

# Public Document Pack

**Committee Administrator**

**Carole Oliphant**

**Tel: 01884 234209**

**E-Mail: [coliphant@middevon.gov.uk](mailto:coliphant@middevon.gov.uk)**

**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 the Zoom Meeting please use the following link:

<https://zoom.us/j/95164533018?pwd=WFZSOExCc2k2RWRWNVB2VUJnMHJxdz09>

Meeting ID: 951 6453 3018

Passcode: 234187

One tap mobile

08000315717,,95164533018#,,,,,0#,,234187# United Kingdom Toll-free

08002605801,,95164533018#,,,,,0#,,234187# United Kingdom Toll-free

Dial by your location

0 800 031 5717 United Kingdom Toll-free

0 800 260 5801 United Kingdom Toll-free

0 800 358 2817 United Kingdom Toll-free Meeting ID: 951 6453 3018

Passcode: 234187

## **MID DEVON DISTRICT COUNCIL**

### **PLANNING COMMITTEE**

**A SPECIAL MEETING** of the **PLANNING COMMITTEE** will be held in the Virtual Meeting on Wednesday, 23 September 2020 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 7 October 2020 at 2.15 pm will be a remote meeting.

### **STEPHEN WALFORD**

Chief Executive

15 September 2020

**Councillors:** Mrs F J Colthorpe (Chairman), G Barnell, E J Berry, Mrs C P Daw, L J Cruwys, S J Clist, F W Letch, D J Knowles, S J Penny, 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     **PROTOCOL FOR VIRTUAL MEETINGS** *(Pages 5 - 10)*  
To note the protocol for virtual meetings.
  
- 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 - 22)*  
Members to consider whether to approve the minutes as a correct record of the meeting held on 9 September 2020
  
- 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 23 - 50)*  
To consider the planning applications contained in the list.
  
- 9     **APPEAL DECISIONS** *(Pages 51 - 52)*  
To receive for information a list of recent appeal decisions.
  
- 10    **APPLICATION 20/00622 - OUTLINE FOR THE ERECTION OF 1 DWELLING - 12 KABALE CLOSE, TIVERTON** *(Pages 53 - 60)*  
To consider a report of the Head of Planning, Economy and Regeneration with regard to the application deferred from the previous meeting to allow for a site visit to take place.
  
- 11    **APPLICATION 17/00348/MOUT - RESIDENTIAL DEVELOPMENT OF UP TO 257 DWELLINGS AND UP TO 5 GYPSY AND TRAVELLER PITCHES: 8.6 HECTARES OF LAND MADE AVAILABLE TO FACILITATE THE RELOCATION OF CREDITON RUGBY CLUB; UP TO 1.1 HECTARES OF LAND SAFEGUARDED FOR THE DELIVERY OF A PRIMARY SCHOOL; ACCESS ARRANGEMENTS FROM B3072 (EXHIBITION WAY); PEDESTRIAN AND CYCLE ACCESS ON**

**TO POUNDS HILL/STONEWALL CROSS JUNCTION, OLD TIVERTON ROAD AND PEDLERSPOOL LANE; LANDSCAPING AND AREA OF PUBLIC OPEN SPACE; AND OTHER ASSOCIATED INFRASTRUCTURE AND ENGINEERING OPERATIONS - LAND AT NGR 284185 101165 (CREEDY BRIDGE) CREDITON** *(Pages 61 - 148)*

To consider a report of the Head of Planning Economy and Regeneration with regard to this application.

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

### 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 would like a copy of the Agenda in another format (for example in large print) please contact Carole Oliphant on:

E-Mail: [coliphant@middevon.gov.uk](mailto:coliphant@middevon.gov.uk)

This page is intentionally left blank

## **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.

## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **PLANNING COMMITTEE** held on 9 September 2020 at 2.15 pm

### **Present**

#### **Councillors**

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

### **Also Present**

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

R J Dolley and C R Slade

### **Present**

#### **Officers:**

Eileen Paterson (Group Manager for Development), Alison Fish (Area Team Leader), Adrian Devereaux (Area Team Leader), Philip Langdon (Solicitor), Oliver Dorrell (Planning Officer), Alex Marsh (Conservation Officer) and Sally Gabriel (Member Services Manager)

### **Also in**

#### **Attendance**

Michelle Woodgates DCC (Highway Authority)

## 53 **APOLOGIES AND SUBSTITUTE MEMBERS (00-05-16)**

There were no apologies for absence.

## 54 **VIRTUAL MEETING PROTOCOL (00-05-27)**

The protocol for remote meetings was **NOTED**.

## 55 **PUBLIC QUESTION TIME (00-05-52)**

Liz Poole referring to Item 4 on the Plans List (land west of Siskin Chase, Cullompton) stated: I note that Cullompton Town Council recommended refusal of the application based on access via Siskin Chase. Have estimated costs for the alternative option of providing vehicle access from Colebrooke Lane been made available to Cullompton Town Council so that they can make an informed evaluation?

The Area Team Leader responded stating that she was not aware of any costs being available for the alternative access, therefore no costs had been provided to Cullompton Town Council.

56 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (00-07-26)**

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

57 **MINUTES OF THE PREVIOUS MEETING (00-07-37)**

The minutes of the meeting held on 12 August 2020 were agreed as a true record.

58 **CHAIRMAN'S ANNOUNCEMENTS (00-08-47)**

The Chairman reminded the committee that a special meeting would take place on Wednesday 23 September 2020.

59 **DEFERRALS FROM THE PLANS LIST (00-09-06)**

There were no deferrals from the Plans List.

60 **THE PLANS LIST (00-09-30)**

The Committee considered the applications in the plans list \*.

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

(a) Applications dealt with without debate.

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

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

(i) ***No 1 on the Plans List (20/00838/HOUSE – Erection of domestic outbuilding, replacement fence and retention of tree house – 6 Poppy Close, Willand)*** be approved subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by the Chairman)

**Reason for decision – as outlined in the report**

Note: Cllr B G J Warren made a declaration in accordance with the Protocol of Good Practice for Councillors dealing in planning matters as Chairman of Willand Parish Council in that he had made contact with the Group Manager over procedural issues.

(ii) ***No 2 on the Plans List (19/02034/LBC Listed Building Consent for installation of 1 replacement window - The Old Carriage House, St Andrew Street North, Tiverton)*** be approved subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by the Chairman)

**Reason for decision – as outlined in the report**

Note: The following late information was provided: as this was a retrospective application, with the works undertaken, condition and reason 1 were not required.

***b) No 3 on the Plans List (Outline for the erection of 1 dwelling – 12 Kable Close, Tiverton)***

The Planning Officer outlined the contents of the report by way of presentation highlighting the location of the site 25 metres south of the A361. He identified the access to the development site and provided an indicative layout plan of how the site might be developed (with all matters reserved – therefore it was just the principle of development that members were being requested to consider) with parking to the front of the new dwelling in line with numbers 11 and 12 Kabale Close. Members viewed photographs from various aspects of the site which showed the space for development, the proposed access and the demolition of the garage.

Consideration was given to:

- The width of the entrance and means of access to the site via a shared driveway
- Standing highway advice of the minimum width required for a single access
- The position of the site located at the end of a no through road and the existing access
- The impact on the neighbouring property throughout the proposed construction
- The distance of the proposed development from neighbouring properties
- Whether visitors to the proposed dwelling would park in the turning head
- Policy DM5 and the Parking SPD only required a single parking space
- Whether the porch at Number 12 would impact on access to the site
- The views of the objector with regard to the number of objections to the application; the width of the access to the site; the restricted parking in the area; disturbance from the construction which may impact on the neighbouring properties, the restricted access through Kabale Close and that any development would downgrade the immediate area.
- The views of the Ward Member with regard to access issues to the site, any extra traffic would block the close and the need to maintain the size of gardens in the area.
- Whether a site visit would be appropriate and how such a site visit could take place under the current Government restrictions on gatherings, with it being suggested that the site visit taking place in phases to allow all members to attend.
- The access to the site across the neighbouring property's drive way
- The advice of the representative from Devon County Council (Highway Authority) with regard to the required width for access.

It was therefore **RESOLVED** that: the application be deferred to allow a full committee site visit to take place with only members and the case officer in attendance and that it be arranged in accordance with the regulations then in force governing gatherings and meetings.

(Proposed by the Chairman)

Notes:

- i) Cllrs: E J Berry, Mrs F J Colthorpe, S J Clist, L J Cruwys, Mrs C P Daw, F W Letch, D J Knowles, S J Penny, R F Radford and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillors dealing in planning matters as they had received correspondence from the objectors;
- ii) Mr Harman spoke in objection to the application;
- iii) Cllr R J Dolley (Ward Member) spoke.

***c) No 4 on the Plans List (outline for the erection of up to 105 dwellings, associated landscape, public open space and allotments together with vehicle and pedestrian access from Siskin Chase and pedestrian access from Colebrooke Lane – land at NGR 301216 106714 – west of Siskin Chase, Colebrooke Lane, Cullompton)***

The Area Team Leader outlined the contents of the report by way of presentation highlighting the site location, the masterplan for the site, the main vehicle access and various photographs from aspects of the site. She explained that the application was identical to the one allowed at appeal and that the only matter for consideration was that of the S106 agreement. At the appeal two S106 agreements had been put forward and the Inspector had agreed the applicants proposed undertaking of up to 35% affordable housing with the provision of public open space but had struck out the area of land leading to the Rugby Club. The S106 before Members included 28% affordable housing (in line with the provisions set out in the Adopted Local Plan Review under policy CU21), the education contributions, air quality contributions, public open space and a travel plan.

Consideration was given to:

- The reasons that the committee had refused the previous application and the outcome of the appeal
- The access to the site from Siskin Chase and not via Colebrooke Lane
- How the S106 agreement had been arrived at
- The undertaking from the applicant omitted a contribution to the relief road and included 28% affordable housing
- Policy CU21 of the Adopted Local Plan and the need for the S106 agreement to be policy compliant
- The need for Condition 13 to be redrafted or for Condition 11 to be amended
- The triggers for the S106 agreement
- The views of the agent with regard to the adopted Local Plan Review and the policies set out in that plan; the outcome of the appeal; the NPPF's presumption of a sustainable and good quality design scheme and that further engagement would take place in conjunction with the Reserved Matters application

It was therefore **RESOLVED** that subject to the prior signing of a S106 agreement to secure the following:

- 1) Affordable housing - 28% on-site provision of affordable housing with a proposed tenure split (75% affordable rent and 25% shared ownership), as well as the triggers for providing such housing (all provisions as per UU2 but with 28% affordable housing fixed in place of 'up to 35%')
- 2) Education contributions - The provision of primary, secondary and early years education contributions as per 'UU2'
- 3) Air quality - The provision of the required air quality contribution of £40,169 to be used for the purposes of minimising road traffic emissions arising from the Development by delivering the Cullompton Air Quality Action Plan and the provision of electric charging cabling as per 'UU2'
- 4) POS - The provision and maintenance of Public Open Space on site for the lifetime of the development as per 'UU2'
- 5) Travel plan – the submission of and adherence to a Travel plan as per 'UU2'

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

### **Reason for decision – as outlined in the report**

(Proposed by the Chairman)

#### Notes:

- i) Cllrs: E J Berry, S J Clist, D J Knowles, R F Radford and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillors dealing in planning matters as they had received correspondence from the objectors;
- ii) Mr Brown (Agent) spoke;
- iii) Cllrs Mrs F J Colthorpe, Mrs C P Daw, F W Letch and D J Knowles requested that their vote to approve the application be recorded;
- iv) Cllrs E J Berry, S J Clist and S J Penny requested that their vote against the decision be recorded;
- v) Cllrs G Barnell, L J Cruwys, R F Radford and B G J Warren requested that their abstention from voting be recorded.

#### ***d) No 5 on the Plans List (Erection of a dwelling following demolition of barn – land and buildings at NGR 301235 112854 – Orchard House, High Street, Halberton).***

The Area Team Leader outlined the contents of the report by way of presentation highlighting the location of the site, the access to the site with the public parking area, the location of the proposed barn for conversion and that the site was within the Conservation Area of Halberton. She outlined the proposals for the demolition of the barn to be replaced with a single dwelling, she highlighted the proposed elevations of the new build, the proposed floorplans and provided photographs from various aspects of the site. The new build would retain the traditional look of the barn and

negotiations had taken place with regard to a suitable boundary wall to negate the impact on the listed building of Orchard House.

Consideration was given to:

- Whether there had been any wilful neglect to the barn
- The state of the barn at the time the land was purchased
- The precautions the developer took to safeguard the barn
- Whether the new build was in common with the barn to be demolished
- The Conservation Officer's view that he was satisfied with the proposal to demolish the barn
- The fact that the Parish Council would like to see the barn restored
- The need for an independent survey of the barn

It was therefore **RESOLVED** that: the application be deferred to allow for an independent survey of the barn to take place along with a viability assessment of the structure.

(Proposed by Cllr E J Berry and seconded by Cllr S J Clist)

Note: Cllr R F Radford spoke as Ward Member

***e) No 6 on the Plans List ( Retention of decking and gazebo in rear garden and raised fence – 31 Banksia Close, Tiverton).***

The Planning Officer outlined the contents of the report by way of presentation highlighting the site location, the block plan, the location of the decking and the gazebo located on top of the decking. He considered the proposed plans emphasising the elevation of the rear lawn, the fence elevation and photographs from various aspects of the site and from the neighbouring property.

Consideration was given to:

- The gradients between the 2 properties
- The height of the fence between the 2 properties
- The height of the decking
- The views of the applicant with regard to his relationship with the neighbour, the decking made good use of the garden; the gazebo was put in place to protect the neighbour from activities on the decking; the increased height of the fence protected the neighbour and that the trees to the rear of the gardens did create shade
- The views of the Ward Member with regard to the impact of the decking on the neighbouring property which was felt to affect the neighbour's privacy, possible light pollution and the need if granted for conditions to protect the amenity of the neighbour
- Whether any additional conditions would be reasonable

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

**Reason for decision – as outlined in the report**

(Proposed by the Chairman)

Notes:

- i) Cllrs: E J Berry, Mrs F J Colthorpe, S J Clist, L J Cruwys, Mrs C P Daw, F W Letch, D J Knowles, S J Penny, R F Radford and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillors dealing in planning matters as they had received correspondence with regard to the application;
- ii) Mr Bridges (the applicant) spoke;
- iii) The Chairman read a statement on behalf of one of the Ward Members;

**f) No 7 on the Plans List (Erection of 5 poultry units, biomass boiler unit; attenuation pond; access track; hardstanding; landscaping and associated infrastructure – Land at NGR 285042 114106 (Edgeworthy Farm) Nomansland).**

The Area Team Leader outlined the contents of the report by way of presentation providing the history of the site, that the application approved in January 2016 had not been implemented and highlighted the location of the site which was outside of the floodplain, the layout of the proposed shed and attenuation pond, the extensive planting proposed, the biomass building plans, shed elevations, site office plans and photographs from various aspects of the site. He advised the meeting that the key concern was that of highway movements and that the Highways Authority had no objections, that statutory consultees were also satisfied and that the visual impact of the proposal had been considered.

