procedure, Achieving Disposal and storing of records policy and procedure, Flood Risk Assessment and Drainage Statement, Garden and planting design, Statement of Community Involvement

### **RELEVANT PLANNING HISTORY**

77/01677/FULL - PERMIT date 8th February 1978

Outline application for change of use from store to two units of holiday farmhouse accommodation

78/00449/FULL - PERMIT date 13th June 1978

Conversion of barn into four holiday flats and provision of new access

80/00800/FULL - PERMIT date 31st July 1980  
Conversion of outbuilding into residential unit

80/01194/FULL - PERMIT date 28th August 1980  
Conversion of existing cider barn into 5 private residential units; construction of garage court and access to Langford Road.

81/02102/FULL - PERMIT date 16th February 1982  
Conversion of outbuilding into 2 units

82/01956/FULL - PERMIT date 1st February 1983  
Conversion of existing house and redundant barn into a registered nursing home, construction of new access drive, car parks and landscaping.

86/00665/FULL - PERMIT date 27th May 1986  
Erection of extensions and conversion of existing building to form an additional ten units of accommodation for nursing home

86/01483/FULL - PERMIT date 15th October 1986  
Change of use of second floor flat and staff quarters into nursing home accommodation and formation of dormer windows

87/01484/FULL - PERMIT date 19th October 1987  
Erection of extension to provide two bedrooms and w.c.s

88/00780/FULL - PERMIT date 12th May 1988  
Erection of extension to form staff room and office

89/02188/OUT - REFUSE date 11th January 1990  
Outline for the erection of twenty units for homes for the aged

90/01311/FULL - PERMIT date 19th September 1990  
Erection of extension

91/01702/FULL - PERMIT date 7th November 1991  
Erection of boiler house extension

92/01689/FULL - PERMIT date 19th November 1992  
Erection of a conservatory

92/01993/FULL - PERMIT date 14th January 1993  
Erection of four bedroom extension

92/02009/FULL - PERMIT date 14th January 1993  
Erection of porch to north elevation

93/00702/FULL - PERMIT date 4th June 1993  
Erection of extension to form laundry

97/00172/FULL - PERMIT date 16th May 1997  
Alterations to outbuilding (Revised Scheme)

99/02257/FULL - REFUSE date 29th June 1999  
Retention of slate-clad roof extension

99/02959/FULL - PERMIT date 12th October 1999  
Formation of roof extension (Revised Scheme)

04/02526/FULL - PERMIT date 11th February 2005  
Erection of covered access way

07/00010/FULL - PERMIT date 13th March 2007  
Erection of extension to residents lounge

09/01540/FULL - PERMIT date 10th December 2009  
Erection of a two-storey extension

10/01907/FULL - REFUSE date 3rd March 2011  
Conversion of annexe to provide 5 additional bedrooms and retain common room

11/01355/FULL - PERMIT date 10th November 2011  
Conversion and extension of existing outbuilding to provide 6 additional bedrooms for nursing home (Revised Scheme)

12/00398/FULL - PERMIT date 10th May 2012  
Erection of extension

14/01852/FULL - PERMIT date 18th February 2015  
Variation of condition (2) of planning permission 11/01355/FULL to allow the substitution of previously approved plans

17/01986/FULL - PERMIT date 20th February 2018  
Erection of a pre-fabricated building and decking area

18/00173/FULL - PERMIT date 17th April 2018  
Retention of 4 static caravans for staff living accommodation

## **DEVELOPMENT PLAN POLICIES**

### **Mid Devon Local Plan Review 2013 – 2033**

S1 - Sustainable development priorities  
S3 - Meeting housing needs  
S8 - Infrastructure  
S9 - Environment  
S14 - Countryside  
DM1 - High quality design  
DM5 - Parking  
DM18 - Rural employment development  
DM23 - Community facilities

## CONSULTATIONS

**Newton St Cyres Parish Council** - 17<sup>th</sup> November 2020  
Newton St Cyres Parish Council support this application

**Highway Authority** – 16<sup>th</sup> November 2020

### Comments

The site is accessed off a C classified County Route which is restricted to 30 MPH. The number of personal injury collisions which have been reported to the police in this area between 01/01/2015 and 31/12/2019 is none. The applicant shows 21 parking spaces, which does not meet the Mid Devon Policy for parking DM5 which is one parking space per bedroom. The number of trips this development could generate will not be a severe affect on the Highway or that there will be a safety concern with the proposal. Therefore County Highway Authority has no objection to this application.

Recommendation:

The Head of Planning, Transportation and Environment, on behalf of Devon County Council, as Local Highway Authority, recommends that the following conditions shall be incorporated in any grant of permission

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

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

**Public Health:** 4th November 2020

Contaminated Land: No objection to this proposal. (22.10.20).

Air Quality: No objection to this proposal. (22.10.20).

Environmental Permitting: No objection to this proposal. (21.10.20).

Drainage: No objection to this proposal. (22.10.20).

Noise & other nuisances: No work shall be carried out on the site on any Sunday, Christmas Day or

Bank Holiday or other than between the hours of 08.00 and 1800 hours on Monday to Fridays and 08.00 and 1300 on Saturdays.

Reason: To ensure that the proposed development does not prejudice the amenities of neighbouring properties. (22.10.20).

Housing Standards: No comment. (30.10.20).

Licensing: No comments. (21.10.20).

Food Hygiene: No comments. (21.10.20).

Private Water Supplies: Not applicable. (21.10.20).

Health and Safety: No comments. (21.10.20).

### **Flood and Coastal Risk Management Team – 11<sup>th</sup> November 2020**

#### **Recommendation:**

Although we have no in-principle objection to the above planning application at this stage, the applicant must submit additional information, as outlined below, in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

#### **Observations:**

The applicant should use FEH rainfall data for the two attenuation calculations and then we can recommend conditions to the local planning authority.

### **Flood and Coastal Risk Management Team – 26<sup>th</sup> January 2021**

#### **Recommendation:**

We have no in-principle objections to the above planning application, from a surface water drainage perspective. If the Planning Case Officer is minded to grant planning permission in this instance, I request that the following pre-commencement planning conditions are imposed:

- Prior to or as part of the Reserved Matters, the following information shall be submitted to and approved in writing by the Local Planning Authority:
  - (a) Soakaway test results in accordance with BRE 365 and groundwater monitoring results in line with our DCC groundwater monitoring policy.
  - (b) A detailed drainage design based upon the approved Flood Risk Assessment & Drainage Strategy 200019- A - FRA Langford Park Nursing Home, Newton St Cyres dated December 2020 and the results of the information submitted in relation to (a) above
  - (c) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted.
  - (d) Proposals for the adoption and maintenance of the permanent surface water drainage system.
  - (e) A plan indicating how exceedance flows will be safely managed at the site.
  - (f) Evidence there is agreement in principle from the landowner or SWW as appropriate
  - (g) If at detailed design it is proposed to connect into the watercourse to the north of the site, a detailed assessment of the condition and capacity of the existing watercourse and culvert should be undertaken and submitted to the local planning authority. The assessment should identify and commit to, any repair and/or improvement works to secure the proper function of the surface water drainage receptor. No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (g) above.

Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.

#### Observations:

The applicant has produced a feasible surface water drainage strategy to support an outline planning application. The applicant has proposed two options one using infiltration and one based on an attenuated strategy with a restricted discharge into either the watercourse to the north, subject to land owners permission or into the South West Water combine sewer on Langford Road. An attenuation basin is proposed to restricted flows to Q bar rate of 1.4 l/s which also incorporates the requirements for long term storage. The basin should be designed with varied side slopes, no greater than 1 in 3 and with a freeboard of 300 mm. We would prefer the inlet and outlet arrangement to be spaced further apart to maximise flow path to aid opportunities for sedimentation.

#### **Natural England** – 11<sup>th</sup> November 2020

No objection

#### **Royal Devon & Exeter NHS Foundation Trust** – 23rd December 2020

Part 1 - This is a consultation response to the planning application ref: 20/01584/MOUT in relation to Langford Park Nursing Home Langford Road Langford Newton St Cyres Exeter Devon EX5 5AG

#### Introduction

Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The creation and maintenance of healthy communities is an essential component of sustainability as articulated in the Government's National Planning Policy Framework, which is a significant material consideration. Development plans have to be in conformity with the NPPF and less weight should be given to policies that are not consistent with the NPPF. Consequently, local planning policies along with development management decisions also have to be formulated with a view to securing sustainable healthy communities. Access to health services is a fundamental part of sustainable healthy community.

As the attached document demonstrates, Royal Devon & Exeter NHS Foundation Trust (the Trust) is currently operating at full capacity in the provision of acute and planned healthcare.

It is further demonstrated that this development will create potentially long term impact on the Trust ability provide services as required.