Consideration was given to:

- Other legislation required to cover animal welfare
- Large vehicles on unclassified roads
- The views of the Highways Officer with regard to the condition of the existing highway, the access to the B road had been agreed in the 2015 application, the visibility splay had been agreed, the impact on the landscape and access had been considered and covered by conditions
- The amount of waste from the site and where it was being transferred to
- Possible cumulative impact with other development of this type in the area
- The possible impact of the overnight trips on the local residents
- The views of the applicant with regard to the reasons why the previous application had not been implemented, the programme of high welfare chicken production proposed and the transport link from the B3137 down to the farm

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

**Reason for decision – as outlined in the report**

(Proposed by Cllr F W Letch and seconded by Cllr E J Berry)

Notes:

- i) Cllr Mrs F J Colthorpe declared a personal interest as the landowner was known to her and the matter had been discussed at parish council level;
- ii) Cllr R F Radford declared a personal interest as the applicant was known to him;
- iii) Mr Lake (applicant) spoke.

**61 MAJOR APPLICATIONS WITH NO DECISION (3 - 52-00)**

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

It was **AGREED** that:

Application 20/01263/MFUL – - 22 dwellings - allotments at Tumbling Field Lane, Tiverton be brought before the committee for determination and that a site visit take place if the officers recommendation was one of approval.

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

**62 APPEAL DECISIONS (3-58 - 00 )**

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.

**63 TREE PRESERVATION ORDER TPO 20/00003/TPO, LAND AT MEADOW PARK, WILLAND (3-58-03)**

The Committee had before it a \*report of the Head of Planning, Economy and Regeneration with regard to an application for a Tree Preservation Order for 45 Pedunculate Oaks and mixed broadleaved trees in woodland.

The Area Team Leader outlined the contents of the report highlighting the history of the site and the appeal decision to implement 125 houses. Officers had been prompted by Willand Parish Council of the need to protect many of the trees on the site. She highlighted the various trees and the access via Meadow Park. When the Reserved Matters application came forward there would be a need to look further at the trees on the site, but it was felt that in the interim, the trees should be protected. The meeting was provided with photographs from various aspects of the site showing the position of the trees.

Consideration was given to:

- The area of woodland surrounding the site and the trees situated at Ash Close, Rowan Close and Meadow Park
- Some trees would need to be removed to allow access to the site

- The replacement of trees would form part of the Reserved Matters application and the landscaping proposals set out by the appeal Inspector

**RESOLVED** that the Tree Preservation Order 20/00003/TPO be confirmed with modification to the extent of woodlands W1 and W2 to exclude the trees which will need to be removed to provide the approved access to the site, granted consent under 18/00177/FULL.

(Proposed by Cllr B G J Warren and seconded by Cllr S J Clist)

### **Reason for decision – as set out in the report**

#### Notes:

- i) Cllr Mrs F J Colthorpe declared a personal interest as the landowner was known to her;
- ii) Cllr B G J Warren declared a personal interest as Chairman of Willand Parish Council and with his involvement in the application;
- iii) Cllr E J Berry declared a personal interest as the landowner was known to him;
- iv) Cllr B G J Warren spoke as Ward Member;
- v) \*Report previously circulated, copy attached to minutes.

64 **19/01188/FULL LAND AT NGR 276600 96594 (NORTH OF SHORTACOMBE FARM) SHORTACOMBE LANE, YEOFORD (CHANGE OF USE OF AGRICULTURAL LAND TO ALLOW 1 PITCH FOR THE SITING OF 1 STATIC CARAVAN, 2 TOURING CARAVANS AND ASSOCIATED WORKS FOR THE USE OF GYPSY AND TRAVELLER FAMILY) ( 4-12-20)**

At the Planning Committee meeting on 12 August 2020, Members advised that they were minded to refuse the above application and invited an implications report for further consideration. The Committee therefore had before it a \*report of the Head of Planning, Economy and Regeneration setting out the implications of refusal.

The Area Team Leader outlined the contents of the report stating that as outlined within the minute of the previous meeting, Committee Members gave consideration to a number of matters which included the desire of the applicant to live on site, the response from statutory consultees, visibility splay requirements and the need for the removal of hedgerow and rights of the applicant to cut back vegetation/hedgebank, the actual numbers of people who would live on site, concerns over safety for occupiers from various risks such as through falling trees and caravans falling over during high winds, accessibility of the site during snowy conditions, flooding concerns of the site with associated impacts on drainage and children's play area.

Members of Planning Committee had therefore resolved that they were minded to refuse this application, deferring the application for consideration of an implications report to consider reasons for refusal to include:

- Policy Planning for Traveller Sites - Section 14. When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.
- Policy DM7 - A, Space for children's Play
- Policy DM7 - C, unacceptable landscape or ecological impact
- Policy DM7 - E, safe and convenient access to local facilities.
- Policy DM2 - High quality design
- Policy DM2 - Positive contribution to local character including any heritage or biodiversity assets and the setting of heritage assets
- Policy DM2 - Visually attractive places that are well integrated with surrounding buildings, streets and landscapes
- Policy DM2 - Appropriate drainage including sustainable drainage systems

As such three reasons for refusal had been formed to cover the above concerns with correct reference made to Policy DM1 rather than DM2.

He then provided by way of presentation the layout of the site and addressed the following detail:

The applicant sought planning permission for the material change of use of agricultural land to residential use for a gypsy and traveller family. The proposal would involve the siting of a static caravan; parking for two touring caravans; the siting of a storage shed and car parking area; landscaping works, including tree planting and the creation of a landscaped bank; and works to create a safe access onto the public highway.

The site comprised an area of mostly open grassland, including an area surfaced with loose material, on which two touring caravans were currently being kept (these would be moved on site to the position shown on the layout plan and form part of any planning permission issued), along with a wooden storage structure. The site's western, northern, and eastern boundaries adjoined open fields in agricultural use. The southern boundary ran alongside the public highway and was formed by a mature hedgerow. The site was located outside settlement limits.

The original submission included the provision and use of a compost toilet and a reed-bed drainage system to deal with grey water but the proposal was amended following concerns received with the proposal now involving the use of a toilet facility within the static caravan with a Vortex Treatment Plant proposed to deal with foul drainage. Confirmation had also been provided from the applicant that there was mains water running adjacent to the site and power would be provided from solar panels.

With regard to the visibility splay: Members had received correspondence raising concern over the need for the removal of hedgebank to the east of the application site access in order to provide the required visibility splay which the applicant had no control over. Reference had also be made to correspondence received from the Local Highway Authority to the need for removal of hedgebank to either side of the access. However, in terms of the requirements of the Highway Authority over visibility, the consultation response of 30<sup>th</sup> September 2019, set out the following: *The site is located on a road with limited passing opportunities and can be considered to be lightly trafficked having witnessed a single vehicle in 45 minutes. While the road is a derestricted speed limit I have observed speeds of 20mph.*

*However local residents have observed that speed have been in excess of 45 mph. The Highway Authority would request that the applicant obtain a 24 hour speed survey so that appropriate splays can be applied to any consent. With current observed speeds by the Highway Authority a splay of 2.4m by 25m in either direction would be required but should the speeds be identified locally at 45 mph then splays of 2.4m by 120m with no obstruction greater than 600m above road surface would be required. Both splays would necessitate the removal of hedge row to satisfy the splays. The Highway Authority would apply the 85% speed to any design for the splays.*

However the 2019 consultation response was subsequently updated by a further response dated 20<sup>th</sup> January 2020 which stated: *The plan overcomes the Highway Authority concern, and subject to the access construction e.g. Hard surface in a bound material and drainage would not have any further observations. It will be a matter for the LPA (Local Planning Authority) to consider sustainability in light of the NPPF.*

This was informed by a speed survey, the results of which led to the Highway Authority to clarify that visibility splays of '2.4 by 55m either side of the access were required and that to the right on exiting it should be to the nearside carriageway edge and to the left to centre line of the carriageway.

The position of the visibility plays were marked within the presentation and whilst the formation of the splay in the westerly direction would require a section of hedgebank removal (land in the applicant's control), this was not the case for the easterly visibility splay and the reference made was to removal of brambles which overhung the highway.

He then focussed on the prepared reasons for refusal set out in the report where he felt that Reason 1 could be upheld at appeal

Consideration was given to:

- The monitoring of speed along the road
- The adopted Local Plan Review and the number of gypsy and traveller sites proposed but not in place.

It was therefore **RESOLVED** that the application be refused on the following grounds:

In the opinion of the Local Planning Authority, the proposed site of the family traveller pitch given its countryside location and prominent position on the ridge of the hill will result in an unacceptable landscape and ecological impact through the introduction of caravans and other structures and the removal of hedgebank and trees to provide an adequate visibility splay for the access into the site. The location of the site is such that there will be no safe or convenient access to local facilities or services. Therefore any need for the development does not outweigh the harm which would result with the development being contrary to Mid Devon Local Plan Review 2013-2033 Policies S14, DM1 and DM7 and guidance within the National Planning Policy Framework 2019 and Policy Planning for Traveller Sites (2015).

**Reason for the decision – as outlined above**

(Proposed by Cllr S J Penny and seconded by Cllr S J Clist)

Notes:

- i) Cllrs: G Barnell, E J Berry, Mrs C P Daw, Mrs F J Colthorpe, S J Clist, L J Cruwys, F W Letch, D J Knowles, S J Penny, R F Radford and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillors dealing in planning matters as they had received representations;
- ii) The following members would represent the committee in the case of an appeal: Cllrs: S J Penny, S J Clist and B G J Warren;
- iii) \*Report previously circulated, copy attached to minutes.

(The meeting ended at 7.07 pm)

**CHAIRMAN**

## PLANNING COMMITTEE AGENDA - 23rd September 2020

### Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	19/01932/FULL - Retention of conversion and change of use of part of shop into 1 ground floor flat (Revised Scheme) at Preston House, Bow, Devon. <b>RECOMMENDATION</b> Grant Approval subject to conditions and Air Quality S106 letter/unilateral
02.	19/01933/FULL - Retention of conversion of first floor flat into two flats at Preston House, Bow, Devon. <b>RECOMMENDATION</b> Grant Approval subject to conditions and Air Quality S106 letter/unilateral

Application No. 19/01932/FULL

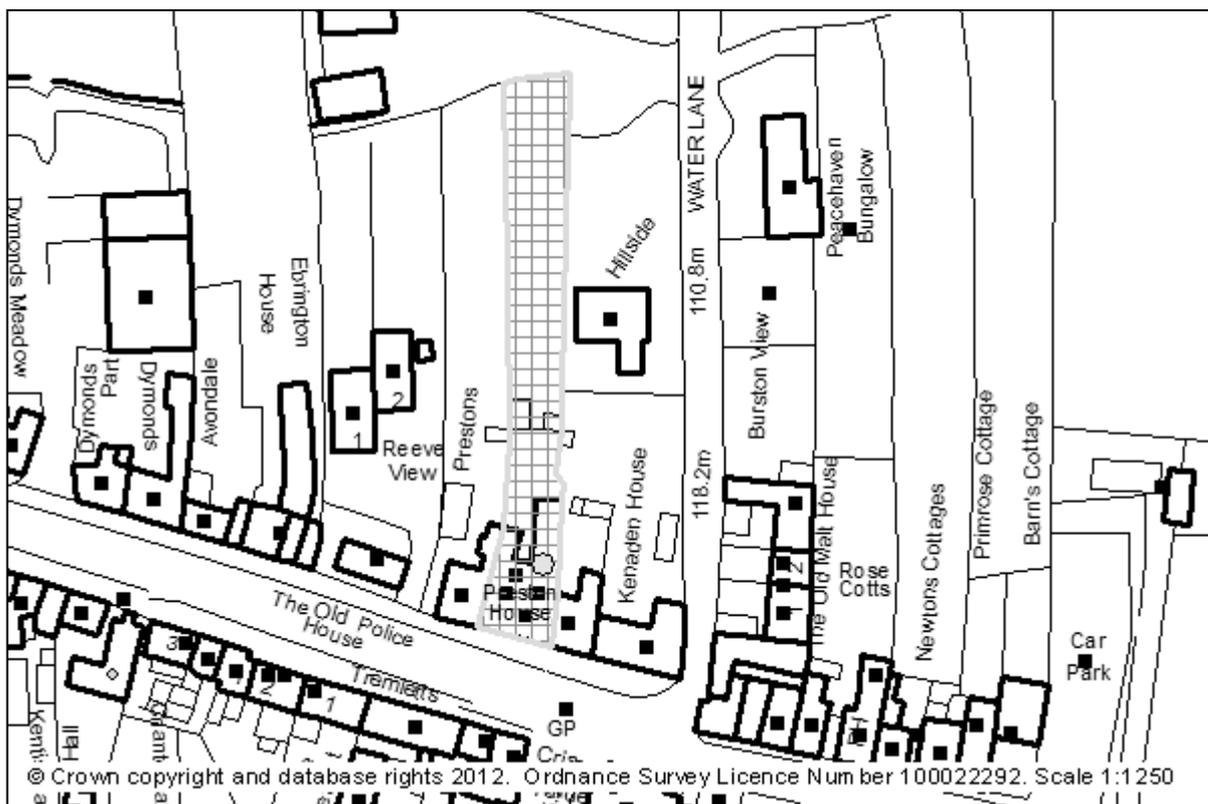
Grid Ref: 272187 : 101753

Applicant: Mr Brian Rosser

Location: Preston House  
Bow  
Devon

Proposal: Retention of conversion and change of use of shop into 1 ground floor flat (Revised Scheme)

Date Valid: 4th December 2019



## **APPLICATION NO: 19/01932/FULL**

### **MEMBER CALL-IN**

This planning application has been called in by Councillor White in order to consider:

1. The planning history of the site (1)

Several planning applications have been previously refused on the site.

2. The planning history of the site (2)

Work has taken place at the site despite planning permission refusals. No planning application should be approved until the rectifications have been made that the council require.

3. Access and provision of infrastructure for the site

An application to develop 3 flats would produce 3 extra cars on an already full and narrow street. Even if parking is not provided as a part of the application, the residents of the flats would be able to park on the street. This will put undue burdens on an already overcrowded street; often no parking can be found when residents return from work.

4. The views of organisations in relation to planning matters

The parish council have repeatedly called for the application to be refused. As representatives of the local community, then their refusal should be given due weight.

### **RECOMMENDATION**

Grant permission subject to conditions and the signing of a Unilateral Undertaking to secure a financial contribution towards Air Quality mitigation in Credenon.

### **PROPOSED DEVELOPMENT**

The applicant seeks planning permission for the retention of conversion and change of use of part of the shop into 1 ground floor flat (Revised Scheme) at Preston House, Bow

The initial submission was for the conversion and change of use of the shop into 2 ground floor flats with the proposals showing the creation of two one bedroom flats, each with a self-contained access. However, plans were amended to retain the shop with storage to occur within the basement area below. Therefore the proposed development to be considered under this planning application is for the creation of one new two bedroom flat.

This application was submitted in tandem with application 19/01933/FULL, which is for the retention of conversion of the first floor flat into two flats. The existing four bedroom flat in this instance has been converted into 2 two bedroom flats. At Preston House, in addition to the existing flat at first floor, which has been converted into 2 flats, there is an existing basement flat to the rear. Therefore, two flats exist within Preston House in addition to the existing shop with the proposals representing the creation of two additional flats through these two applications submitted.

Beside and to the rear of the basement flat, a parking area has been created which has resulted in a raised platform area. The existing garage to the side of Preston House was removed to create a vehicle access leading to this rear parking area with the initial plan submitted showing parking for 4 vehicles, where originally there was no on site parking available.

This planning application follows the refusal of planning application 18/00571/FULL in 2018 which was for the conversion and change of use of shop into 2 ground floor flats where the application submitted included car parking at the rear with a new vehicular access, which is proposed through an existing garage door type opening which would form access to the rear directly adjacent to the neighbouring property. The point of access into the site and the car parking area was formed by the current owner without the benefit any consent/permission as issued by either the local planning and/or highway authority.

Planning application 18/00571/FULL was refused on the grounds that the proposed car parking facilities and means of access are considered unacceptable this application and the applicant was advised that this still remained the case. Therefore given these concerns remain to the access and parking area created, the applicant has submitted revised plans to show the removal of the parking area and the access closed to vehicles, only allowing for pedestrian access. Therefore no on site parking would be provided with the case made that the site is within a sustainable location with a public bus stop directly outside and that if private transport was required by an occupier, parking is available on the roadside.

In terms of external works proposed, the shop front refurbishment involves the replacement of the second door with new window and the new pedestrian access would be formed through a planter /bollard.

## **APPLICANT'S SUPPORTING INFORMATION**

Completed application form, plans and site photographs

## **RELEVANT PLANNING HISTORY**

90/02083/FULL - PERMIT date 17th December 1990  
Erection of new shop front and shop alterations

18/00570/OUT - REFUSE date 11th June 2018  
Outline for the erection of a single storey dwelling

18/00571/FULL - REFUSE date 15th August 2018  
Conversion and change of use of shop into 2 ground floor flats

## **DEVELOPMENT PLAN POLICIES**

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

S1 - Sustainable development priorities  
S2 - Amount and distribution of development  
S3 - Meeting housing needs  
S8 - Infrastructure  
S9 - Environment  
S12 - Crediton  
S13 - Villages  
CRE11 - Crediton Infrastructure  
DM1 - High quality design  
DM3 - Transport and air quality  
DM4 - Pollution  
DM5 – Parking

DM23 - Community facilities  
DM25 - Heritage Assets

National Planning Policy Framework ("the NPPF")

## **CONSULTATIONS**

Bow Parish Council – 17th August 2020

The above numbered application, with Revised Drawings, was duly considered by the Members at a special Planning meeting of Bow Parish Council held virtually earlier this evening. A major concern is that the Applicant proceeded with development works without planning consent, apparently also without recourse to Building Regulations or inspection and apparently without any Planning Authority advice. Bow Parish Councillors feel strongly that any building works should not adversely affect neighbouring properties: the Applicant has already carried out much, if not all, of the work, including substantial works in the garden, to the rear of the property, to create the sizeable parking area which had been associated with the development and had formed part of this application. That work involved a substantial quantity of earth being excavated, without retaining walls constructed and without proper drainage installed, thereby having a detrimental effect on neighbouring properties. Parish Council is firmly of the opinion that work carried out which is detrimental to neighbouring properties needs to be rectified before any Planning application can be considered. Bow Parish Council feels that this situation needs to be referred to the Enforcement officer. Converting the property into multiple units of accommodation represents over-development of the site and is deemed unacceptable. There is neither spare on-street parking capacity in Bow nor spare capacity at the small village car park. Bow Parish Council remains unanimously opposed to this application for all the aforementioned reasons and urges that it be Refused.

Bow Parish Council - 18th May 2020

The above numbered application was duly considered by the Members at the first virtual meeting, held via Zoom, of Bow Parish Council, which was held earlier this evening. Bow Parish Council is unanimous in its opposition to the application. The creation of parking to the rear of the property is unacceptable, for reasons rehearsed in previous responses to this application and 19/01933/FULL, and there isn't capacity for any additional on-street parking in the centre of Bow village. Nor is there any spare parking capacity in the small car park to the east of the A3072's junction with Station Road and Water Lane. The dearth of parking in the main street for Bow residents has long been recognised - any development would simply further aggravate that situation. As Preston House was built as one property, forming part of a terrace in a village centre location, it is not felt viable for it to be split into multiple units of occupation when lacking the necessary accompanying amenities. Bow Parish Council recommends Refusal.

Bow Parish Council - 8th April 2020

The Revised and Additional Drawings in respect of the above numbered application have been duly considered by the Members of Bow Parish Council. Following electronic (given the ongoing coronavirus situation) consultation, Bow Parish Council remains opposed to the application. Please refer to Bow Parish Council's letter of objection dated 21 January 2020.

Bow Parish Council – 21 January 2020

At the meeting of Bow Parish Council held on 8 January 2020 Parish Councillors heard significant concerns from local residents regarding the above numbered planning application, which is coupled with Planning Application no.19/01933/FULL. Parish Councillors and local residents requested a site meeting with the Planning officer (Mr Devereaux) which was duly arranged and held yesterday, 20 January 2020.

Preston House is central, inside Bow's Conservation Area, on the heavily trafficked A3072 close to the sub-standard junctions with Station Road and Water Lane.

Bow parish Council would regret the loss of the last remaining shop in Bow village, including the potential for a shop at that prime central location, at some point in the future.

The two applications, if granted consent, would result in Preston House comprising five units of accommodation (flats), which is considered to be over-development of the site.

A major objection is the proposed access, already created by the applicant via the narrow covered former storage area of the building, and the parking (for nine spaces) arrangement to the rear of the property, also already created by the applicant, in the rear garden of the property. (The application asserts that parking to the rear of the property already existed, however Bow Parish Council affirms that no such parking to the rear has previously existed). In terms of highway safety, the proposed access to the parking area is deemed unacceptable; access to and exit from the area involves crossing over a busy section of pavement, which is particularly well-used by children, adjacent to designated on-street parking, a bus shelter and a bus stop. Visibility, for drivers of vehicles exiting the parking area, is greatly reduced and is inadequate.

Whether works already carried out at the site has the benefit of Building Regulations is questioned.

The lack of parking in Bow's main street is an issue – if consent is granted for additional units of accommodation current parking issues would inevitably be exacerbated given that some future residents of the property would likely opt to on-street park, instead of using the proposed arrangement.

For the aforementioned reasons Bow Parish Council urges that this application be refused.

Highways Authority – 24th August 2020

On the basis of a proposal of two flats with no parking arrangements, with the location next to a bus stop, the Highway Authority would have no objections.

Highways Authority - 16th July 2020

The County Highway Authority will make observations on the two applications 19/01932/FULL and 19/01933/FULL. The site is accessed off the A3072 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 two proposals will be 4 flats and the retention of the shop, with a proposal of 4 parking spaces at the rear, using the side access as the access to the parking spaces. The Drawings submitted number SO/1807/30 does not show conclusively how the vehicles will be able to turn within the area and leave the access onto the A3072 in a forward gear. This drawing also does not show the

lengths of the visibility splays to ensure this is a safe and suitable access. Therefore the County Highway Authority would recommend refusal on inadequacy of information.

**Recommendation:**

The Head of Planning, Transportation and Environment, on behalf of Devon County Council, as Local Highway Authority, is likely to recommend refusal of planning permission, in the absence of further information.

1. Adequate information has not been submitted to satisfy the Local Planning Authority that the proposal is acceptable in terms of access, visibility splays, off-street parking, and on site turning facilities contrary of the National Planning Policy Framework

Highways Authority – 17th December 2019

Standing advice applies please see Devon County Council document

<https://www.devon.gov.uk/planning/apply-for-planning-permission/get-help-with-an-application/guidance-for-applicants>

**Public Health:**

Contaminated Land: No objection to this proposal. (05.12.19).

Air Quality: No objection to this proposal. (05.12.19).

Environmental Permitting: No objection to this proposal. (05.12.19).

Drainage: No objection to this proposal. (05.12.19).

Noise & other nuisances: No objection to this proposal. (05.12.19).

Housing Standards: The bedroom of flat 5 remains an inner room so the window in the bedroom will need to be a suitable escape window. (05.12.19).

Licensing: No comments. (05.12.19).

Food Hygiene: Not applicable. (05.12.19).

Private Water Supplies: If a private supply is to be used by more than one property or has a commercial function, The Private Water Supply (England) Regulations 2016 as amended will apply. A risk assessment and sampling regime will be necessary. The supply must not be used until the Local Authority (Mid Devon District Council) is satisfied that the supply does not constitute a potential danger to human health, including single domestic use. You must also register with the Local Authority (Mid Devon District Council) any private water supply. Failure to do so may result in a Section 85 Notice, with which failure to comply is an offence.

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

IF MAINS WATER IS TO BE USED, WOULD HAVE NO COMMENT. (09.11.19).

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

Informative: There is a foreseeable risk of asbestos being present in the structure. Please review the information in this link, so you are aware of the hazards, risks and your legal obligations with asbestos <http://www.hse.gov.uk/asbestos/> . If asbestos may be present a Refurbishment and Demolition Survey following HSG264 available at <http://www.hse.gov.uk/pUbns/priced/hsg264.pdf> should be carried out before work commences to identify precautions and legal requirements enforced by Health and Safety Executive. (05.12.19).

Conservation Officer – 18th August 2020

This is very good news that they are proposing to retain the shop space in addition to the shop front – this is very sensible with the need for more local shops in the current circumstances and I don't understand why they did not propose this in the first place?

The shop front refurbishment and replacement of second door with new window all looks fine as does the new pedestrian access and planter /bollard subject to details of windows including sections and of planter /bollard.

My only other comment is that the shop is very small floor space (not much bigger than the bedroom and en-suite adjoining it) and appears to have no storage facility. I would prefer to see the ground floor flat as 1 bed and to lose the bedroom to the back of the shop to be incorporated into the shop area.

## **REPRESENTATIONS**

Two letters of objection have been received. The objections are summarised as follows:

1. 5 flats would represent overdevelopment
2. The change of use of the garden to parking is not in keeping with the village environment and limits wildlife
3. There is no existing parking, although access and a parking area has been created by the developer, which is currently unauthorised. This access is directly onto the A3072, adjacent to a bus stop and the main crossing point for pedestrians on the school run. The road can be very busy with HGV traffic. It is also the QE School bus stop and the access would pose a danger to people using the bus stop.
4. The proposed car park access is adjacent to the main pedestrian crossing point on the A3072 which is already a busy road and this would add to the dangers of people trying to cross the road, in particular parents taking their children to and from Bow school.
5. The previous application 18/00571/FULL was refused on the 15th August 2018.
6. The creation of 2 ground floor flats, 2 on the first floor and 1 existing to the rear could potentially mean that 5 families would be living on the site. There is already very limited parking within the village.
7. The proposed development has the potential for over five cars to be linked to the property which will add to the current village parking
8. We do understand that the developer has to do something with the empty shop space, so we would be in agreement for planning for a total of 3 flats (1 on each floor). We would also like to see the rear of the property to be reinstated into a communal garden area for the occupant's to enjoy. We feel that this would be more in keeping within the village environment.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The application site relates to Preston House and part of the garden curtilage which has in part been converted from a landscaped garden into a parking area with an access created through an opening from the A3072. The initial submission was for this new vehicle access and parking area to serve the proposed flats but following concerns of highway safety in terms of proximity to a bus stop, visibility splays achieved at the entrance and space for manoeuvring on site, revised plans have been received showing the closure of the access created for vehicles, only allowing for pedestrian access with no on site parking, with the area created being used for amenity space by occupiers of the development.

The main determining factors in this application are:

- 1) Policy considerations;
- 2) Impact on Character and Heritage Assets
- 3) Amenity for future residents / Impact on neighbours;
- 4) Highway safety/ Movement and parking issues;

- 5) S106 obligations;
- 6) Other considerations
- 7) Summary & Planning Balance.

## **1. Policy considerations**

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 is noted as one such material consideration. The National Planning Policy Framework outlines three dependant objectives of sustainable development; economic, social and environmental.

The National Planning Policy Framework (2019) outlines that development should be guided towards the most sustainable locations available, including previously developed or underused land in settlements. Policy S1 states that development will be concentrated at Tiverton, Cullompton, and Crediton. Policy S13 (Villages) which recognises Bow states that development will be limited to proposals within their defined settlement limits and to allocations for:

- a) Small scale housing, employment, tourism and leisure;
- b) Services and facilities serving the locality; and
- c) Other limited development which enhances community vitality or meets a local social or economic need.

The site is located within the settlement boundary of Bow and within the boundary of the village conservation area where small scale residential proposals could be considered acceptable in principle in accordance with policy S13. In addition consideration needs to be given to the requirements of policy DM23. The ground floor of Preston House has historically accommodated a village shop and the original proposal submitted was to convert the entire shop area on the ground floor into two flats but the proposal has been amended to retain the shop but convert the rear area into a single two bedroom flat. Therefore the existing community facility would be retained.

The original submission proposed would have resulted in the loss of the shop facility and created two residential units which in addition to the proposal submitted under planning application 19/01933/FULL for the retention of the change of use of the first floor flat into two flats, would have resulted in the creation of five residential units on site. The proposal has been revised so that the shop is retained with the proposal allowing for four residential units within the property, a net increase of two with one additional flat created under each planning application submitted.

On the basis that the proposals relate to previously developed land within the development limits of Bow, in light of the policy context discussed above, is considered that the creation of residential units would be acceptable in principle.

## **2. Impact on Character and Heritage Assets**

Policy DM1 of the Mid Devon Local Plan states that the design of new development must be of high quality and demonstrate a number of principles, including efficient and effective use of the site, an understanding of the local context, and appropriate siting, layout, scale, and other design characteristics to ensure visually attractive and well integrated development. Policy DM25 refers to the importance of heritage assets and their settings, and includes criteria for their preservation and enhancement.

The application building is located within the Bow Conservation Area and Local Planning Authorities have a statutory duty under Section 72(1) of the Planning (Listed Buildings and

Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

The proposal would involve the conversion of the existing building where most of the changes would occur internally, although there would be some external changes to the frontage of the site with the shop front and new planter/bollard. The Conservation Officer has raised no objections only requesting planning conditions to agree to the final window details and planted/bollard to be installed. Refuse storage would need to be located within the site but it is considered that there is ample space within the grounds for bins and space within the flats to provide bicycle storage.

The Parish Council and neighbouring occupiers have objected to the proposal on the grounds that it would result in an over-development of the site and amount to poor design, with unauthorised work having been carried out. As reported upon earlier, the proposals have been revised so that the proposal under this application is only to create an additional flat with a separate planning application having been submitted under 19/01933/FULL for the retention on the first floor of the two flats created from the single flat. Therefore the total number of residential units would be four. Each of the proposed units would provide a sufficient amount of internal living space meeting technical standards and, given the location, amenity areas, along with adequate refuse and bicycle storage which could be provided, it is therefore considered that the proposal would not result in an over-development of the site.