The Trust's funding is based on previous year's activity it has delivered subject to satisfying the quality requirements set down in the NHS Standard Contract. Quality requirements are linked to the on-time delivery of care and intervention and are evidenced by best clinical practice to ensure optimal outcomes for patients.

The contract is agreed annually based on previous year's activity plus any pre-agreed additional activity for clinical services. The Trust is unable to take into consideration the Council's housing land supply, potential new developments and housing trajectories when the contracts are negotiated. Further, the following year's contract does not pay previous year's deficit retrospectively. This development creates an impact on the Trust's ability provide a services required due to the funding gap it creates. The contribution sought is to mitigate this direct impact.

#### CIL Regulation 122 and 123

The Trust considers that the request made is in accordance with Regulation 122:

"(2) A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—

- (a) necessary to make the development acceptable in planning terms;
  - (b) directly related to the development; and 4
  - (c) fairly and reasonably related in scale and kind to the development."
- S 106

S 106 of the Town and Country Planning Act 1990 (as amended) allows the Local Planning Authority to request a developer to contribute towards the impact it creates on the services. The contribution in the amount £28,304.00 sought will go towards the gap in the funding created by each potential patient from this development. The detailed explanation and calculation are provided within the attached document.

Without the requested contribution, the access to adequate health services is rendered more vulnerable thereby undermining the sustainability credentials of the proposed development due to conflict with NPPF and Local Development Plan policies as explained in the attached document.

## REPRESENTATIONS

Four letters of representation have been received, with the objections summarised as follows:

- The application for a 3 floor building is completely out of keeping with the area, with no other property in Langford having 3 floors.
- The site is at the top of a hill and would be visible from some distance.
- Allowing for landscaping it would still be too high compared to other visible properties in the area.
- The plan shows it to be behind and above the existing building at the site, concern about the level of light pollution this will create in a rural area and this development will be particularly prominent at night.
- The safety aspect, especially in case of fire, whereby largely incapacitated residents are on a second floor should surely be reason enough that this scale of construction is rejected.
- The argument that the current building would block out the view from below is not accurate, it would block out most of the ground and first floor, whilst the top floor would overlook the surrounding hamlet and dominate the skyline.
- The position of the new building would overlook neighbouring property.
- There have been a number of occasions when the Environment Agency has had to be called as raw sewage has flowed out of blocked drains and manholes in the fields between the neighbouring house and Langford Park, and entered the stream and neighbouring garden. Should the home be more than doubled in size it is essential that fully appropriate, functioning waste and sewage services must be built, in conjunction with comprehensive staff training.
- The increase of both vehicle and foot traffic from the A377 at Newbridge is of concern as there is no footpath and the street light is poor.
- Langford Rd is a narrow country lane which is already very busy and does not need any extra traffic.
- The traffic survey submitted with the application does not reflect the amount of traffic that residents experience. There is a high volume of large articulated HGV and a large and increasing of Farm tractors towing bulk waste tankers to dump sites in the area via Langford Road.
- It is suggested many staff/visitors travel by bus and walk up Langford Road. As there are no pavements, pedestrians and indeed cyclists are vulnerable and in danger.
- The application claims there have been no accidents. There was a serious accident involving a cyclist in January 2020, who broke a number of bones due to the condition of the road.
- Parking - Only 21 parking spaces appear. In the Travel Transport Assessment it mentions 1 space per resident but acknowledges most residents will probably not have vehicles and therefore the implication being fewer spaces would be necessary. It does not fully account for visitors to the 85 residents or the 120 staff so increased parking provision on-site must be required.

- The Statement of Community involvement states that no neighbours had commented by 21/09/20 but this is incorrect with an email response sent but not acknowledged. All the points of concern which were raised have been ignored and are given no consideration within the application presented.

Notwithstanding the objections stated, the following comments of support were received:

- I understand the need for care homes in the private sector and would support a 2 floor home with suitable landscaping. This should be a condition of the planning permission.
- If there were a restriction on Goods vehicles over 7.5 tons gross weight using Langford Road I would fully support the application, given my concerns with the height of the homes plans.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

This is an outline application for the erection of a 50 bedroom nursing home at Langford Park Nursing Home. The main material considerations in respect of this proposal are:

- 1) Principle for development in this location (Policy considerations)**
- 2) Drainage and Flood Risk**
- 3) Impact on the character and appearance of the surrounding area**
- 4) Impact on residential amenity**
- 5) Highway safety, transportation and parking issues**
- 6) Finance considerations and other planning matters**

### **1) Principle for development in this location**

S.38[6] of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The National Planning Policy Framework [the Framework], published by the Government first in March 2012 and later revised in 2018 and 2019, is noted as one such material consideration. The National Planning Policy Framework outlines three dependant objectives of sustainable development; economic, social and environmental.

In terms of relevant policy within the adopted Development Plan which is the Mid Devon Local Plan 2013-2033, the main policies relevant to this application are considered to be S1 (Sustainable development priorities), S3 (Meeting housing needs), S8 (Infrastructure), S9 (Environment), S14 (Countryside), DM1 (High quality design), DM5 (Parking), DM18 (Rural employment development), DM23 (Community facilities)

Policy S14 seeks to control development outside defined settlement limits to appropriate rural uses, excluding new market housing but does support appropriate scaled employment and community facilities. Policy DM23 also supports new or improved community facilities. In this case, there is an existing nursing home on site with this proposal representing an expansion to an existing nursing home facility. A case for the facility on site has been outlined within the planning submission and the need in the wider area for such a facility. Paragraph 92 of the NPPF identifies the need for the provision of social, recreational and cultural facilities and services to meet community needs.

In addition to the above, the existing nursing home employs approximately 60 members of staff to service 35 residents. Because the layout of a new purpose built nursing home would be more efficient, the new home would not require the same ratio, so it is anticipated that the additional staffing numbers would be about the same (60). This would make Langford Park Nursing Home an important existing employer for the local area and the new home would create a significant number of care sector jobs. Therefore the principle of the development is considered to be acceptable on this site.

## 2) Drainage and flood risk

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

Policy S9 of the Mid Devon Core Strategy guides development to locations with the lowest flood risk and seeks to ensure development does not increase the risk of flooding elsewhere. The application site is within flood zone 1. Therefore the main consideration relates to how foul drainage and surface water drainage would be dealt with. The applicant has stated within the application form that foul sewage will connect to the mains sewer and surface water will be disposed of by way of a sustainable drainage strategy. The Environmental Health Department has raised no objection on drainage grounds at this stage. Policy DM1 of the Mid Devon Local Plan requires appropriate drainage including sustainable drainage systems and connection of foul drainage to a mains sewer where available.

In terms of foul drainage, some concerns have been raised by residents to whether there is capacity in the existing network with problems experienced by neighbouring occupiers. The Local Planning Authority has no knowledge of capacity issues and the Public Health Team has raised no objection on drainage grounds. A Flood Risk Assessment and Drainage Strategy has been submitted which outlines that according to the South West Water (SWW) record plan there is a combined sewer to the west of the site located along Langford Road. The proposal is to discharge foul flow into the nearby SWW combined sewer. Within the FRA and Drainage Strategy submitted correspondence with SWW has been included where the question was asked over the capacity for foul drainage to use the SWW combined sewer, with no objection received from SWW.

The proposed Drainage Strategy outlines that at this stage of the development proposal, a detailed design for the proposed drainage system has not been undertaken. As part of any reserved matters application detailing the final design and layout of the building and necessary services, South West Water would be consulted whereby they could outline whether improvements would need to be made to the network.

With regard to surface water drainage, as noted earlier in the report the proposal is to incorporate sustainable urban drainage systems (SUDS). The Lead Local Flood Authority (LLFA - Devon County Council) has no in principle objections to the development but requested further information. The applicant has carried out further assessment work and provided further information during the course of the application, to address their concerns.

Through the flood risk assessment and drainage strategy submitted, the LLFA confirms that the applicant has produced a feasible surface water drainage strategy to support an outline planning application. The applicant has proposed two options one using infiltration and one based on an attenuated strategy with a restricted discharge into either the watercourse to the north, subject to land owner's permission or into the South West Water combined sewer on Langford Road.

The use of infiltration structures presents the most desirable solution for the surface water disposal in terms of sustainability following the surface water management train. This would be achieved by collecting surface water runoff from impermeable areas and redirecting it back into the ground. The first option for the site is to provide several infiltration structures, a crate soakaway for the main

building and a tiered permeable subbase for the parking area. The infiltration structures would be designed to cater for a 1 in 100-year storm event with an allowance of 40% for climate change.