Given the modest changes proposed to the external appearance of the main building and the site, it is considered that there would not be any harm to the conservation area. The closure of the vehicular access created through a bollard/planter and the renovation of the remainder of the building, would serve to enhance the character and appearance of the conservation area. A condition is proposed to be imposed requiring the approval of window details and the bollard/planter which would ensure that the public facing parts of the building, in particular, would retain their existing character and continue to contribute positively to the character of the area. A condition is also proposed to secure the approval of a scheme of hard and soft landscaping to the rear.

As the proposed residential units would be flats, there would be no permitted development rights allowing for changes in the future without formal planning permission being obtained. Subject to the use of these conditions referred to above, the proposal is considered to be in accordance with Policies DM1 and DM25 of the Mid Devon Local Plan Review 2013-2033.

### **3. Amenity for future residents / Impact on neighbours**

Policy DM1 of the Mid Devon Local Plan Review 2013-2033 states that proposals should not result in unacceptable impacts on the privacy and amenities of those occupying existing or proposed dwellings and that new housing should be designed to provide adequate internal living space and room for various types of storage, including for refuse and bicycles; adequate levels of natural light and privacy in relation to internal and external spaces; and suitable amounts of private amenity space. Policy DM4 of the Mid Devon Local Plan Review states that development will be permitted where the effects of pollution would not have unacceptable impacts in relation to health, the natural environment, and general amenity.

The development (including that under planning application 19/01933/FULL) would result in the provision of 4 flats in the building with the retention of the shop. In terms of bedrooms, an existing four bedroom flat would be replaced by 2 two bedroom flats and the flat created to the rear of the shop would have two bedrooms. Existing window openings would be used and as a result it is not considered that the proposals would result in significant overlooking of neighbouring properties.

The proposals would provide adequate amounts of internal living space to serve future occupiers with each of the proposed units meeting with National Space Standards.

Most concerns raised by neighbours appears to relate to the unauthorised works that have been undertaken to the side and rear of the property to create an access and parking area. With the planning application which was refused, consideration was given to the extent of hardscape that has been created to form an access and parking area and that additional area for further parking lower down in the site. This part of the development was considered to result in an intrusive and dominant arrangement in the rear garden detrimentally impacting neighbouring occupier's amenity in terms of how it would affect the enjoyment of their garden areas and in visual impact terms generally.

However, as commented earlier in this report, plans have been revised to remove the vehicle access created and that of the parking area, with it to become an amenity area. Therefore this would remove traffic movement from vehicles deep into the site which would have impacted on neighbour's amenity given their proximity to this traffic and associated noise and other disturbances. The remaining issue is considered to relate to the raised parking area created which results in a viewing platform which could allow overlooking of a neighbouring property. Therefore a condition is recommended for this area to become an area of amenity for occupiers of the development with details provided either to show levels reduced back down to the original ground levels or for the approval of privacy screens around this area. On this basis the application would not be considered to be in conflict with the policies in the Mid Devon Local Plan Review 2013-2033 (S9, DM1 & DM25).

#### **4. Highway safety and parking**

The access arrangements and on site parking as proposed originally were considered unacceptable in highway safety terms given the limited visibility that would be available for drivers of vehicles exiting the site and the proposed location at a very busy point on the A3072 which carries heavy levels of vehicular and also pedestrian traffic, and the requirement for passage over a busy/significant section of the footway and a protected on-street parking bay. Following on, if the proposed access arrangements are considered unacceptable the proposed car parking arrangements are also considered unacceptable.

Policy DM1 of the Mid Devon Local Plan Review states that new development should be safe and accessible based upon and demonstrating the principle of creation of safe and accessible places that also encourage and enable sustainable modes of travel such as walking and cycling. Policy DM5 states that sufficient vehicle parking and bicycle storage must be provided.

The revised proposal would now not provide any off-street parking spaces and one of the concerns raised by the Ward Member and Parish Council relates to the available street parking in the area, and the limited nature of local public car parks. The parking requirement for a residential unit is 1.7 spaces so this application including that of the proposal under application 19/01933/FULL would require 4 spaces to be provided.

The Highway Authority has considered the submitted information and are satisfied that the lack of on site parking in this location would not be unacceptable, noting that the site is in a sustainable location with a main public bus stop located straight outside of the premises with a number of facilities/services within walking distance. An enquiry was made as to whether a parking survey would be required but the Local Highway Authority said that they did not believe this would be required on the basis of the proposals and knowledge of the settlement, with the officer having visited Bow on a number of occasions and noting parking availability in the area. Whilst there are

parking restrictions on the main road running through Bow, it is noted that some of these do not apply after 6pm in the evening up until 8am in the morning where parking is possible.

In light of the above, the lack of on site parking is not considered to outweigh the other planning merits of the proposal which would be those of the creation of smaller residential units for the community, within a sustainable location close to public transport services. As the proposal is not considered to result in unacceptable harm to highway safety or amenity, it is in accordance with Policy DM1 of the Mid Devon Local Plan Review.

## **5. S106 obligations**

Policies S12 (Credton) and CRE11 (Credton Infrastructure) outlines the requirements for the provision of an off-site financial contribution towards funding improvements which seek to address air quality within the Credton Air Quality Management Area. The Supplementary Planning Document (SPD) sets out the relevant contributions levels arising from new residential development as is the case with this application. In accordance with these policies and the relevant guidance in the supporting SPD on the provision and funding of Air Quality mitigation, a financial contribution of £ 4,434.00 would be required for each new residential unit created. The applicant has signalled their intent to agree to enter into a Unilateral Undertaking, to sign the deed and to make these payments.

The potential receipt of these monies is a positive aspect of the proposals with additional weight attributed to this consideration.

## **6. Other Considerations**

The Council's Public Health officers have commented on the provision of suitable fire escape windows from some of the proposed rooms within the residential units to be created. As this is a Building Regulations matter, it has not been given any weight in the assessment of this application. An informative can be attached, should planning permission be granted, in relation to the potential presence of asbestos.

*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.*

## **7. Summary & Planning Balance**

The application scheme was amended with the car parking and access arrangements to be removed from the proposed scheme of works and the affected area to be landscaped accordingly as garden space. The site is within a sustainable location close to public transport links and within walking distance to a number of community facilities/services. The proposal is considered acceptable, having regard to policies in the Mid Devon Local Plan Review 2013-2033 and all other material considerations, planning permission should therefore be granted, subject to the conditions detailed below and the completion of the unilateral undertaking legal agreements as discussed above.

## **CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Prior to the first use or occupation of the development hereby approved, refuse storage arrangements shall be provided in accordance with details which shall previously have been submitted to and approved in writing by the Local Planning Authority. The refuse storage arrangements shall thereafter be retained for the life of the development.
4. Prior to the installation of any new external doors or windows in the building, details of the door and window profile and sections shall be submitted to and approved in writing by the Local Planning Authority. The doors and windows shall therefore be installed and retained in accordance with these approved details thereafter.
5. Prior to the occupation of any part of the development hereby approved, details including a section drawing shall be submitted to and approved in writing by the Local Planning Authority for the bollard and planter shown on the approved plans. The approved details shall be thereafter installed prior to occupation of the development.
6. Prior to the first occupation of the development hereby approved, a scheme of hard/soft landscaping and boundary treatment including details for either the installation of a privacy screen around the raised amenity area (former car parking area to the rear of the basement flat) along the north and east sides or alternatively for the lowering of this raised land back down to original levels, shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of the development and any trees or plants, including existing specimens to be retained, which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species. The approved hard landscaping and boundary treatments shall be provided within four weeks of the development being brought into use, and shall be retained for the life of the development. Any privacy screen implemented shall be retained for the life of the development.

## **REASONS FOR CONDITIONS**

1. RD1 in accordance with provisions of Section 51 of the Planning and Compulsory Purchase Act 2004
2. RD7A for the avoidance of doubt in the interests of proper planning.
3. To ensure adequate facilities are provided for bin storage in accordance with policy DM1 of the Mid Devon Local Plan Review 2013-2033.
4. To ensure the use of materials and detailing appropriate to the development, in order to safeguard the character and appearance of the conservation area in accordance with policy DM25 of the Mid Devon Local Plan Review 2013-2033.

5. In order to safeguard the appearance of the building and character of the Conservation Area in accordance with policies DM1 and DM25 of the Mid Devon Local Plan Review 2013-2033.
6. To ensure that the development makes a positive contribution to the character and amenity of the area and to ensure adequate standards of living accommodation and impacts on neighbouring amenity, in accordance with policy DM1 of the Mid Devon Local Plan Review 2013-2033.

## **INFORMATIVES**

1. If a private supply is to be used by more than one property or has a commercial function, The Private Water Supply (England) Regulations 2016 as amended will apply. A risk assessment and sampling regime will be necessary. The supply must not be used until the Local Authority (Mid Devon District Council) is satisfied that the supply does not constitute a potential danger to human health, including single domestic use. You must also register with the Local Authority (Mid Devon District Council) any private water supply. Failure to do so may result in a Section 85 Notice, with which failure to comply is an offence. Please contact Public Health at Mid Devon District Council on completion of proposal.

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

3. The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory protection afforded to any such species. If bats are found, works must immediately cease and further advice be obtained from Natural England and / or a licensed bat consultant. Works must not resume until their advice has been followed. Nesting birds are also protected by law. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds and reptiles all of which are protected under the Wildlife & Countryside Act 1981 (as amended). Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.

## **REASON FOR APPROVAL OF PLANNING PERMISSION**

The proposal for the change of use of part of the ground floor shop to create a flat is acceptable in principle and, subject to conditions and the completion of a legal agreement, would not result in unacceptable harm in terms of the character of the area, heritage assets, local amenity, and highway safety. On balance, the standard of accommodation that can be achieved is considered acceptable, bearing in mind the contribution the proposal would make to meeting local housing needs and that it would result in the renovation of disused buildings which make a positive contribution to the character of the area. The proposal is also located in a central and sustainable location where a lower standard of amenity can be considered acceptable. The proposal is considered to be in accordance with Policies S1, S3, S9, S13, CRE11, DM1, DM3, DM4, DM23 and DM25 of the Mid Devon Local Plan Review 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.

### **Statement of Positive Working**

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, in determining this application the Local Planning Authority has worked proactively and positively with the applicant to ensure that all relevant planning considerations have been properly resolved. This has included further discussion and submission of revised proposals to address issues raised by Consultees and the Planning Officer.

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

Application No. 19/01933/FULL

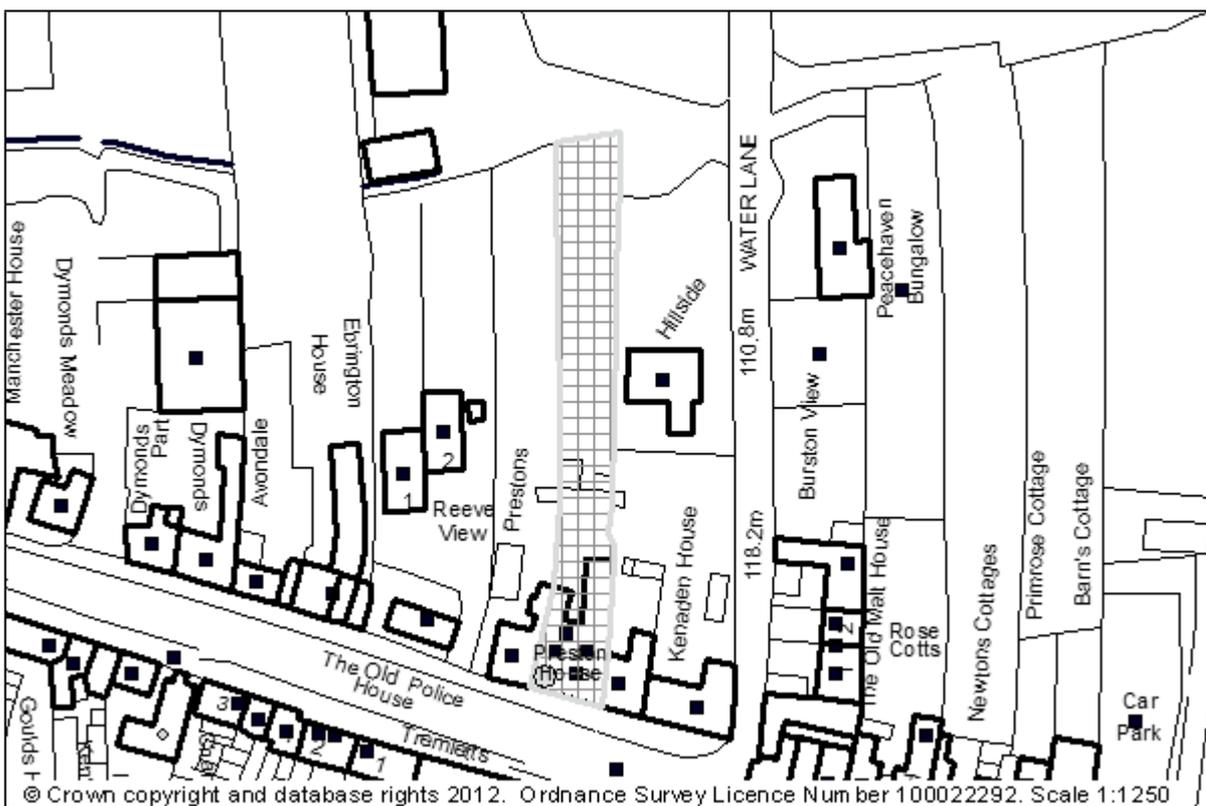
Grid Ref: 272187 : 101753

Applicant: Mr Brian Rosser

Location: Preston House  
Bow  
Devon

Proposal: Retention of conversion of first floor flat into two flats

Date Valid: 9th December 2019



## **APPLICATION NO: 19/01933/FULL**

### **MEMBER CALL-IN**

This planning application has been called in by Councillor White in order to consider:

1. The planning history of the site (1)

Several planning applications have been previously refused on the site.

2. The planning history of the site (2)

Work has taken place at the site despite planning permission refusals. No planning application should be approved until the rectifications have been made that the council require.

3. Access and provision of infrastructure for the site

An application to develop 3 flats would produce 3 extra cars on an already full and narrow street. Even if parking is not provided as a part of the application, the residents of the flats would be able to park on the street. This will put undue burdens on an already overcrowded street; often no parking can be found when residents return from work.

4. The views of organisations in relation to planning matters

The parish council have repeatedly called for the application to be refused. As representatives of the local community, then their refusal should be given due weight.

### **RECOMMENDATION**

Grant permission subject to conditions and the signing of a Unilateral Undertaking to secure a financial contribution towards Air Quality mitigation in CREDITON.

### **PROPOSED DEVELOPMENT**

The applicant seeks planning permission for the retention of conversion of first floor flat into two flats at Preston House, Bow. The existing four bedroom first floor flat in this instance has been converted into 2 two bedroom flats. Access up to the first floor accommodation remains the same being from a staircase to the side of the building but with two entrances (one for each flat) instead of a single one.

This application was submitted in tandem with application 19/01932/FULL, which is for the retention of conversion and change of use of part of the shop into 1 ground floor flat. Therefore, two flats exist within Preston House in addition to the existing shop with the proposals representing the creation of two additional flats through these two applications submitted.