It should be noted that this option for dealing with surface water runoff is subject to infiltration testing to BRE365 and the groundwater monitoring. If infiltration testing is undertaken and it is found that soakaways are not considered to be suitable for the development, it is proposed to provide an attenuation basin. This would be situated to the south of the proposed building. Again, the attenuation basin would be designed to cater for a 1 in 100-year storm event with an allowance of 40% for climate change. There would be two outfall options proposed, to discharge into the existing culvert to the north, subject to levels, and third-party agreements or to discharge into SWW's combined sewer along Langford Road.

South West Water has confirmed that the suitably sized public combined sewer in the vicinity will accommodate the surface water drainage at 1.5l/s, should soakaways or a discharge to the stream not be viable. The drainage onsite would be maintained by a private maintenance company and they would have their own maintenance regime in place.

The final condition recommendations from the LLFA have now been received whereby the comment is made that they have proposed this condition as one of the options is to connect into the watercourse to the north which is culverted under the Langford Road, but they do not know the capacity/condition of either the watercourse or culvert at this moment in time. To sum up, this is only an outline planning application with all matters received so details still need to be finalised at reserved matter stage, however it is considered that a scheme could be provided with appropriate drainage strategy to comply with policies S9 and DM1 of the Mid Devon Local Plan 2013-2033.

### **3) Impact on the character and appearance of the surrounding area**

Langford Park Nursing Home is an existing 34 bed home located on the outskirts of Newton St Cyres to the north of Exeter. Although close enough to local amenities and having good access to healthcare and other services provided by Exeter, it is located in a predominantly countryside/semi-rural setting.

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

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

This is reflected in policy DM1 of the Mid Devon Local Plan 2013-2033 which sets out that new development should respect the privacy and amenity of neighbouring residents. This is an outline application with matters of layout, landscaping, appearance and scale to be considered at a later date, but based on a development to provide a 50 bed unit on site, it is considered that a nursing home

development could be designed which was in accordance with this policy.

An illustrative plan has been submitted showing a three storey building with cross section plans indicating that the existing nursing home building sited in front would help screen the development of a new nursing home building, although it should be noted that these plans are only indicative of what could be proposed. In terms of materials, the indicative proposals that accompany this application depict a traditional palette of materials that consists of red facing brick, panels of rendered masonry and slate roof with flat areas of single ply membrane. With regard to landscaping, an indicative landscape scheme has been prepared which the applicant's agent states would contribute to the peaceful rural setting which is an important feature of Langford Park Nursing Home that contributes to its success.

#### **4) Impact on residential amenity**

Further to site visits undertaken, the existing topography of the site and surrounding fields and the nearest neighbouring properties were noted. The topography of the site rises up gradually to the east, away from Langford Road where there is road access leading to a private drive. Surrounded by fields and agricultural land, the nearest properties are the dwellings and farm buildings on Langford Road to the west. The nearest neighbouring residential properties would be over 115 metres away and therefore it is not considered that whilst a development may be seen in the landscape, it would result in significant overlooking of a neighbouring residential property.

The position of the existing nursing home directly to the south west of a new nursing home unit and the rising land to the east would help partially screen any development to the rear. Indicative plans have been submitted which show a three storey building approximately 3.5m higher than the existing nursing home and concerns have been received from a number of occupiers of nearby residential properties. The difficulty with this application is that it is only outline with all matters reserved for later consideration, therefore the plans submitted are indicative and an alternative design could be submitted at reserved matters stage, as only the principle is being considered at this stage. However, it is considered that there is sufficient area on site to provide a new 50 bed nursing home facility and Members would have the ability to impose conditions relating to the final height of the building if they felt this was justified. In this instance a condition has not been imposed preventing a three storey building based on the fact that alternative measures could be introduced which could lower the building in the landscape either through the final ground levels or design of the building.

With respect to the proposed design of the building, it is considered that materials to be used in the construction will be key, which could in part be through the use of brick and natural slate given that those are primarily the materials used within the existing nursing home building. The use of alternative materials in the construction to add interest and the installation of solar PV panels to reduce the carbon footprint would also be possible subject to consideration of the final details.

#### **5) Highway safety, transportation and parking issues**

Any proposal must not adversely affect the safe functioning of the highway and provide appropriate parking facilities. With regards to parking for a C2 Use (Residential Institution), Policy DM5 of Local Plan outlines a requirement of 1 parking space per bedroom and 1 cycle space of every 10 bedroom. The Transport Statement which has been submitted with this application has been undertaken in accordance with the guidance included in the National Planning Practice Guidance and the National Planning Policy Framework which outlines flexibility to take into account the fact that most of the residents at the nursery home will have no need to drive a car. The parking will need to consider the demand from the employees, which will in any case be encouraged to use alternative modes of transport including car share, as well as from visitors, which do not tend to travel on a daily basis or at peak times, and who may also be encouraged to travel using other options. In addition to this, cycle

parking will be provided in compliance with MDDC standards. Therefore the parking provision could be less than the standard of 1 parking space per bedroom.

The Transport Statement notes that in the context of the local road network, the site is very conveniently located to access the main strategic highway network. The A377 is located just 500m to the south of the site and this provides direct links to Exeter, the A30 and the A39 with a bus stop allowing for public transport.

Concerns have been raised to highway matters and in particular views of the narrow road leading from the A377 to Langford and an increase in traffic movements. The Transport Statement comments that Langford Road, which provides access to the site, is a C-road with a carriageway width of 4.8m-4.9m which allows for a car and a large vehicle to pass each other. Langford Road has a 40mph vehicle speed limit between the junction with the A377 and approximately 55m to the south of the access to Langford Park, when it becomes under enforcement of a 30mph speed limit.

An assessment of the vehicle traffic impact using the national TRICS database has shown the proposed nursery home development will have a minimal impact on the highway network, including the peak periods, and with a maximum of 3 and 7 vehicle trips in and out from the site during the respective AM and PM peak hour periods, representing a maximum of 1 vehicle movement every more than 8 minutes on average during the busiest PM peak hour. It is considered that the increase in traffic movements associated with the development proposal at this location would not have an impact on the highway network that could be considered as "severe" as stated in the NPPF and the proposal is compliant with the NPPG/NPPF regulations.

The existing site access into Langford Park consists of a carriageway 4.0m wide which works as a shared surface and with two passing places located at strategic points that maximise forward visibility splays. The carriageway widens towards the approach to the junction with Langford Road providing a wide junction with long visibility splays on both directions which far outweighs those required for the vehicle speed limit that applies to this section as per MfS standards. A turning head is proposed at the end of the access which would allow an 11.6m long refuse vehicle to manoeuvre adequately and allow these vehicles to turn around and exit in forward gear.

The Local Highway Authority has raised no objections to the proposal at this stage and further comments would be required at the reserved matters stage when matters of access and final layout would be considered.

## **6) Finance considerations and other planning matters**

The Royal Devon and Exeter NHS Foundation Trust have provided a number of documents outlining evidence for S106 Developer Contributions for Services which has been linked to the planning file and can be viewed on the council website. The Foundation Trust having undertaken an impact assessment formula outline a S106 requirement whereby a financial contribution is required based on a development of 50 dwellings working out to be £28,304.00. This contribution is outlined to be used directly to provide additional health care services to meet patient demand.

However, having taken a look at the calculations the NHS Foundation Trust have applied, it would appear that they would not directly apply to a nursing home facility but rather a new residential development of 50 new dwellings. Whilst they note 50 new residents, they state that the calculation is '*based on the current assumption of 2.4 persons per dwelling as per ONS figures*'. This would therefore be incorrect as these are single rooms for residents with mobility issues where nursing staff will look after the user. Secondly, the residents for the nursing home are more than likely already living

within the catchment of the hospital so there is a concern that there would be double handling in terms of assessing the needs of residents which would have already been taken into account in planning the associated finances needed by the NHS for residents within the catchment area.

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

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

At the current time, it is considered that the requested NHS contribution would not meet the Regulation 122 tests and therefore a S106 agreement has not been requested.

Ecology:

As part of this application a survey report has been submitted which details the findings of a desk study, Phase 1 habitat survey, ecological building survey and bat survey assessments conducted of Langford Park Nursing Home located in Newton St. Cyres, near Crediton, Devon in relation to a planning application. The findings are that there are no statutory designated sites that could be affected by the proposed works but that the proposals will result in the loss of amenity grassland, dense scrub and small numbers of scattered trees.

The bat roost assessment has shown that a non-breeding day roost of three common pipistrelle and a single long-eared bat are present within an existing on site. The proposed demolition of this building will require a European Protected Species Licence (EPSL) from Natural England. The type of roosts identified are compatible with the registration of the site under the Bat Mitigation Class Licence for impacts to roosts of lower conservation significance. Precautionary methods of site clearance have been provided within the survey report to avoid harm to amphibians, badgers, bats, hedgehogs and nesting birds. A Biodiversity Mitigation and Enhancement Plan (BMEP) has also been produced.