Beside and to the rear of the basement flat, a parking area has been created which has resulted in a raised platform area. The existing garage to the side of Preston House was removed to create a vehicle access leading to this rear parking area with the initial plan submitted showing parking for 4 vehicles, where originally there was no on site parking available.

This planning application follows the refusal of planning application 18/00571/FULL in 2018 which was for the conversion and change of use of shop into 2 ground floor flats where the application submitted included car parking at the rear with a new vehicular access, which is proposed through an existing garage door type opening which would form access to the rear directly adjacent to the neighbouring property. The point of access into the site and the car parking area was formed by

the current owner without the benefit any consent/permission as issued by either the local planning and/or highway authority.

Planning application 18/00571/FULL was refused on the grounds that the proposed car parking facilities and means of access are considered unacceptable this application and the applicant was advised that this still remained the case. Therefore given these concerns remain to the access and parking area created, the applicant has submitted revised plans to show the removal of the parking area and the access closed to vehicles through a planter /bollard being installed, only allowing for pedestrian access. Therefore no on site parking would be provided with the case made that the site is within a sustainable location with a public bus stop directly outside and that if private transport was required by an occupier, parking is available on the roadside.

## **APPLICANT'S SUPPORTING INFORMATION**

Completed application form, plans and site photographs

## **RELEVANT PLANNING HISTORY**

90/02083/FULL - PERMIT date 17th December 1990  
Erection of new shop front and shop alterations

18/00570/OUT - REFUSE date 11th June 2018  
Outline for the erection of a single storey dwelling

18/00571/FULL - REFUSE date 15th August 2018  
Conversion and change of use of shop into 2 ground floor flats

## **DEVELOPMENT PLAN POLICIES**

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

S1 - Sustainable development priorities  
S2 - Amount and distribution of development  
S3 - Meeting housing needs  
S8 - Infrastructure  
S9 - Environment  
S12 - Crediton  
S13 - Villages  
CRE11 - Crediton Infrastructure  
DM1 - High quality design  
DM3 - Transport and air quality  
DM4 - Pollution  
DM5 – Parking  
DM23 - Community facilities  
DM25 - Heritage Assets

National Planning Policy Framework (“the NPPF”)

## CONSULTATIONS

Bow Parish Council – 17th August 2020

The above numbered application, with Revised Drawings, was duly considered by the Members at a special Planning meeting of Bow Parish Council held virtually earlier this evening. A major concern is that the Applicant proceeded with development works without planning consent, apparently also without recourse to Building Regulations or inspection and apparently without any Planning Authority advice. Bow Parish Councillors feel strongly that any building works should not adversely affect neighbouring properties: the Applicant has already carried out much, if not all, of the work, including substantial works in the garden, to the rear of the property, to create the sizeable parking area which had been associated with the development and had formed part of this application. That work involved a substantial quantity of earth being excavated, without retaining walls constructed and without proper drainage installed, thereby having a detrimental effect on neighbouring properties. Parish Council is firmly of the opinion that work carried out which is detrimental to neighbouring properties needs to be rectified before any Planning application can be considered. Bow Parish Council feels that this situation needs to be referred to the Enforcement officer. Converting the property into multiple units of accommodation represents over-development of the site and is deemed unacceptable. There is neither spare on-street parking capacity in Bow nor spare capacity at the small village car park. Bow Parish Council remains unanimously opposed to this application for all the aforementioned reasons and urges that it be Refused.

Bow Parish Council - 18th May 2020

The above numbered application was duly considered by the Members at the first virtual meeting, held via Zoom, of Bow Parish Council, which was held earlier this evening. Bow Parish Council is unanimous in its opposition to the application. The creation of parking to the rear of the property is unacceptable, for reasons rehearsed in previous responses to this application and 19/01933/FULL, and there isn't capacity for any additional on-street parking in the centre of Bow village. Nor is there any spare parking capacity in the small car park to the east of the A3072's junction with Station Road and Water Lane. The dearth of parking in the main street for Bow residents has long been recognised - any development would simply further aggravate that situation. As Preston House was built as one property, forming part of a terrace in a village centre location, it is not felt viable for it to be split into multiple units of occupation when lacking the necessary accompanying amenities. Bow Parish Council recommends Refusal.

Bow Parish Council - 8th April 2020

The Revised and Additional Drawings in respect of the above numbered application have been duly considered by the Members of Bow Parish Council. Following electronic (given the ongoing coronavirus situation) consultation, Bow Parish Council remains opposed to the application. Please refer to Bow Parish Council's letter of objection dated 21 January 2020.

Bow Parish Council – 21 January 2020

At the meeting of Bow Parish Council held on 8 January 2020 Parish Councillors heard significant concerns from local residents regarding the above numbered planning application, which is coupled with Planning Application no.19/01933/FULL. Parish Councillors and local residents requested a site meeting with the Planning officer (Mr Devereaux) which was duly arranged and held yesterday, 20 January 2020.

Preston House is central, inside Bow's Conservation Area, on the heavily trafficked A3072 close to the sub-standard junctions with Station Road and Water Lane.

Bow parish Council would regret the loss of the last remaining shop in Bow village, including the potential for a shop at that prime central location, at some point in the future.

The two applications, if granted consent, would result in Preston House comprising five units of accommodation (flats), which is considered to be over-development of the site.

A major objection is the proposed access, already created by the applicant via the narrow covered former storage area of the building, and the parking (for nine spaces) arrangement to the rear of the property, also already created by the applicant, in the rear garden of the property. (The application asserts that parking to the rear of the property already existed, however Bow Parish Council affirms that no such parking to the rear has previously existed). In terms of highway safety, the proposed access to the parking area is deemed unacceptable; access to and exit from the area involves crossing over a busy section of pavement, which is particularly well-used by children, adjacent to designated on-street parking, a bus shelter and a bus stop. Visibility, for drivers of vehicles exiting the parking area, is greatly reduced and is inadequate.

Whether works already carried out at the site has the benefit of Building Regulations is questioned.

The lack of parking in Bow's main street is an issue – if consent is granted for additional units of accommodation current parking issues would inevitably be exacerbated given that some future residents of the property would likely opt to on-street park, instead of using the proposed arrangement.

For the aforementioned reasons Bow Parish Council urges that this application be refused.

Highways Authority – 24th August 2020

On the basis of a proposal of two flats with no parking arrangements, with the location next to a bus stop, the Highway Authority would have no objections.

Highways Authority - 16th July 2020

The County Highway Authority will make observations on the two application 19/01932/FULL and 19/01933/FULL. The site is accessed off the A3072 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 two proposals will be 4 flats and the retention of the shop, with a proposal of 4 parking spaces at the rear, using the side access as the access to the parking spaces. The Drawings submitted number SO/1807/30 does not show conclusively how the vehicles will be able turn within the area and leave the access onto the A3072 in a forward gear. This drawing also does not show the lengths of the visibility splays to ensure this is a safe and suitable access. Therefore the County Highway Authority would recommend refusal on inadequacy of information.

Recommendation:

The Head of Planning, Transportation and Environment, on behalf of Devon County Council, as Local Highway Authority, is likely to recommend refusal of planning permission, in the absence of further information.

1. Adequate information has not been submitted to satisfy the Local Planning Authority that the proposal is acceptable in terms of access, visibility splays, off-street parking, and on site turning facilities contrary of the National Planning Policy Framework

Highways Authority – 17th December 2019

Standing advice applies please see Devon County Council document  
<https://www.devon.gov.uk/planning/apply-for-planning-permission/get-help-with-an-application/guidance-for-applicants>

Public Health – 19th December 2019

Contaminated Land: No objection to this proposal. (11.12.19).

Air Quality: No objection to this proposal. (11.12.19).

Environmental Permitting: No objection to this proposal. (11.12.19).

Drainage: No objection to this proposal. (11.12.19).

Noise & other nuisances: No objection to this proposal. (11.12.19).

Housing Standards: The works should be subject to building regulation approval but I would comment as follows;

Basement Flat ' the bedroom window will need to be an escape window

First floor front flat ' the living room/kitchen is open plan to the hallway and front entrance door.

The bedroom windows will need to be escape windows or the layout altered. We recommend a change to the layout to ensure a safe means of escape for any occupier. (18.12.19).

Licensing: No comments. (11.12.19).

Food Hygiene: Not applicable. (11.12.19).

Private Water Supplies: If a private supply is to be used by more than one property or has a commercial function, The Private Water Supply (England) Regulations 2016 as amended will apply. A risk assessment and sampling regime will be necessary. The supply must not be used until the Local Authority (Mid Devon District Council) is satisfied that the supply does not constitute a potential danger to human health, including single domestic use. You must also register with the Local Authority (Mid Devon District Council) any private water supply. Failure to do so may result in a Section 85 Notice, with which failure to comply is an offence.

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

IF MAINS WATER IS TO BE USED, WOULD HAVE NO COMMENT. (11.12.19).

Health and Safety: No objection to this proposal enforced by HSE. (11.12.19).

## REPRESENTATIONS

Two letters of objection have been received. The objections are summarised as follows:

1. 5 flats would represent overdevelopment
2. The change of use of the garden to parking is not in keeping with the village environment and limits wildlife
3. There is no existing parking, although access and a parking area has been created by the developer, which is currently unauthorised. This access is directly onto the A3072, adjacent to a bus stop and the main crossing point for pedestrians on the school run. The road can be very busy with HGV traffic. It is also the QE School bus stop and the access would pose a danger to people using the bus stop.
4. The proposed car park access is adjacent to the main pedestrian crossing point on the A3072 which is already a busy road and this would add to the dangers of people trying to cross the road, in particular parents taking their children to and from Bow school.
5. The previous application 18/00571/FULL was refused on the 15th August 2018.

6. The creation of 2 ground floor flats, 2 on the first floor and 1 existing to the rear could potentially mean that 5 families would be living on the site. There is already very limited parking within the village.

7. The proposed development has the potential for over five cars to be linked to the property which will add to the current village parking

8. We do understand that the developer has to do something with the empty shop space, so we would be in agreement for planning for a total of 3 flats (1 on each floor). We would also like to see the rear of the property to be reinstated into a communal garden area for the occupant's to enjoy. We feel that this would be more in keeping within the village environment.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The application site relates to Preston House and in particular the first floor flat which has been subdivided into two flats. Part of the garden curtilage for Preston House has in part been converted from a landscaped garden into a parking area with an access created through an opening from the A3072. The initial submission was for this new vehicle access and parking area to serve the proposed flats but following concerns of highway safety in terms of proximity to a bus stop, visibility splays achieved at the entrance and space for manoeuvring on site, revised plans have been received showing the closure of the access created for vehicles, only allowing for pedestrian access with no on site parking, with the area created being used for amenity space by occupiers of the development.

The main determining factors in this application are:

- 8) Policy considerations;
- 9) Impact on Character and Heritage Assets
- 10) Amenity for future residents / Impact on neighbours;
- 11) Highway safety/ Movement and parking issues;
- 12) S106 obligations;
- 13) Other considerations
- 14) Summary & Planning Balance.

### **1. Policy considerations**

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 is noted as one such material consideration. The National Planning Policy Framework outlines three dependant objectives of sustainable development; economic, social and environmental.

The National Planning Policy Framework (2019) outlines that development should be guided towards the most sustainable locations available, including previously developed or underused land in settlements. Policy S1 states that development will be concentrated at Tiverton, Cullompton, and Crediton. Policy S13 (Villages) which recognises Bow states that development will be limited to proposals within their defined settlement limits and to allocations for:

- a) Small scale housing, employment, tourism and leisure;
- b) Services and facilities serving the locality; and
- c) Other limited development which enhances community vitality or meets a local social or economic need.

The site is located within the settlement boundary of Bow and within the boundary of the village conservation area where small scale residential proposals could be considered acceptable in

principle in accordance with policy S13. The proposal results in an additional residential flat on the first floor and in addition to the proposal submitted under planning application 19/01932/FULL for the creation of a ground floor flat from part of the shop area would result in a total of four flats within the building in addition to a shop. This would be a net increase of two residential units, with one additional flat created under each planning application submitted.

On the basis that the proposals relate to previously developed land within the development limits of Bow, in light of the policy context discussed above, it is considered that the creation of residential units would be acceptable in principle.

## **2. Impact on Character and Heritage Assets**

Policy DM1 of the Mid Devon Local Plan states that the design of new development must be of high quality and demonstrate a number of principles, including efficient and effective use of the site, an understanding of the local context, and appropriate siting, layout, scale, and other design characteristics to ensure visually attractive and well integrated development. Policy DM25 refers to the importance of heritage assets and their settings, and includes criteria for their preservation and enhancement.

The application building is located within the Bow Conservation Area and Local Planning Authorities have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

The proposal for this application involves the conversion of the existing first floor flat into two smaller flats where most of the changes have occurred internally, although there has been some external changes to create the separate entrance for the second flat created. As part of this application, in order to close the access created to vehicles, a planter/bollard is to be installed. The Conservation Officer has raised no objections only requesting a planning condition to agree to the final planter/bollard to be installed. Refuse storage would need to be located within the site but it is considered that there is ample space within the grounds for bins and space within the flats to provide bicycle storage.

The Parish Council and neighbouring occupiers have objected to the proposal on the grounds that it would result in an over-development of the site and amount to poor design, with unauthorised work having been carried out. Whilst this application relates to the subdivision of an existing flat into two, the proposals under planning application 19/01932/FULL have been revised so that the proposal under this application is only to create an additional flat and retain the shop. Therefore the total number of residential units would be four. Each of the proposed units would provide a sufficient amount of internal living space meeting technical standards and, given the location, amenity areas, along with adequate refuse and bicycle storage which could be provided, it is therefore considered that the proposal would not result in an over-development of the site.

Given the modest changes proposed to the external appearance of the main building and the site, it is considered that there would not be any harm to the conservation area. The closure of the vehicular access created through a bollard/planter and the renovation of the remainder of the building, would serve to enhance the character and appearance of the conservation area. A condition is proposed to be imposed requiring the approval details for the bollard/planter which would ensure that the public facing parts of the building, in particular, would retain their existing character and continue to contribute positively to the character of the area. A condition is also proposed to secure the approval of a scheme of hard and soft landscaping to the rear.

As the proposed residential units would be flats, there would be no permitted development rights allowing for changes in the future without formal planning permission being obtained. Subject to the use of these conditions referred to above, the proposal is considered to be in accordance with Policies DM1 and DM25 of the Mid Devon Local Plan Review 2013-2033.

### **3. Amenity for future residents / Impact on neighbours**

Policy DM1 of the Mid Devon Local Plan Review 2013-2033 states that proposals should not result in unacceptable impacts on the privacy and amenities of those occupying existing or proposed dwellings and that new housing should be designed to provide adequate internal living space and room for various types of storage, including for refuse and bicycles; adequate levels of natural light and privacy in relation to internal and external spaces; and suitable amounts of private amenity space. Policy DM4 of the Mid Devon Local Plan Review states that development will be permitted where the effects of pollution would not have unacceptable impacts in relation to health, the natural environment, and general amenity.