Recommendations with regards likely impacts and requirements for mitigation, compensation or protected species licensing (where necessary) have been given based on the outline proposals and current best practice guidance documents where appropriate. Conditions have therefore been recommended.

There are no other materials considerations to weigh against the grant of planning permission, and approval subject to conditions is recommended.

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

## **CONDITIONS**

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

2. Application(s) for approval of all the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
  
3. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the Reserved Matters which have been approved, whichever is the later.
  
4. The detailed drawings required to be submitted by Condition 1 shall include the following additional information: boundary treatments, hard and soft landscaping, existing site levels, finished floor levels, external lighting, materials, and surface water drainage methods and foul water disposal methods.
  
5. Prior to their use on site, samples of the materials to be used for all the external surfaces of the buildings shall first have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved materials and shall be so retained.
  
6. As part of the landscaping reserved matters, detailed drawings shall show which existing trees and hedgerows are to be retained on the site as part of the development.
  
7. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:
  - (a) the timetable of the works;
  - (b) daily hours of construction;
  - (c) any road closure;
  - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
  - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
  - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
  - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
  - (h) hours during which no construction traffic will be present at the site;
  - (i) the means of enclosure of the site during construction works; and
  - (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
  - (k) details of wheel washing facilities and obligations
  - (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
  - (m) Details of the amount and location of construction worker parking.
  - (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

Once approved the CMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

8. No work shall be carried out on the site on any Sunday, Christmas Day or Bank Holiday or other than between the hours of 08.00 and 1800 hours on Monday to Fridays and 08.00 and 1300 on Saturdays.
9. The development hereby approved shall be carried out in accordance with the recommendations outlined within the Ecological Appraisal report prepared by HalpinRobbins Ecology & Environmental Services, dated 8th September 2020. The ecological mitigation and enhancement measures set out in the Ecological Appraisal submitted to support the application proposals shall be complied with in full during construction of the development hereby approved.
10. Prior to or as part of the Reserved Matters, the following information shall be submitted to and approved in writing by the Local Planning Authority:
  - (a) Soakaway test results in accordance with BRE 365 and groundwater monitoring results in line with our DCC groundwater monitoring policy.
  - (b) A detailed drainage design based upon the approved Flood Risk Assessment & Drainage Strategy 200019- A - FRA Langford Park Nursing Home, Newton St Cyres dated December 2020 and the results of the information submitted in relation to (a) above
  - (c) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted.
  - (d) Proposals for the adoption and maintenance of the permanent surface water drainage system.
  - (e) A plan indicating how exceedance flows will be safely managed at the site.
  - (f) Evidence there is agreement in principle from the landowner or SWW as appropriate
  - (g) If at detailed design it is proposed to connect into the watercourse to the north of the site, a detailed assessment of the condition and capacity of the existing watercourse and culvert should be undertaken and submitted to the local planning authority. The assessment should identify and commit to, any repair and/or improvement works to secure the proper function of the surface water drainage receptor. No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (g) above.

## **REASONS FOR CONDITIONS**

1. The application was submitted as an outline application in accordance with the provisions of Articles 4 & 5 of The Town and Country Planning (Development Management Procedure) Order 2010.
2. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004.
3. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004.
4. To enable the Local Planning Authority to consider the proposed schemes details in accordance with Policies DM1 and DM25 of the adopted Mid Devon Local Plan 2013-2033.
5. To ensure the use of materials appropriate to the development in order to safeguard the visual amenities of the area in accordance with S9 and DM1 of the adopted Mid Devon Local Plan 2013-2033.

6. Interest of the visual amenity of area in accordance with Policy DM1 of the adopted Mid Devon Local Plan 2013-2033.
7. To ensure that the proposed development does not prejudice the amenities of neighbouring occupiers in accordance with Policy DM1 of the adopted Mid Devon Local Plan 2013-2033.
8. To ensure that the proposed development does not prejudice the amenities of neighbouring properties.
9. To ensure the protection of endangered species, under the European Habitats Directive and the Conservation of Natural Habitats and of Wild Fauna and Flora [Council Directive 92/43/DDC] which is implemented in the UK by the Conservation [Natural Habitats & Conservation] Regulations 1994 [Statutory Instrument No 2716] amended in 2007 and in accordance with Policy DM1 of the adopted Mid Devon Local Plan 2013-2033.
10. The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including National Planning Policy Framework and PPG.

## **REASON FOR APPROVAL OF PERMISSION**

**The principle of developing the site for the erection of a 50 bedroom nursing home on the establish Langford Park Nursing Home is the only issue for consideration through this application. The site is outside of any defined settlement limit of a recognised village within the Mid Devon Local Plan 2013-2033. All other matters relating to access, appearance, landscaping, layout and scale, which would include details for drainage infrastructure and parking provision are reserved to be considered at a later date and therefore plans submitted are only indicative of how these matters could be addressed through a development on site. The application should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework, taken as a whole. The application is in outline and there are no technical reasons why the application should not be approved, subject to appropriate mitigation as proposed through planning conditions. Impacts on biodiversity and landscape can be adequately mitigated, and any increase in traffic on the local road network is acceptable to the Highway Authority. Taking all the above into consideration, the application is considered to be acceptable. The application scheme is considered to meet the requirements of Policies S1, S14, DM1, DM18 and DM23 of the Mid Devon Local Plan 2013-2033.**

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

Application No. 20/00059/HOUSE

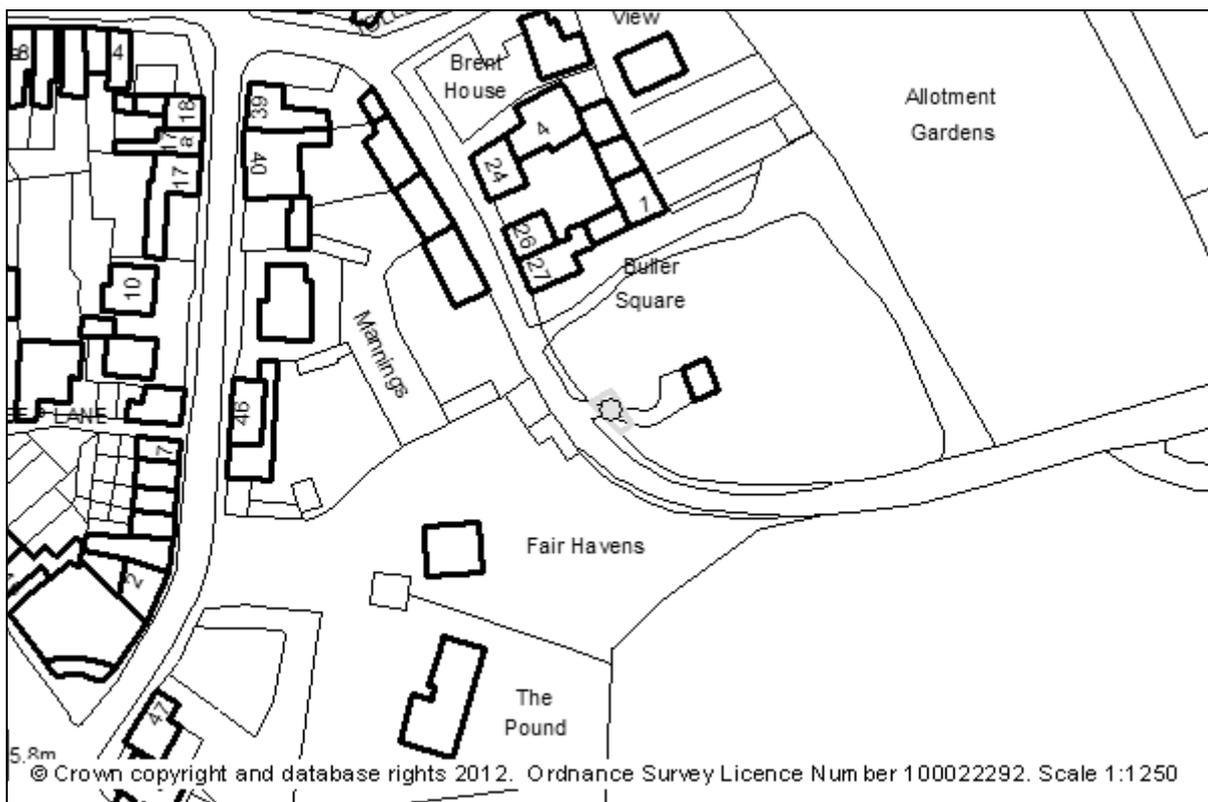
Grid Ref: 283967 : 100063

Applicant: Ms Sinead Partridge

Location: 27 Downeshead Lane  
CREDITON  
Devon  
EX17 1HH

Proposal: Retention of retaining walls, widening of access and formation of hardstanding for the parking of vehicles

Date Valid: 14th January 2020



## **APPLICATION NO: 20/00059/HOUSE**

### **MEMBER CALL-IN**

This application has been called in by Cllr Cairney for the following reason;

To allow Members to consider the acceptability of the works in the light of the previous planning permission allowing for two parking spaces on site.