The development (including that under planning application 19/01932/FULL) would result in the provision of 4 flats in the building with the retention of the shop. In terms of bedrooms, an existing four bedroom flat would be replaced by 2 two bedroom flats and a flat created to the rear of the shop on the ground floor would have two bedrooms. Existing window openings would be used and as a result it is not considered that the proposals would result in significant overlooking of neighbouring properties. The proposals would provide adequate amounts of internal living space to serve future occupiers with each of the proposed units meeting with National Space Standards.

Most concerns raised by neighbours appears to relate to the unauthorised works that have been undertaken to the side and rear of the property to create an access and parking area. With the planning application which was refused, consideration was given to the extent of hardscape that has been created to form an access and parking area and that additional area for further parking lower down in the site. This part of the development was considered to result in an intrusive and dominant arrangement in the rear garden detrimentally impacting neighbouring occupier's amenity in terms of how it would affect the enjoyment of their garden areas and in visual impact terms generally.

However, as commented earlier in this report, plans have been revised to remove the vehicle access created and that of the parking area, with it to become an amenity area. Therefore this would remove traffic movement from vehicles deep into the site which would have impacted on neighbour's amenity given their proximity to this traffic and associated noise and other disturbances. The remaining issue is considered to relate to the raised parking area created which results in a viewing platform which could allow overlooking of a neighbouring property. Therefore a condition is recommended for this area to become an area of amenity for occupiers of the development with details provided either to show levels reduced back down to the original ground levels or for the approval of privacy screens around this area. On this basis the application would not be considered to be in conflict with the policies in the Mid Devon Local Plan Review 2013-2033 (S9, DM1 & DM25).

### **4. Highway safety and parking**

The access arrangements and on site parking as proposed originally were considered unacceptable in highway safety terms given the limited visibility that would be available for drivers of vehicles exiting the site and the proposed location at a very busy point on the A3072 which carries heavy levels of vehicular and also pedestrian traffic, and the requirement for passage over a busy/significant section of the footway and a protected on-street parking bay. Following on, if the

proposed access arrangements are considered unacceptable the proposed car parking arrangements are also considered unacceptable.

Policy DM1 of the Mid Devon Local Plan Review states that new development should be safe and accessible based upon and demonstrating the principle of creation of safe and accessible places that also encourage and enable sustainable modes of travel such as walking and cycling. Policy DM5 states that sufficient vehicle parking and bicycle storage must be provided.

The revised proposal would now not provide any off-street parking spaces and one of the concerns raised by the Ward Member and Parish Council relates to the available street parking in the area, and the limited nature of local public car parks. The parking requirement for a residential unit is 1.7 spaces so this application including that of the proposal under application 19/01932/FULL would require 4 spaces to be provided.

The Highway Authority has considered the submitted information and are satisfied that the lack of on site parking in this location would not be unacceptable, noting that the site is in a sustainable location with a main public bus stop located straight outside of the premises with a number of facilities/services within walking distance. An enquiry was made as to whether a parking survey would be required but the Local Highway Authority said that they did not believe this would be required on the basis of the proposals and knowledge of the settlement, with the officer having visited Bow on a number of occasions and noting parking availability in the area. Whilst there are parking restrictions on the main road running through Bow, it is noted that some of these do not apply after 6pm in the evening up until 8am in the morning where parking is possible.

In light of the above, the lack of on site parking is not considered to outweigh the other planning merits of the proposal which would be those of the creation of smaller residential units for the community, within a sustainable location close to public transport services. As the proposal is not considered to result in unacceptable harm to highway safety or amenity, it is in accordance with Policy DM1 of the Mid Devon Local Plan Review.

## **5. S106 obligations**

Policies S12 (Credton) and CRE11 (Credton Infrastructure) outlines the requirements for the provision of an off-site financial contribution towards funding improvements which seek to address air quality within the Credton Air Quality Management Area. The Supplementary Planning Document (SPD) sets out the relevant contributions levels arising from new residential development as is the case with this application. In accordance with these policies and the relevant guidance in the supporting SPD on the provision and funding of Air Quality mitigation, a financial contribution of £ 4,434.00 would be required for each new residential unit created. The applicant has signalled their intent to agree to enter into a Unilateral Undertaking, to sign the deed and to make these payments.

The potential receipt of these monies is a positive aspect of the proposals with additional weight attributed to this consideration.

## **6. Other Considerations**

The Council's Public Health officers have commented on the provision of suitable fire escape windows from some of the proposed rooms within the residential units to be created. As this is a Building Regulations matter, it has not been given any weight in the assessment of this application.

*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.*

## **7. Summary & Planning Balance**

The application scheme was amended with the car parking and access arrangements to be removed from the proposed scheme of works and the affected area to be landscaped accordingly as garden space. The site is within a sustainable location close to public transport links and within walking distance to a number of community facilities/services. The proposal is considered acceptable, having regard to policies in the Mid Devon Local Plan Review 2013-2033 and all other material considerations, planning permission should therefore be granted, subject to the conditions detailed below and the completion of the unilateral undertaking legal agreements as discussed above.

## **CONDITIONS**

- 1 The date of commencement of this development shall be taken as 9th December 2019, the date the application was registered by the Local Planning Authority.
- 2 The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
- 3 Prior to the first use or occupation of the development hereby approved, refuse storage arrangements shall be provided in accordance with details which shall previously have been submitted to and approved in writing by the Local Planning Authority. The refuse storage arrangements shall thereafter be retained for the life of the development.
- 4 Prior to the occupation of any part of the development hereby approved, details including a section drawing shall be submitted to and approved in writing by the Local Planning Authority for the bollard and planter shown on the approved plans. The approved details shall be thereafter installed prior to occupation of the development.
- 5 Prior to the first occupation of the development hereby approved, a scheme of hard/soft landscaping and boundary treatment including details for either the installation of a privacy screen around the raised amenity area (former car parking area to the rear of the basement flat) along the north and east sides or alternatively for the lowering of this raised land back down to original levels, shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of the development and any trees or plants, including existing specimens to be retained, which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species. The approved hard landscaping and boundary treatments shall be provided within four weeks of the development being brought into use, and shall be retained for the life of the development. Any privacy screen implemented shall be retained for the life of the development.

## **REASONS FOR CONDITIONS**

1. In order to establish a legal commencement date for the development to enable the

development to be monitored by the Local Planning Authority.

2. RD7A for the avoidance of doubt in the interests of proper planning.

3. To ensure adequate facilities are provided for bin storage in accordance with policy DM1 of the Mid Devon Local Plan Review 2013-2033.

4. In order to safeguard the appearance of the building and character of the Conservation Area in accordance with policies DM1 and DM25 of the Mid Devon Local Plan Review 2013-2033.

5. To ensure that the development makes a positive contribution to the character and amenity of the area and to ensure adequate standards of living accommodation and impacts on neighbouring amenity, in accordance with policy DM1 of the Mid Devon Local Plan Review 2013-2033.

## **ADVISORY NOTE**

1. If a private supply is to be used by more than one property or has a commercial function, The Private Water Supply (England) Regulations 2016 as amended will apply. A risk assessment and sampling regime will be necessary. The supply must not be used until the Local Authority (Mid Devon District Council) is satisfied that the supply does not constitute a potential danger to human health, including single domestic use. You must also register with the Local Authority (Mid Devon District Council) any private water supply. Failure to do so may result in a Section 85 Notice, with which failure to comply is an offence. Please contact Public Health at Mid Devon District Council on completion of proposal.

2. The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory protection afforded to any such species. If bats are found, works must immediately cease and further advice be obtained from Natural England and / or a licensed bat consultant. Works must not resume until their advice has been followed. Nesting birds are also protected by law. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds and reptiles all of which are protected under the Wildlife & Countryside Act 1981 (as amended). Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.

## **REASON FOR APPROVAL OF PERMISSION**

The proposal for the retention of the conversion of first floor flat into two flats at Preston House, Bow is acceptable in principle and, subject to conditions and the completion of a legal agreement, would not result in unacceptable harm in terms of the character of the area, heritage assets, local amenity, and highway safety. On balance, the standard of accommodation that can be achieved is considered acceptable, bearing in mind the contribution the proposal would make to meeting local housing needs. The proposal is also located in a central and sustainable location where a lower standard of amenity can be considered acceptable. The proposal is considered to be in accordance with Policies S1, S3, S9, S13, CRE11, DM1, DM3, DM4, DM23 and DM25 of the Mid Devon Local Plan Review 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.

### **Statement of Positive Working**

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, in determining this application the Local Planning Authority has worked proactively and positively with the applicant to ensure that all relevant planning considerations have been properly resolved. This has included further discussion and submission of revised proposals to address issues raised by Consultees and the Planning Officer.

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

## LIST OF APPEAL DECISIONS FROM 24 August 2020 to 09 September 2020

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
20/00153/PNCOU	Prior notification for the change of use of an agricultural building to 1 dwelling under Class Q	Land and Buildings at NGR 279641 111510 (Marchweeke Farm) Witheridge Devon	Refusal of Prior Approval	Delegated Decision	Refusal of Prior Approval	Written Representations	Appeal Allowed

This page is intentionally left blank

**DEFERRED AT PLANNING COMMITTEE 9 SEPTEMBER 2020 FOR SITE VISIT  
(PROPOSED SITE VISIT 18 SEPTEMBER 2020)**

Application No. 20/00622/OUT

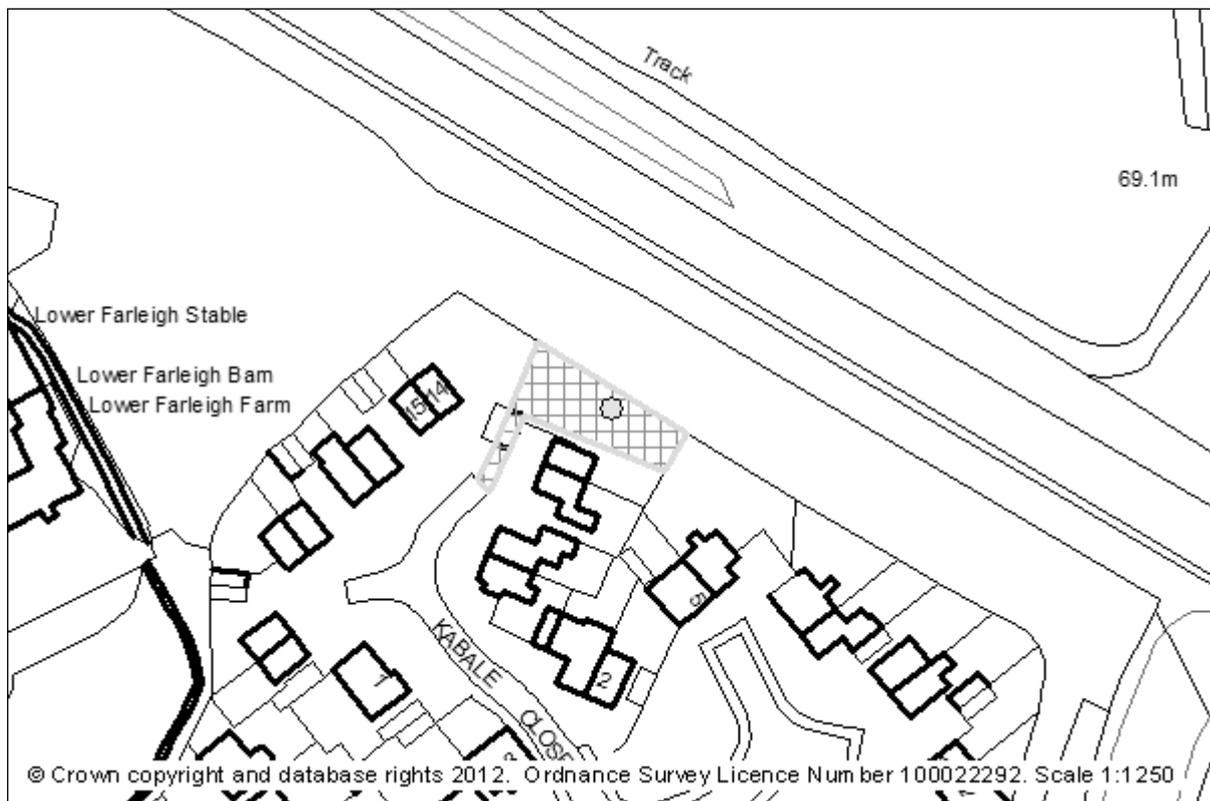
Grid Ref: 294424 : 113848

Applicant: Mr & Mrs G Wright

Location: 12 Kabale Close  
Tiverton  
Devon

Proposal: Outline for the erection of 1 dwelling

Date Valid: 21<sup>st</sup> April 2020



**APPLICATION NO: 20/00622/OUT**

**MEMBER CALL-IN**

Councillor Ron Dolley has called this into committee for the following reason:

1. For the Planning Committee to consider whether to the access and parking arrangements are adequate.

**RECOMMENDATION**

Grant planning permission

**PROPOSED DEVELOPMENT**

The applicant seeks outline consent for the erection of 1 dwelling at 12 Kabale Close, Tiverton.

**RELEVANT PLANNING HISTORY**

85/00613/FULL - PERMIT date 23rd December 1985

Residential development including off site road and drainage works and a shop

86/00080/FULL - PERMIT date 21st March 1986

Erection of dwellings with garages, drainage and access roads thereto (revised drawings)

**DEVELOPMENT PLAN POLICIES**

**Mid Devon Local Plan Review 2013-2033**

- S1 – Sustainable development priorities
- S2 – Amount and distribution of development
- S3 – Meeting housing needs
- S8 – Infrastructure
- S9 – Environment
- S10 - Tiverton
- DM1 – High Quality Design
- DM5 – Parking

**CONSULTATIONS**

**Tiverton Town Council** – 22nd July 2020

Unable to support as felt to be over development

**Highway Authority** – 15th July 2020

This application would normally be dealt with using Standing Advice and the Planning Officer would assess the impact this would have on the Highway Network. In this case the Planning Officer has asked for the County Highway Authority's observations.

The site is accessed off an unclassified 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 01/01/2014 and 31/12/2018 is none. The Drawing Number C/PLP/OWG Rev 1 shows the proposed property to have a 2 parking spaces and an open drive way to these parking spaces. The number of trips this development could generate will not be a severe affect on the Highway. The Highway Authority has no objections to this proposal

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

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

**Public Health**

Contaminated Land: No objection to this proposal. (29.04.20).

Air Quality: No objection to this proposal. (29.04.20).

Environmental Permitting: No objection to this proposal. (24.04.20).

Drainage: No objection to this proposal. (29.04.20).

Noise & other nuisances: This is a noise sensitive dwelling being brought to an existing noise source (A361), the developer needs to demonstrate that all mitigation methods have been considered to achieve satisfactory internal noise levels within the proposed build.

To help achieve this, a BS 8233 (2014) noise assessment should be undertaken.

For a new noise sensitive development near an existing source of transport noise the LAeq (16hr day and 8hr night), or the shortened calculation method, should be measured. In addition, suitable shorter term LAeq, LA90, LA10 and LAm<sub>ax</sub> would be expected to give a clearer picture of the existing noise environment. (29.04.20).