### **RECOMMENDATION**

Refuse planning permission

### **PROPOSED DEVELOPMENT**

The applicant seeks planning permission for the retention of retaining walls, widening of access and formation of hardstanding for the parking of vehicles at 27 Downeshead Lane, Crediton. This site is located within the Crediton conservation area at Downeshead Lane which links Tolleys/ Buller Square with the Lords Meadow Industrial Estate. Although Downeshead Lane is an unclassified road, it does not provide a through road for vehicular traffic. 27 Downeshead Lane is a residential property located at the northern edge of the site, it sits at a lower level than its gardens which extend southwards in front of the property. The property previously benefited from two driveways, one at the western edge of the site and one from the south east corner. The garden areas of the property sit at a raised level in comparison to Downeshead Lane and the boundary is formed by a stone wall which retains the higher ground level above.

Planning permission was previously granted for the erection of a dwelling within the garden area to the south east of the dwelling (17/01517/FULL) and the works have begun on this. It was proposed that the new dwelling would utilise the existing driveway to the south east corner of the site and the driveway at the western edge (now removed) would be retained to provide parking for the existing dwelling. Planning permission has since been granted for a revised scheme to reduce the scale of the new dwelling (19/02118/FULL) and this is subject to the following condition;

6. The dwelling hereby approved shall not be occupied until replacement parking provision for the existing dwelling (27 Downeshead Lane) has been provided and made available for use in accordance with details which shall have previously been submitted to, and approved in writing by, the Local Planning Authority. The approved parking provision shall be retained in perpetuity.

This application seeks planning permission for the retention of a retaining wall structure, widening of access and formation of hardstanding for parking of vehicles.

A listed building consent application is submitted concurrently (20/00061/LBC) for the removal of part of the curtilage listed boundary wall which has taken place to facilitate the works.

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

Application form

Design and access statement including heritage statement

Plans (revised plans received 15<sup>th</sup> October 2020)

## RELEVANT PLANNING HISTORY

87/01024/OUT - REFUSE date 24th August 1987

Outline for the erection of two dwellings and construction of vehicular access

88/00079/FULL - PERMIT date 29th March 1988

Erection of garage and construction of vehicular access

91/01527/LBC - PERMIT date 14th January 1992

Listed Building Consent for alterations to lincast to provide ancillary domestic accommodation

98/00940/FULL - REFUSE date 7th September 1998

Erection of bungalow with garage underneath and detached garage (to serve existing dwelling No.27)

00/01654/CAT - NOBJ date 5th December 2000

Notification of intention to fell 4 Birch, 1 Hawthorn, 1 Poplar, 1 Elder and 1 Apple tree in the Conservation Area

00/01655/CAC - PERMIT date 21st December 2000

Conservation Area Consent for the demolition of part of boundary wall

01/02015/CAT - NOBJ date 19th December 2001

Notification of intention to fell 1 no. Silver Birch and 9 no. Wych Elms within a Conservation Area

03/01498/LBC - PERMIT date 29th August 2003

Listed Building Consent to remove internal partitions, alterations to fenestration, including installation of replacement windows and reinstatement of door

06/01717/LBC - PERMIT date 15th September 2006

Listed Building Consent for insertion of replacement window

12/01759/LBC - PERMIT date 7th February 2013

Listed Building Consent for reconstruction works due to fire damage

12/01772/FULL - PERMIT date 8th February 2013

Reconstruction works due to fire damage

17/01517/FULL - PERCON date 9th March 2018

Erection of a dwelling and alterations to existing vehicular access

18/01942/NMA - PERMIT date 12th December 2018

Non-Material Amendment for 17/01517/FULL to allow external alterations to dwelling

19/02118/FULL - PERCON date 9th April 2020

Erection of a dwelling

## **DEVELOPMENT PLAN POLICIES**

### **Mid Devon Local Plan Review 2013 – 2033**

S1- Sustainable development priorities

S9- Environment

S12- Crediton

DM1- High quality design

DM5- Parking

DM25- Development affecting heritage assets

## **CONSULTATIONS**

### **HIGHWAY AUTHORITY- 24<sup>th</sup> January 2020-**

The application is retrospective and the construction is built over an existing driveway, therefore traffic generations are of no concern. However the new construction has significantly changed the levels at the back of the Footway of Historic interest. In addition the applicants have introduced two drainage pipes discharging directly to the public highway which will intensify the flow rates over that of the existing drive. The current construction will give rise to a cross fall over the footway which is substandard and significantly greater than the maximum set out in the Devon design guide (adopted by The Local Planning Authority and Mid Devon district Council) and based on inclusive mobility standards to cater for disabled pedestrians . The gradient necessary to raise the footway to the hard standing floor level would be 1:1.5/2, the maximum acceptable is 1:14. The current design would give rise to vehicles grounding. Access to the hard standing is currently achievable by the illegal deposit of material on the highway. Even if the cross fall were accepted it would be necessary for the Historic footway to be raised up over 10 m either side of the driveway to provide suitable longitudinal gradients.

The Local Planning Authority should seek the advice of the conservation officer into the impacts this has on the conservation area status of the footway. While the previous drive historically discharged to the highway the current development has concentrated the surface water beyond the hard standing into two pipes which will increase flow rates onto the highway and is considered a new system which is in contravention of the Highways Act.

In order for the proposal to be acceptable to the Highway Authority the hard standing floor should be lowered to the same level as the existing back of footway, and the drainage diverted to a soak away or to suitable attenuation. The material deposited on the highway should be removed as a matter of urgency.

#### **Recommendation:**

The Head of Planning, Transportation and Environment, on behalf of Devon County Council, as Local Highway Authority, recommends that permission be refused for the following reasons

1. The gradient of the access would be likely to result in additional danger to all users of the road contrary to the National Planning Policy Framework.
2. No provision has been made within the site for the disposal of surface water and it is therefore likely to discharge onto the Public Highway, which would be prejudicial to public safety and be likely to result in damage to the highway contrary to paragraph 32 of the National Planning Policy Framework.

18<sup>th</sup> December 2020- (Following submission of the revised plans, the Highway authority provided the following response)-

I have actually been passed this site today. There was a site meeting months ago, seems like years, with Ian Sorenson, myself and the applicants as it was raised about the issues of the height of the floor with in the new car port/parking area.

As there is an existing vehicle crossing in place there is no need to apply for a new one and it was advised that they could not change the profile of the footway. DCC agreed that if part of the parking area was walled/fenced off and only the higher, south eastern, side was used for vehicular access then there would be no issue with the gradients, and the footway would be resurfaced as part of the reinstatement of the new sewer connection.

Having now seen the drawings and having had discussions on site I am happy from a highways perspective that works can go ahead and have recently approved the road closure for these to take place in March 2021.

**CREDITON TOWN COUNCIL- 5<sup>TH</sup> February 2020-**

It was resolved to recommend OBJECTION to the application for the following reasons:

- ' it adversely impacts the heritage of the area;
- ' it adversely impacts the street scene and the setting of the listed buildings;
- ' the height of the rear retaining wall is too imposing;
- ' the slope of the driveway is too great and water will run off directly onto the highway;
- ' no provision has been made on-site for water run-off or a soakaway.

The Town Council supports the comments of the conservation officer and highways authority, in particular, the conservation officer's comments regarding the inappropriate use of materials, which make it completely incongruous to the street scene and the guard rail is completely unacceptable in the street scene.

18<sup>th</sup> January- (following submission of revised plans) - It was resolved to recommend refusal on the basis that the wall is not in keeping with the surrounding area and detracts from the look of the conservation area.

**CONSERVATION OFFICER- 3<sup>rd</sup> February 2020-**

The application is retrospective as the proposed double car parking for two side by side parking spaces constructed by removing a section of existing stone boundary wall and digging out an area of the bank forming part of the garden of the property 27 Downeshead Road. The car parking bays would be between 5 - 6 m deep by 6 m wide surrounded by a new retaining back wall up to 3.8 m high topped by a railing to 1.1 m to accord with building regulations for handrails.

This has replaced a previously agreed parallel car parking arrangement for two cars that used a previous concrete access driveway to the former garage building. This approach included a retaining stone wall that connected to and maintained the height of the dry stone wall along both sides of Downeshead Lane frontage with a splay to the entrance. While this required reversing into the lane it was acceptable in this location where traffic is minimal.

The new parking spaces are cut into the bank with an honest concrete retaining wall with sloping side walls from the 1.5 m at the junction with the stone boundary wall back up to 3.8 m to the new rear wall, topped with a safety rail. On the opposite side of the Lane there is a linear pair of garage /store buildings with dry stone retaining walls into the bank with modern brick piers supporting a very low pitch corrugated sheet roof.

The proposal is located in the quiet corner of the Crediton Conservation Area and about 25 m to the south of the listed building No. 27 Downeshead lane. The dry stone retaining boundary walls are also considered to be curtilage listed structures a section of which has been removed to create the new enlarged double car opening.

The proposed new car parking bays appear incongruous, out of scale and proportion and in an overtly contrasting concrete finish which is considered harmful to the street scene and immediate built character, local distinctiveness and setting of the Conservation Area and listed structures including the characteristic red sandstone to the dry stone walling to both sides of the lane and views looking north toward the listed building and historic cottages to both side of the lane. There also appears to be no coherent justification for the proposal replacing an otherwise acceptable car parking arrangement for the property.

On this basis it is considered to be contrary to NPPF 2019 paragraphs 193. 194. & 196. And Local Plan Policy Part 3 DM27 which seeks the preservation and or enhancement of the setting and local distinctiveness and character without substantial justification.

13<sup>th</sup> January 2021- (following submission of revised plans)- In my view the applicants current unauthorised car parking bay which they have been progressing with at their own risk has a heavily over engineered appearance which has a significant and detrimental visual scare on the street scene in Downeshead Lane that is harmful character and appearance of the Conservation Area and the setting 27 Downeshead lane a grade II listed building.

There suggested additional wall to narrow the entrance does not assist and only adds an additional incongruous, awkward and inappropriate structure to street scene.

I note the applicant's comments in respect of reverting back to the 2018 plan – when they advise that it will have the same size entrance dimensions. This comment relates to their proposed reduced entrance size to the double bay which is as I have discussed only making a bad situation visually more confused, introducing an incongruous and awkward intervention in the street scene so I cannot agree with their view that would be no substantive difference.

In the contrary I consider the narrower car parking bay with two spaces end on end would although slightly deeper into the site be substantially less harmful being more easily accommodated into the landscape and being close to the original car parking track arrangement.

This narrower car parking arrangement would blend much more sympathetically into the landscape and have a much reduced impact on street scene, and in turn fit more comfortably in the character and appearance of the Conservation Area including the stone dry walls and cobbled floor scape and setting of listed buildings.

I attach the image of the previous car parking arrangement to show how more sympathetic this is than the huge scar they have created and would be good as a comparison during the presentation to committee.

**HISTORIC ENGLAND-** 24th January 2020 –

On the basis of the information available to date, in our view you do not need to notify or consult us on this application under the relevant statutory provisions, details of which are below.

If you consider that this application does fall within one of the relevant categories, or you have other reasons for seeking our advice, please contact us to discuss your request.

## REPRESENTATIONS

At the time of writing this report one letter of objection has been received, the main points are summarised below;

- This is an alien development that is an awful intrusion into the rural ambience of the lane. Planning permission should be refused.
- If minded to approve the height of the wall should be reduced and the balustrade omitted. The concrete wall should be lined with stone matching those which lined the previous drive.

## MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. Policy and principle of development
2. Design and impact to heritage assets
3. Impact on the amenity of neighbouring occupiers
4. Other issues- drainage, PSED,

### 1. Policy and principle of development

Policy S1 sets out a number of strategic priorities and requires development to support the creation of sustainable communities. The most relevant strategic priorities in this case are;

*h) Requiring good sustainable design that respects local character, heritage, surroundings and materials, creates safe and accessible environments, designs out crime and establishes a strong sense of place;*

*m) Conserving and enhancing the historic environment through the identification and protection of designated and non-designated heritage assets and assessing the impact of new development on the historic character of Mid Devon's landscapes and townscapes*

Policy S9 states that development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets and minimise the impact of development on climate change including through:

*a) High quality sustainable design which reinforces the character and distinctiveness of Mid Devon's historic built environment, mitigates and adapts to climate change and creates attractive places;*

*g) 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 such as listed buildings, conservation areas, scheduled monuments and local heritage assets.*

Policy DM5 relates to parking and requires that development must provide an appropriate level of parking taking into account the accessibility of the site, the availability of public transport and the type, mix and use of development. For a single dwelling the policy requires provision of 1.7 parking spaces (rounded up to 2). The structure that has been provided is 5.7m wide and 5m deep and therefore has room to provide two parking spaces in accordance with the dimensions set out in the Highway Authority standing advice. However the usability of the second space is questionable given the stone wall which is proposed to be built across part of the frontage of the structure, this is discussed further below. The property also benefits from a parking space on the opposite side of Downeshead Lane and therefore it is considered that two parking spaces would be achieved in

accordance with policy DM5 notwithstanding the concerns in relation to the accessibility of the second space provided within this structure.

## **2. Design and impact to heritage assets**

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires Local Planning Authorities, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Similarly, section 72 of the Act requires that special attention should be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

Policy DM1 requires that development is of high quality design demonstrating visually attractive places that are well integrated with surrounding buildings, streets and landscapes. It also requires that development provides a positive contribution to local character including any heritage or biodiversity assets and the setting of heritage assets;

Policy DM25 relates specifically to development affecting heritage assets and states that Heritage assets and their settings are an irreplaceable resource. Accordingly the Council will:

- a) Apply a presumption in favour of preserving or enhancing all designated heritage assets and their settings;*
- b) Require development proposals likely to affect the significance of heritage assets, including new buildings, alterations, extensions, changes of use and demolitions, to consider their significance, character, setting (including views to or from), appearance, design, layout and local distinctiveness, and the opportunities to enhance them;*
- c) Only approve proposals that would lead to substantial harm or total loss of significance of a designated heritage asset where it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss or the requirements of the National Planning Policy Framework are met;*
- d) Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use; and*
- e) Require developers to make a proportionate but systematic assessment of any impact on the setting and thereby the significance of heritage asset(s).*

The NPPF at paragraph 192 states that local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness.

The site is located within Crediton Conservation Area. Number 27 Downeshead Lane is a grade II listed house of approximately 1730 origin thought to be the oldest brick building in Crediton. The adjoining barn to the east is noted in the listing description as providing an important part of the plan of Buller Square to the north.

Previously there was an existing driveway which sloped upwards from Downeshead Lane to a concrete parking area and garage. The driveway was approximately 3.2m wide at the point it adjoins the highway with a natural stone retaining wall either side of the entrance and extending back into the site where the driveway narrows to approximately 2m wide. The driveway provided a change in gradient of approximately 3.74m over a distance of approximately 11m.

The structure as constructed forms an opening of approximately 6.35m wide at the front, extending 6.2m back into the garden with the retaining walls being 1.65m high at the front of the site and 3.85m high at the rear, this measurement being taken from the ground level of the parking area

which itself sits at between 0.3m and 0.8m above the level of the public highway. The walls are formed of concrete and it is proposed to provide a steel post and rail guard at the edge to approximately 0.95m high. The floor level of the parking area has been constructed at a higher level than the adjacent highway, with a greater difference at the northern end where the footway slopes downwards. As a result of the concerns of the Conservation Officer and Highway Authority revised plans have been provided (received 15<sup>th</sup> October 2020) which include proposed amendments to render the concrete walling in a red sandstone colour (which has now been carried out) and to plant a hedgerow around the handrail with trailing plants to seek to soften the impact of the development. Furthermore, to overcome the concerns of the Highway Authority in relation to the difference in levels of parking area and public footway, the plans have been amended to include a new stone wall to be built across part of the frontage at the northern end of the structure. This would be built along the edge of the public footway extending the existing stone boundary wall for a distance of approximately 3.1m and at a height of 1.7m.

In the opinion of officers, the structure forming the car parking area by virtue of its scale including its width and the height of retaining walls, results in an incongruous and heavily over-engineered appearance which results in a harmful impact to the street scene. Notwithstanding its functional requirement, the provision of the handrail around the top of the structure would further amplify the height and engineered appearance of the development. The addition of the stone wall partially across the frontage of the structure would appear at odds with the scale and appearance of the overall structure and fails to reduce the perception of the harmful appearance and scale of the retaining wall structures. The width and depth of the structure has required removal of the stone boundary wall and significant excavation and alterations to the previous ground level to provide a significant intervention to the landform which is considered to be harmful to the street scene and the character, appearance, setting and significance of the heritage assets. Overall, by virtue of its design, form, scale and materials the proposed development is considered to be harmful to the street scene and immediate built character, local distinctiveness and the setting of the Conservation Area and listed structures. The proposal fails to preserve or enhance the historic environment contrary to the aims of policies S1, S9, DM1, and DM25. The harm is considered to be in the category of 'less than substantial harm' in the context of the NPPF and policy DM25 and therefore must be weighed against the public benefits of the scheme.