Update - Noise assessment can be dealt with at reserved matters (02.07.20)

Housing Standards: There are no floor plans to comment on. (04.05.20).

Licensing: No comments. (24.04.20).

Food Hygiene: No comments. (24.04.20).

Private Water Supplies: Not applicable. (24.04.20).

Health and Safety: No comments. (24.04.20).

**REPRESENTATIONS**

Representations in objection to the proposal have been received from 5 individuals and a petition of objection with 12 names and addresses listed. The comments received are summarised as follows:

1. The new access goes past the front of the neighbouring property, concern that traffic might drive over yard and possibly damage property
2. The access is not big enough to accommodate another property
3. There is not enough room for parking. Kabale Close and Hofheim Drive are already congested at evenings and weekends
4. Overdevelopment of the area. All of the other houses have garages and spacious gardens
5. The access will require demolition of part of a shared double garage
6. The windows and doors from the house would overlook other properties and result in loss of privacy
7. The application does not maintain the area's character and setting and shows a downgrading of local amenity
8. The access will cause disturbance through noise and exhaust fumes
9. Joint access is not common to other properties locally
10. More details should be show if it is proposed to be a bungalow or house
11. The driveway width is less than highways standing advice
12. The porch of No12 is not shown on the plans and the front garden has been shown shortened

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

- 1. Policy**
- 2. Impact on character and appearance of the area**
- 3. Suitability of access, parking and highway safety**
- 4. Impact on neighbours**

### **1. Policy:**

The site is located within the settlement boundary for Tiverton.

Policy S1 of the Mid Devon Local Plan Review seeks to support the creation of sustainable communities by focusing development in Mid Devon's most sustainable settlements, including Tiverton and delivering a wide choice of high quality homes through a diverse housing mix.

Policy S2 states that development will be concentrated at Tiverton, Cullompton and Crediton to a scale and mix appropriate to their characters and constraints.

Policy S9 states that development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets.

Policy DM1 requires the design of new development to be high quality, making efficient and effective use of a site based on a clear understanding of the character of the site, its wider context and the surrounding area. Also ensuring adequate levels of privacy to private amenity spaces and adequate external for recycling, refuse and cycle storage.

Policy DM5 sets out that new development should provide a minimum of 1.7 car parking spaces per dwelling, rounded up to 2 spaces per dwelling for developments comprising one or two dwellings.

### **2. Impact on the character of the area:**

The site comprises part of the garden to the north of No12 Kabale Close measuring approximately 280 square metres. It is broadly level and is currently laid to grass. The site is bounded to the north by a hedge; the eastern and western boundaries are closeboarded fences approx. 1.8m high.

The site is located at the end of the cul-de-sac. The access to the site would be via an existing driveway which extends to the front of the property and also forms the eastern boundary of No10. The proposal would involve removing half of the existing shared double garage in order to provide access. Parking for the existing property would be provided immediately to the front of the house.

The application is for outline with all matters reserved. Details relating to appearance, means of access, landscaping, layout and scale would be considered through a subsequent reserved matters application. The application is therefore a consideration as to whether the principle of a dwelling on this would be acceptable.

The application site is comparable to if not larger in area than most of the other individual plots within Kabale Close. The new dwelling could be located so that it would not project forward of the existing houses at Nos 10 & 12 while maintaining adequate external space to the front and rear for parking and private garden respectively.

The properties on Kabale Close are predominately two storey semi-detached buildings which front onto the public highway. A new dwelling on the proposed site would be different in that it would be set back from public highway and would be the only property in the Close which would be accessed via a shared drive. The proposed development would also result in the loss of a part of an existing garage building and the introduction of parking to the front of the existing house. Notwithstanding these matters it is considered that, subject to the agreement of a suitable design, materials and siting through a reserved matters application, a single dwelling could be adequately accommodated within the site without adversely affecting the character and appearance of its immediate surroundings in accordance with Policy DM1 of the Mid Devon Local Plan Review.

Further to the above, Members should be aware that the elements of the proposal comprising the removal of the garage and the provision of a permeable hardsurface for parking to the front or side of the property are permitted development and could be carried out at any time without the need for planning permission.

### **3. Suitability of access, parking and highway safety**

A number of concerns have been raised from the nearby residents regarding the use of the existing driveway as a vehicular access for the proposed new dwelling. Currently the tarmac driveway terminates at the garage. The proposal is to demolish half of the garage to provide vehicle and pedestrian access to the site from the public highway.

The alignment of the drive is slightly awkward where it meets the road as it projects back from the junction at an angle. The width of the access is also narrower than the minimum width set out Devon County Council's Highways Standing Advice which requires private drives serving up to three dwellings to be 3.0m wide. The access as shown on the plans would be 2.3m at the back edge of the turning head widening to 2.5m adjacent to the front of the garage.

While officers accept that it would be preferable for the width of the driveway to meet the standards set out in the standing advice the fact is that the driveway is a lawful access which is clearly capable of serving as an access for vehicular traffic as it has done so for many years. It is located at the end of the cul-de-sac where vehicle speeds are low. As referred to in section 2 above the owner of No12 could remove the garage and provide permeable hardstanding to the front and/or side of the property at any time without requiring planning permission. The Highways Authority has appraised the impact of the proposed development on the public highway and has raised no objections to the use of the existing driveway to serve the new dwelling.

While there would undoubtedly be an increase in level of traffic using the access should planning permission be granted for an additional dwelling on the site having regard for the above it is not considered that the increase would cause demonstrable harm to the highway safety or present a situation which would cause significant conflict for users of the other private driveways in the area.

On the issue of parking the application site is considered large enough to be able accommodate the two spaces required by Policy DM5 for the new dwelling. The plans indicate that there would also be two spaces provided to the front of No12 for the occupiers of the existing dwelling however this does not take into account the existing porch to the front of the property and it has not been demonstrated on the drawings that there is sufficient area to manoeuvre in and out of the using the shared access driveway if both spaces were in use at the same time. Notwithstanding these matters the existing property only currently has one parking space in policy terms as the garage is discounted from any calculation under Principle 5 of the Mid Devon 'Provision of parking in new development' Supplementary Planning

Document since it states that garages will not be counted as parking spaces.

There would be adequate ground area for a minimum of one space to the front of No12 which is all that is required to meet policy requirements.

#### **4. Impact on neighbours:**

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 which states that proposals should not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses.

As this is an outline application with all matters reserved it provides no formal detail of the proposed scale of development, layout or window placement and this detail will be assessed as part of a reserved matters application. However given the siting of the plot in relation to neighbouring dwellings and their orientation in relation to the site, it is considered that it is likely that residential development could be accommodated on the site in a fashion that provides sufficient distance and juxtaposition between the possible development and the neighbouring properties so as to not significantly adversely affect the living conditions of the occupiers of those dwellings.

Given the proximity of the adjoining neighbour to the proposed access and its alignment with the highway it is acknowledged that there would be some additional disturbance on the occupiers of No10 through the noise and headlights from vehicles passing along the driveway to the access the site however it is not considered that this would be materially harmful to amenity for those occupiers and not significantly different from the relationship that some other properties in the area have with vehicles using the public highway in terms of distance separating the two.

The garden that would be retained for No12 would be adequate in terms of size and quality to serve the occupiers of the existing dwelling.

#### **5. Other matters:**

The northern boundary of the application site is located approximately 25m from the edge of the northbound carriageway of the A361 which has been identified by MDDC Public Health as being a noise source with potential to cause nuisance to the potential occupiers of the proposed property.

Paragraph 170(e) of the NPPF states that new development should not be adversely affected by unacceptable levels of noise pollution. Policy DM1 requires development not to have an unacceptably adverse affect on the amenity of proposed properties.

It will need to be demonstrated through the reserved matters application that mitigation methods have been considered to achieve satisfactory internal noise levels within the proposed build.

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.

## **SUMMARY/REASON FOR APPROVAL**

The proposal is acceptable in principle as the site is considered to be a sustainable location within the settlement boundary of Tiverton. The site is large enough to accommodate an additional dwelling at a density that would be compatible with its surroundings. It is considered that access to the new residential use can be achieved without significant harm to the living conditions of the occupiers of nearby properties. The reserved matters application will ensure that the proposal would not result in harm to the character or appearance of the area, the amenity of neighbouring properties or any adverse impacts to the local highway network. As such the proposal is considered in accordance with the Mid Devon Local Plan Review 2013-2033 Policies S1, S2, S8, S9, S10, DM1 and DM5 and the advice contained in the National Planning Policy Framework.

## **CONDITIONS**

1. No development shall begin until detailed drawings to an appropriate scale of the access, layout, scale and appearance of the building, and the landscaping of the site (hereinafter called the Reserved Matters) shall be submitted to and approved in writing by the Local Planning Authority.
2. Application(s) for approval of all 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, materials, surface water drainage methods, foul water disposal methods and replacement parking provision for 12 Kabale Close.
5. Construction works shall not take place outside 07.30 hours to 19.00 hours Mondays to Fridays and 07.30 to 13.00 hours on Saturdays and at no time on Sundays, Bank Holidays and Christmas Day.

## **REASONS FOR CONDITIONS**

1. The application was submitted as an outline application in accordance with the provisions of Articles 4 and 5 of The Town and Country Planning (Development Management Procedure) Order 2010.
2. In accordance with the provisions of Section 92(2) of The Town and Country Planning Act 1990 as amended by Section 51 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 scheme details in accordance with Policies S1, S9, DM5 and DM12 of the Mid Devon Local Plan Review 2013-2033.
5. To ensure that the proposed development does not prejudice the amenities of neighbouring occupiers in accordance with Policies DM1 and DM12 of the Mid Devon Local Plan Review 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. 17/00348/MOUT**

**Agenda Item**

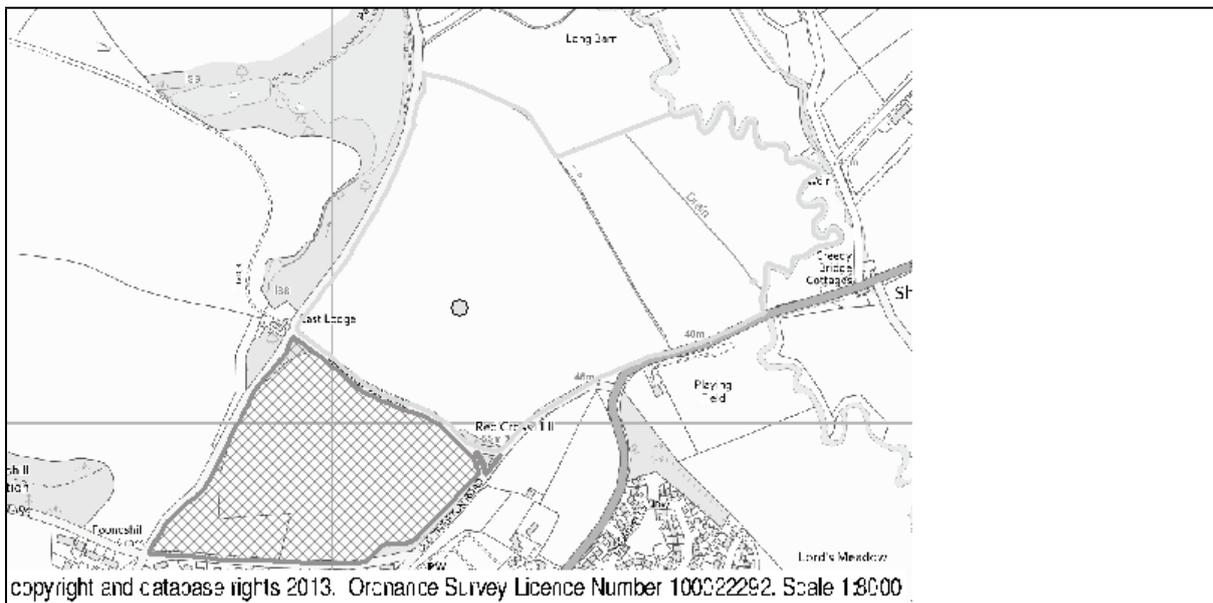
**Grid Ref:** 100951 : 284007

**Applicant:** Messrs T Turner, S Turner, R. Turner, B Stamp & O Taylor

**Location:** Land at NGR 284185 101165 (Creedy Bridge) Crediton Devon

**Proposal:** Residential development of up to 257 dwellings and up to 5 Gypsy and Traveller pitches; 8.6 hectares of land made available to facilitate the relocation of Crediton Rugby Club; up to 1.1 hectares of land safeguarded for the delivery of a primary school; access arrangements from A3072 (Exhibition Way); pedestrian and cycle access on to Pounds Hill/Stonewall Cross junction, Old Tiverton Road and Pedlerspool Lane; landscaping and area of public open space; and other associated infrastructure and engineering operations

**Date Valid:** 6th March 2017



**AGENDA ITEM**

**PLANNING COMMITTEE  
23 September 2020**

**REPORT OF THE HEAD OF PLANNING AND REGENERATION**

**17/00348/MOUT - RESIDENTIAL DEVELOPMENT OF UP TO 257 DWELLINGS AND UPTO 5 GYPSY AND TRAVELLER PITCHES; 8.6 HECTARES OF LAND MADE AVAILABLE TO FACILITATE THE RELOCATION OF CREDITON RUGBY CLUB; UP TO 1.1 HECTARES OF LAND SAFEGUARDED FOR THE DELIVERY OF A PRIMARY SCHOOL; ACCESS ARRANGEMENTS FROM A3072 (EXHIBITION WAY); PEDESTRIAN AND CYCLE ACCESS ON TO POUNDS HILL/STONEWALL CROSS JUNCTION, OLD TIVERTON ROAD AND PEDLERSPOOL LANE; LANDSCAPING AND AREA OF PUBLIC OPEN SPACE; AND OTHER ASSOCIATED INFRASTRUCTURE AND ENGINEERING OPERATIONS - LAND AT NGR 284185 101165 (CREEDY BRIDGE) CREDITON DEVON**

**Reason for Report:**

To consider recent material considerations to the above planning application in order for Members to confirm whether the resolution made by Members of the Planning Committee on the 19<sup>th</sup> September 2018, which was for planning permission to be granted subject the prior signing of a S106 agreement, remains the same view for Members. In addition to this, to consider revisions to the wording of two of the Heads of Terms of the S106 agreement and the associated S106 implications from these proposed revisions.

**RECOMMENDATION**

**That the previous resolution to approve subject to the signing of a s106 agreement with amendments as previously agreed be reaffirmed and the planning application determined on this basis, including the revisions to the s106 agreement as set out in paragraph 3.1 be agreed and a S106 agreement be entered into in line with the proposed revisions.**

**Relationship to Corporate Plan:**

**Financial Implications:**

None in connection with the planning considerations of the proposed revisions through the weight and reference now to be given to policies within the Mid Devon Local Plan Review 2013-2033 with the exception of the Council's legal costs of entering these revisions into the S106 agreement.

**Legal Implications:**

A S106 agreement would need to be entered into in order to allow outline planning permission to be issued for both Mid Devon Council and Devon County Council.

**Risk Assessment:**

There is a need for Members to consider the material considerations which have occurred since the initial resolution to approve such as the status of the Local Plan Review and

objection received from the Devon Gardens Trust. Otherwise any planning permission decision issued could be challenged.