The applicant has made the case that the application scheme is no more harmful than the parking arrangement established by the previous approval 17/01517/FULL. The previously approved layout proposed to use the existing driveway to provide parking for two cars in a linear arrangement. The plans approved under that application indicated that the level of the driveway would be excavated to provide a maximum gradient of 1:10. The works would also include some minor works to widen the existing driveway with the existing stone wall to be rebuilt to match the existing. Other than the annotation on the layout plan, no details were provided of any works or additional structures required to facilitate the reduction in level of the parking area. The applicant has provided a drawing to demonstrate the layout of the parking arrangement they considered is approved by virtue of the 17/01517/FULL approval. This shows a linear parking bay, broadly along the line of the existing driveway to approximately 11m back from the edge of the footway. The ground level slopes up gently from the edge of the public highway and the parking spaces would be set into the surrounding ground level by 1.6m at the front and 2.9m at the rear.

It is accepted that the parking arrangements under the previous approval would have resulted in some alterations to the existing driveway that would have impacted the street scene and would have extended further into the site, although on the line of the previous driveway. It is considered by officers that the linear arrangement of the previous scheme would retain a narrower form which required less alteration to the landform and a less intrusive form of development that reflects the existing (now removed) driveway layout. The previously approved linear parking layout utilising the existing driveway is considered to be more sympathetically accommodated into the landscape and

have a less harmful impact to the streetscene. Overall the level of harm arising from the previously agreed layout is considered to be substantially less harmful than the scheme as proposed.

The case officer and conservation officer have met with the applicant and agent on site to seek to agree a scheme which could be supported by local plan policy. The suggestions put forward have included reducing the height of the retaining wall and facing the structure in natural stone to seek to reduce the impact of the structure and provide a finish which is more in keeping with the surrounding local character. However unfortunately the applicant has not been willing to provide revised plans to meet with these suggestions. Notwithstanding the case put forward in respect to the previously approved scheme and the amendments provided to the plans, which are not considered to provide an acceptable scheme, the harm arising from the development is not considered to be supportable in accordance with policy DM25. In the absence of appropriate justification for the works and any overriding public benefits of the scheme to weigh in favour of the scheme and outweigh the identified harm it is considered that the proposal conflicts with policy DM25 and government advice in the NPPF, specifically paragraphs 192 and 196.

### **3. Impact to the amenities of neighbouring occupiers**

Policy DM1 requires that development does not have an unacceptable adverse effect on the privacy or amenity of neighbouring occupiers or uses. Having regard to the siting of the development in relation to neighbouring properties, it is not considered that it would result in any significant adverse impacts to the amenities of neighbouring occupiers.

### **4. Other issues- drainage, PSED.**

Drainage: The revised plans received indicate that surface water run off would be managed via a drainage channel along the front of the parking area adjacent to the edge of the highway which would connect to mains drainage.

PSED: 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.

## **REASON FOR REFUSAL**

1. In the opinion of the Local Planning Authority, by virtue of the design, form, scale and materials the proposed development results in an incongruous and heavily engineered intervention into the curtilage listed boundary wall and the street scene of the conservation area. The development fails to preserve or enhance the historic environment and would result in significant harm to the setting of the listed building (27 Downeshead Lane) and character and appearance of the Crediton Conservation Area. It is not considered that there are any public benefits arising from the scheme that would provide sufficient weight to overcome the less than substantial harm arising to heritage assets. On this basis the proposal is considered to conflict with Policies S1, S9, DM1 and DM25 of the Mid Devon Local Plan 2013- 2033 and government advice in the National Planning Policy Framework particularly paragraphs 192 and 196.

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

Application No. 20/00061/LBC

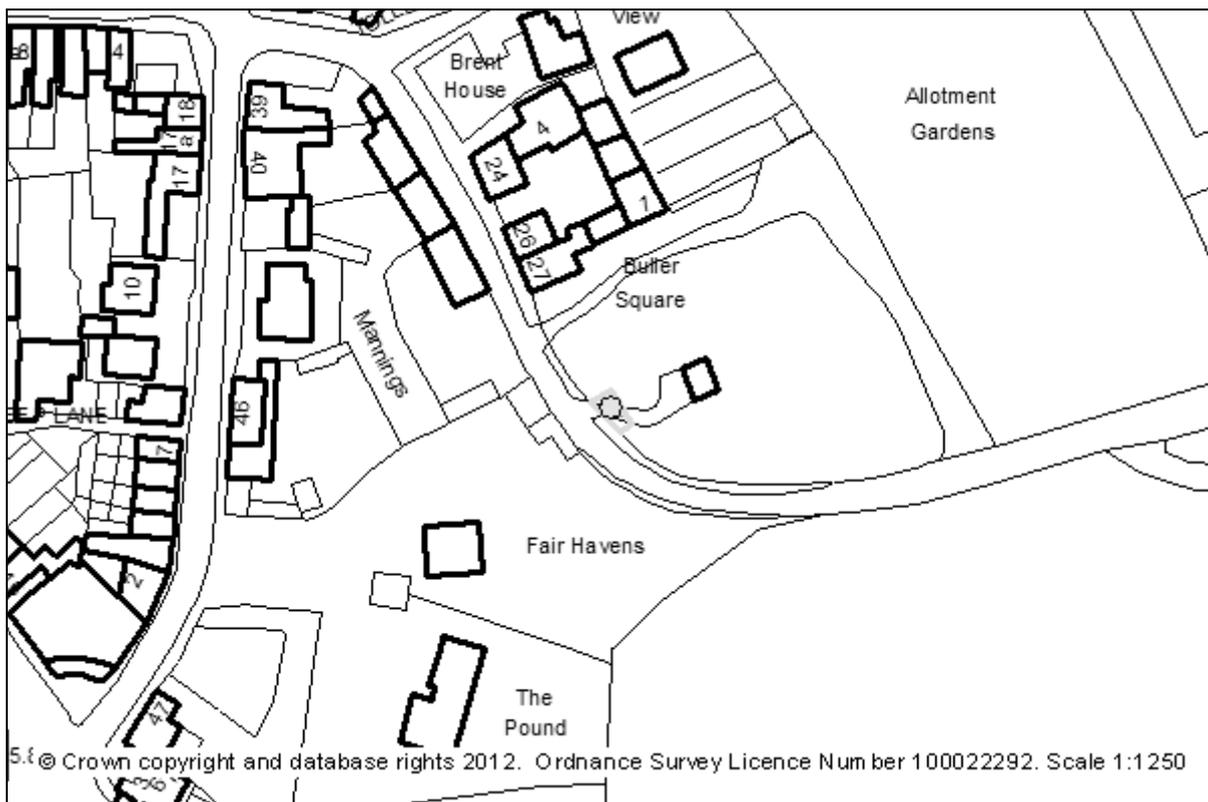
Grid Ref: 283967 : 100063

Applicant: Ms Sinead Partridge

Location: 27 Downeshead Lane  
Crediton  
Devon  
EX17 1HH

Proposal: Listed Building Consent for removal of boundary wall

Date Valid: 14th January 2020



## **APPLICATION NO: 20/00061/LBC**

### **MEMBER CALL-IN**

This application has been called in by Cllr Cairney for the following reason;

To allow Members to consider the acceptability of the works in the light of the previous planning permission allowing for two parking spaces on site.

### **RECOMMENDATION**

Refuse listed building consent.

### **PROPOSED DEVELOPMENT**

The applicant seeks Listed Building Consent for removal of boundary wall at 27 Downeshead Lane, Crediton. This site is located within the Crediton conservation area at Downeshead Lane which links Tolleys/ Buller Square with the Lords Meadow Industrial Estate. Although Downeshead Lane is an unclassified road, it does not provide a through road for vehicular traffic. 27 Downeshead Lane is a residential property located at the northern edge of the site, it sits at a lower level than its gardens which extend southwards in front of the property. The property previously benefited from two driveways, one at the western edge of the site and one from the south east corner. The garden areas of the property sit at a raised level in comparison to Downeshead Lane and the boundary is formed by a stone wall which retains the higher ground level above.

Listed building consent is sought for removal of the boundary wall that has taken place to facilitate works that have been undertaken to provide a parking bay (see corresponding planning application 20/00059/HOUSE).

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

Application form  
Design and access statement including heritage statement  
Plans (revised plans received 15<sup>th</sup> October 2020)

### **RELEVANT PLANNING HISTORY**

87/01024/OUT - REFUSE date 24th August 1987  
Outline for the erection of two dwellings and construction of vehicular access

88/00079/FULL - PERMIT date 29th March 1988  
Erection of garage and construction of vehicular access

91/01527/LBC - PERMIT date 14th January 1992  
Listed Building Consent for alterations to linhay to provide ancillary domestic accommodation

98/00940/FULL - REFUSE date 7th September 1998  
Erection of bungalow with garage underneath and detached garage (to serve existing dwelling No.27)

00/01654/CAT - NOBJ date 5th December 2000

Notification of intention to fell 4 Birch, 1 Hawthorn, 1 Poplar, 1 Elder and 1 Apple tree in the Conservation Area

00/01655/CAC - PERMIT date 21st December 2000  
Conservation Area Consent for the demolition of part of boundary wall

01/02015/CAT - NOBJ date 19th December 2001  
Notification of intention to fell 1 no. Silver Birch and 9 no. Wych Elms within a Conservation Area

03/01498/LBC - PERMIT date 29th August 2003  
Listed Building Consent to remove internal partitions, alterations to fenestration, including installation of replacement windows and reinstatement of door

06/01717/LBC - PERMIT date 15th September 2006  
Listed Building Consent for insertion of replacement window

12/01759/LBC - PERMIT date 7th February 2013  
Listed Building Consent for reconstruction works due to fire damage

12/01772/FULL - PERMIT date 8th February 2013  
Reconstruction works due to fire damage

17/01517/FULL - PERCON date 9th March 2018  
Erection of a dwelling and alterations to existing vehicular access

18/01942/NMA - PERMIT date 12th December 2018  
Non-Material Amendment for 17/01517/FULL to allow external alterations to dwelling

19/02118/FULL - PERCON date 9th April 2020  
Erection of a dwelling

## **DEVELOPMENT PLAN POLICIES**

### **Mid Devon Local Plan Review 2013 – 2033**

DM25- Development affecting heritage assets

## **CONSULTATIONS**

### **CREDITON TOWN COUNCIL- 5<sup>TH</sup> February 2020-**

It was resolved to recommend OBJECTION to the application for the following reasons:

- ' it adversely impacts the heritage of the area;
- ' it adversely impacts the street scene and the setting of the listed buildings;
- ' the height of the rear retaining wall is too imposing;
- ' the slope of the driveway is too great and water will run off directly onto the highway;
- ' no provision has been made on-site for water run-off or a soakaway.

The Town Council supports the comments of the conservation officer and highways authority, in particular, the conservation officer's comments regarding the inappropriate use of materials, which make it completely incongruous to the street scene and the guard rail is completely unacceptable in the street scene.

18<sup>th</sup> January- (following submission of revised plans) - It was resolved to recommend refusal on the basis that the wall is not in keeping with the surrounding area and detracts from the look of the conservation area.

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The application is retrospective as the proposed double car parking for two side by side parking spaces constructed by removing a section of existing stone boundary wall and digging out an area of the bank forming part of the garden of the property 27 Downeshead Road. The car parking bays would be between 5 - 6 m deep by 6 m wide surrounded by a new retaining back wall up to 3.8 m high topped by a railing to 1.1 m to accord with building regulations for handrails.

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The new parking spaces are cut into the bank with an honest concrete retaining wall with sloping side walls from the 1.5 m at the junction with the stone boundary wall back up to 3.8 m to the new rear wall, topped with a safety rail. On the opposite side of the Lane there is a linear pair of garage /store buildings with dry stone retaining walls into the bank with modern brick piers supporting a very low pitch corrugated sheet roof.

The proposal is located in the quiet corner of the Crediton Conservation Area and about 25 m to the south of the listed building No. 27 Downeshead lane. The dry stone retaining boundary walls are also considered to be curtilage listed structures a section of which has been removed to create the new enlarged double car opening.

The proposed new car parking bays appear incongruous, out of scale and proportion and in an overtly contrasting concrete finish which is considered harmful to the street scene and immediate built character, local distinctiveness and setting of the Conservation Area and listed structures including the characteristic red sandstone to the dry stone walling to both sides of the lane and views looking north toward the listed building and historic cottages to both side of the lane. There also appears to be no coherent justification for the proposal replacing an otherwise acceptable car parking arrangement for the property.

On this basis it is considered to be contrary to NPPF 2019 paragraphs 193. 194. & 196. And Local Plan Policy Part 3 DM27 which seeks the preservation and or enhancement of the setting and local distinctiveness and character without substantial justification.

13<sup>th</sup> January 2021- (following submission of revised plans) - In my view the applicants current unauthorised car parking bay which they have been progressing with at their own risk has a heavily over engineered appearance which has a significant and detrimental visual scare on the street scene in Downeshead Lane that is harmful character and appearance of the Conservation Area and the setting 27 Downeshead lane a grade II listed building.

There suggested additional wall to narrow the entrance does not assist and only adds an additional incongruous, awkward and inappropriate structure to street scene.

I note the applicant's comments in respect of reverting back to the 2018 plan – when they advise that it will have the same size entrance dimensions. This comment relates to their proposed reduced entrance size to the double bay which is as I have discussed only making a bad situation

visually more confused, introducing an incongruous and awkward intervention in the street scene so I cannot agree with their view that would be no substantive difference.

In the contrary I consider the narrower car parking bay with two spaces end on end would although slightly deeper into the site be substantially less harmful being more easily accommodated into the landscape and being close to the original car parking track arrangement.

This narrower car parking arrangement would blend much more sympathetically into the landscape and have a much reduced impact on street scene, and in turn fit more comfortably in the character and appearance of the Conservation Area including the stone dry walls and cobbled floor scape and setting of listed buildings.

I attach the image of the previous car parking arrangement to show how more sympathetic this is than the huge scar they have created and would be good as a comparison during the presentation to committee.

#### **HISTORIC ENGLAND- 24th January 2020 –**

On the basis of the information available to date, in our view you do not need to notify or consult us on this application under the relevant statutory provisions, details of which are below.

If you consider that this application does fall within one of the relevant categories, or you have other reasons for seeking our advice, please contact us to discuss your request.

#### **REPRESENTATIONS**

At the time of writing this report, no letters of representation have been received.

#### **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The starting point for the exercise of listed building control is the statutory requirement on local planning authorities to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses' (Section 16).

Policy DM25 of the Mid Devon Local Plan 2013-2033 relates specifically to development affecting heritage assets and states that Heritage assets and their settings are an irreplaceable resource. Accordingly the Council will:

- a) Apply a presumption in favour of preserving or enhancing all designated heritage assets and their settings;*
- b) Require development proposals likely to affect the significance of heritage assets, including new buildings, alterations, extensions, changes of use and demolitions, to consider their significance, character, setting (including views to or from), appearance, design, layout and local distinctiveness, and the opportunities to enhance them;*
- c) Only approve proposals that would lead to substantial harm or total loss of significance of a designated heritage asset where it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss or the requirements of the National Planning Policy Framework are met;*
- d) Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use; and*
- e) Require developers to make a proportionate but systematic assessment of any impact on the setting and thereby the significance of heritage asset(s).*

The NPPF at paragraph 192 states that 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.*

Number 27 Downeshead Lane is a grade II listed house of approximately 1730 origin thought to be the oldest brick building in Crediton. The adjoining barn to the east is noted in the listing description as providing an important part of the plan of Buller Square to the north. The boundary stone wall which extends around the west and southern edge of the curtilage of the property is considered to be curtilage listed. The stone walling positively contributes to the character, appearance and setting of the listed building and its appreciation from the immediate street scene.

The removal of part of the curtilage listed boundary wall without appropriate justification fails to preserve the character and appearance of the heritage asset. The works are considered to conflict with the statutory requirements of section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the aims of policy DM25 and the NPPF as set out above.

PSED: 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.

## **REASON FOR REFUSAL OF LISTED BUILDING CONSENT**

1. In the opinion of the Local Planning Authority, the removal of part of the natural stone boundary wall which forms the boundary of the curtilage of the listed dwelling, 27 Downeshead Lane, to facilitate the provision of the car parking area results in harm to the setting and significance of the listed building. The removal of the boundary wall fails to preserve or enhance the heritage assets. It is not considered that there are any public benefits arising from the scheme that would provide sufficient weight to overcome the less than substantial harm arising to heritage assets. On this basis the proposal is considered to conflict with Policy DM25 of the Mid Devon Local plan 2013- 2033 and government advice in 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.

## LIST OF APPEAL DECISIONS FROM 18<sup>th</sup> December 20 to 28<sup>th</sup> January 21

| Application No | Description          | Location                                                                | Officer Recommendation               | Committee or Delegated | Decision | Appeal Type             | Inspector Decision |
|----------------|----------------------|-------------------------------------------------------------------------|--------------------------------------|------------------------|----------|-------------------------|--------------------|
| 20/00801/FULL  | Erection of dwelling | Land and Buildings at NGR 295542 125014 (Whitehall Farm) Morebath Devon | Non-determination, Appeal instigated |                        | Closed   | Written Representations | Appeal Dismissed   |

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