### **Equality Impact Assessment:**

Whilst the proposals include the delivery of Gypsy and Traveller pitches either on site or off site, it is not considered that the proposed development will have any impact upon equality matters, as the proposal is to result in the delivery the required pitches.

### **Relationship to Corporate Plan:**

Homes Aim 2 – Facilitate the housing growth that Mid Devon needs, including affordable housing

Community Aim 1 – Support local communities to retain and develop their local facilities and services.

### **Impact upon climate change:**

No climate change issues are identified arising from this report.

## **1.0 BACKGROUND**

1.1 This outline planning application was considered at Planning Committee on the 19<sup>th</sup> September 2018. As stated within the minutes of that meeting, Members considered the proposed development in light of a number of planning matters with the eventual resolution being that planning permission be granted subject the prior signing of a S106 agreement to secure:

1. The safeguarding of a 1.1ha site for a Primary School, and agreement for the land to be transferred to Devon County Council prior to the commencement of any development.
2. The setting out of a 0.3ha site for provision of up to 5 pitches for the Gypsy and Traveller Community, and the following provisions regards delivery and operation:
  - i. A scheme for the detailed setting out of the 5 gypsy and traveller pitches to be submitted and approved by the occupation of 110th dwelling (i.e. 43% completion); and
  - ii. Gypsy and traveller pitches to be laid out by 193rd occupation (i.e. 75% completion).
3. 56 units of affordable housing. The precise tenure and mix of unit sizes to be specified as follows: 40% Discounted housing and 60% Affordable Housing for rent, and with a property size requirement as follows: 1 bed 10%, 2 Bed 50%, 3 Bed 35% & 4 Bed 5%.
  - A phasing plan to manage the delivery of the affordable housing units.
  - Cascade arrangements as set out in the Devon Home Choice policy framework
4. The safeguarding of 8.6ha of land for the relocation of the Crediton Rugby Club, and agreement for the land to be transferred to Rugby Club prior to the commencement of any development, or another date to be confirmed by the Rugby Club.

5. The setting up of a management company for the long-term management and maintenance of all communal areas including any parking courts, landscape, public open space and children's play areas.
6. Sustainable Travel Measures (to include a public transport contribution, a contribution to undertake improvements to existing PROW network and the provision of travel plan vouchers for future occupiers of the 257 houses) - £955,900.00. To be phased over three tranches – First tranche payable upon occupation of the first dwelling and subsequent payments made 12 months and 24 months thereafter.
7. Primary Education - £13,652 per pupil (63 pupil spaces required) to be phased over three tranches – First tranche payable upon occupation of the first dwelling and subsequent payments made 12 months and 24 months thereafter.
8. Early Years Education - £250 per dwelling to be phased over three tranches – First tranche payable upon occupation of the first dwelling and subsequent payments made 12 months and 24 months thereafter.
9. Primary Special Needs - £141 per dwelling to be phased over three tranches – First tranche payable upon occupation of the first dwelling and subsequent payments made 12 months and 24 months thereafter.
10. Healthcare provision - £363 per dwelling to be phased over three tranches – First tranche payable upon occupation of the first dwelling and subsequent payments made 12 months and 24 months thereafter.
11. Off-site highway works as follows:
  - Access arrangements from A3072 (Exhibition Way);
  - Pedestrian and cycle access on to the Pounds Hill / Stonewall Cross Junction, Old Tiverton Road and Pedlarspool Lane; and provision of passing places along Stonewall Lane.

With conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by Cllr Mrs H Bainbridge and seconded by Cllr R B Evans)

- 1.2 During subsequent negotiations over the wording of the s106 agreement matters were held up firstly relating to the provision of the five gypsy and traveller site pitches on site, secondly to the safeguarding of part of the site for the relocation of the rugby club and finally from negotiations undertaken with Devon County Council relating to the provision of the primary school. As a result revisions were requested only to the wording of planning obligations 1, 2 and 4 which relate to these matters so that they would read as follows:

1. The safeguarding of a 1.1ha site for a Primary School and obligations securing the transfer of said site to Devon County Council if required by the County Council within an agreed time period running from Commencement of Development and expiring 5 years after any Commencement on the western development parcel.

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

Prior to Occupation of more than 75% of Dwellings:

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

Prior to Occupation of more than 43% of Dwellings:

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

Cascade:

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

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

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

- 1.3 At Planning Committee on the 12<sup>th</sup> February 2020, Members agreed these revisions to the s106 agreement as set out in officer report and that delegated authority be given to the Head of Planning, Economy and Regeneration in consultation with Chairman and Vice Chairman of the Planning Committee and local Ward Members to allow minor changes to wording of planning conditions as reported within the committee report to allow for a phased approach to development across the site. (Proposed by the Chairman).

## **2.0 MATERIAL CONSIDERATIONS SINCE THE INITIAL RESOLUTION OF MEMBERS TO APPROVE REQUIRING FURTHER ASSESSMENT**

- 2.1 On 26<sup>th</sup> June 2020, Mid Devon District Council published the Inspector's Report on the Mid Devon Local Plan Review. The Inspector concluded that the Local Plan is 'sound' subject to a number of main modifications being made. The Mid Devon Local Plan Review, taking account of the Inspector's conclusions, was adopted at the meeting of full Council on the 29<sup>th</sup> July 2020 and therefore policies of the previous Local Plan are now superseded by those within the Mid Devon Local Plan Review 2013-2033.
- 2.2 The Mid Devon Local Plan Review 2013-2033 is therefore now the starting point for planning decision making. The previous Development Plan Policies, which related to this development and were included in the previous officer report, are shown below

and the policies within the Mid Devon Local Plan Review 2013-2033, which replace these, are provided underneath:

#### **DEVELOPMENT PLAN POLICIES**

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

COR1 - Sustainable Communities  
COR3 - Meeting Housing Needs  
COR8 - Infrastructure Provision  
COR9 - Access  
COR11 - Flooding  
COR12 - Development Focus  
COR15 - Crediton

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

AL/DE/1 - Housing Plan, Monitor and Manage  
AL/DE/2 - Overall Affordable Housing Provision  
AL/DE/3 - Affordable Housing Site Target  
AL/IN/3 - Public Open Space  
AL/IN/5 - Education Provision  
AL/CRE/8 - Crediton Air Quality  
AL/CRE/12 – Pedlerspool, Exhibition Road – included as a contingency site, in accordance with policy AL/DE/1.

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

DM1 - Presumption in favour of sustainable development  
DM27 – Heritage Assets

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

S1 - Sustainable development priorities  
S2 - Amount and distribution of development  
S3 - Meeting housing needs  
S4 - Ensuring housing delivery  
S5 - Public open space  
S8 - Infrastructure  
S9 - Environment  
S12 - Crediton  
CRE5 – Pedlerspool, Exhibition Road  
CRE11 Crediton Infrastructure  
DM7 – Traveller sites  
DM25 - Development affecting heritage assets

- 2.3 With the adoption of the Mid Devon Local Plan Review 2013-2033 housing figures are reset and the Council are able to demonstrate conclusively a five year housing land supply with the site at Pedlerspool off Exhibition Road being an allocated site under Policy CRE5. This policy states that:

‘A site of 21 hectares at Pedlerspool, Crediton, is allocated for residential development subject to the following:

- a) 200 dwellings with 28% affordable housing including at least five pitches for gypsies and travellers;
- b) A serviced site of 1.1 hectares for a new primary school with early years provision and children’s centre service delivery base;
- c) A suitable site for the relocation of Crediton Rugby Club;

- d) A phasing strategy, which ensures that sites for the sports pitches, affordable housing and gypsy and traveller pitches, are delivered broadly in step with the housing development, and the school is transferred to the local education authority at a timetable agreed with Devon County Council
- e) Layout, design and landscaping, including planting on the riverside that reflects the local distinctiveness and its sloping nature;
- f) The protection of the setting of Creedy Historic Park and Garden and the wider area, including the upper slopes to south and west for Green Infrastructure and landscaping;
- g) Facilitation of access to local bus routes via sustainable travel modes including possible extension of service;
- h) Provision of suitable access arrangements from the A3072 and appropriate highway improvements along Stonewall Lane and Old Tiverton Road;
- i) Improved access to the town centre for pedestrians and cyclists;
- j) Protection and enhancement of trees subject to Tree Preservation Orders within and adjoining the site; and
- k) An archaeological investigation and mitigation scheme.'

- 2.4 The original policy for the allocation of this site allowed contingency sites to come forward subject to delivery rates when considered under policy AL/CRE/12. At the time the application was submitted housing delivery was not being met. The site is now an allocated site in the Mid Devon Local Plan Review 2013-2033. Matters in relation to housing numbers, affordable housing provision, rugby club, heritage and sustainable travel options reflected in both sets of policies for the Local Plan and that of the Local Plan Review have been considered and discussed with officers and the principle of the development is still considered to be supportable, being in accordance with policy CRE5.
- 2.5 It should be noted that whilst the policy states a development of 200 dwellings, this number is considered to represent a minimum with the residential development of 257 dwellings previously being considered to be acceptable in this location. The final details will be provided as part of future reserved matters applications but in relation to density in particular, this was addressed in the officer report dated 19/09/18 and that the 30 dwelling per hectare proposed is considered to be in accordance with policy. The 28% affordable housing requirement was subject to viability and it has been demonstrated and considered by the Council that the 24% provision is justified taking into account other requirements including school, rugby club and gypsy and traveller provision.
- 2.6 In addition to the weight now to be given to policies within the adopted Mid Devon Local Plan Review 2013-2033, Members need to consider an objection recently received from the Devon Gardens Trust on the 30<sup>th</sup> April 2020 noting that the Council did not consult the Gardens Trust on the above application as is required for a statutory consultee given that the application affects the setting of Shobrooke Park and Creedy Park, both of which are historic designed landscapes of national importance. Shobrooke Park is included by Historic England on the *Register of Parks and Gardens of Special Historic Interest* at grade II. Creedy Park is included on the Devon Gazetteer of Parks and Gardens of Local Historic Interest.
- 2.7 The full written objection can be viewed on the planning file but in summary, Devon Gardens Trust (DGT) state that the three parks (Creedy Park, Shobrooke Park and the historic designed landscape of Downes) were developed over a similar period in the C18 and C19 in the English landscape style with later Victorian elements. A key feature of these parks is their inter-visibility in that they were designed to 'borrow' each-others' landscapes enhancing the vistas within each. This group value of three

gentry landscapes is unusual and has already been compromised by development in the Lords Meadow area. Further development incursion would erode the historic, geographic and social significance of the parks irrespective of its impact on the setting of Crediton itself.

- 2.8 The DGT review links to the relevant paragraphs within the National Planning Policy Framework 2019 (NPPF), which state that Heritage assets are an irreplaceable resource, and should be conserved *'in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations'* (paragraph 184). NPPF paragraph 193 states *'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.'* NPPF paragraph 194 states *'Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification'*. NPPF para 195 states *'Where a proposed development will lead to substantial harm to... a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm... is necessary to achieve substantial public benefits that outweigh that harm.'*
- 2.9 The Devon Gardens Trust therefore consider that there is no justification for the proposed development in terms of the historic landscape. The NPPF defines 'conservation' as the process of managing change to a heritage asset in a way that 'sustains, and where appropriate, enhances its significance.' The proposal has been brought forward without a full appreciation of the significance of the historic designed landscapes of Creedy Park and Shobrooke Park and their setting. The proposed development would cause substantial harm to the significance of heritage assets and therefore should not be permitted.
- 2.10 Historic England through consultation of the planning proposal responded to the proposals raising no objection as shown within the officer report. Having reviewed the officer report to Members of the Planning Committee in September 2018, within the Consultation Section, in addition to those views of Historic England, the response of the Conservation Officer was as follows:
- 'LPA Conservation Area Officer: No objections are raised – 25th July 2017. The boundary of the edge of the new housing on its eastern side adjacent to Shobrooke Park has been set back to respond to the concerns as initially raised.'*
- 2.11 Within the main considerations section of the officer report, the local context was discussed with the statement made that *'There are no heritage assets (listed buildings and/or SAMs) within the Site. Creedy Park and the coach house building (referred to as East Lodge) and other associated buildings which are grade II listed sits adjacent to the site on western boundary. The Park is on the Devon Local Register of locally important parks and gardens. To the east of the Site there are several Grade II Listed buildings located in and around the Shobrooke Park Grade II listed Registered Park and Gardens. The Site is identified within the Yeo, Culm and Exe Lowlands Landscape Character Area. Generic qualities for the area relate to the rivers (Yeo and Creedy) meandering through the landscape within wide floodplains. Fields are generally medium to large and semi-regular in shape divided by thick often flower rich hedgerows, hedgerows sometimes hedgerow trees, and these are clearly applicable to the application site. In terms of the Character types as identified in the Mid Devon's Landscape Character Assessment (2011) the majority of the eastern development area falls with the Sparsely Settled Valley Floors character type, and*

*the western area is either not classified or falls within the Lowland Plains character type.'*

2.12 The officer report then goes on to assess the Heritage impacts of the development stating *'In terms of how the development would affect the setting of the Heritage assets, as stated above the scope of the development area on the site was plotted in order to seek to deliver an acceptable relationship in terms of how the development would affect the setting of the various heritage assets within the vicinity of the site and as described above. Following further analysis at the planning application stage, including consideration of Heritage Statement(s) submitted by the applicant, the scope of the buffer on the eastern boundary (adjacent to the external boundary of the proposed new housing development area) has been increased at the request of the Council's Conservation Officer as now shown on the indicative masterplan. The reasoning for this is to provide an additional buffer on this side of the site to afford an improved relationship and setting with Shobrooke Park. With these changes to the scope of the development area the separation distance between the new areas of built form and the affected assets are considered to be acceptable. Although the degree of harm to the affected heritage assets arising from the delivery of development on this allocated site is considered to be less than substantial it still must be given considerable weight in the decision making process. Further consideration of this level of impact is taken into account as part of the overall planning balance that is considered at section 8 of this report.'*

2.13 Following receipt of the objection from DGT, the applicant responded to express their view that they disagree with the continued assertion that the parkland settings were intentionally designed to work alongside each other. They highlighted the fact that the Historic England assessment made no such judgement with the statement made that *'any apparent visual association with the Grade II-Registered landscape at Shobrooke and the historic landscape at the Downes gives good local interest but is not sufficient to raise the level of interest to that required for national designation'*. The applicant's Heritage Consultant also commented that no substantial harm to the significance of the [the three identified] heritage assets and that in their view the planning authority have made an appropriately considered, sufficiently informed and sound decision in regard to the consented outline application in regard to heritage considerations.

2.14 In light of the objection received from the DGT, the Council's Conservation Officer (who is different to that of the Conservation Officer who commented originally) was asked to consider the objection and provide their comments. The following response was received:

*'I consider the Garden Trust have identified proper concerns that the Parkland settings of the respective Country Houses were designed intentionally to work alongside each other rather than being purely fortuitously interrelated and this would concur with Historic England's assessment that the group have good local interest.*

*However it appears that these setting concerns were considered by the previous Conservation Officers comments that there would be some harm to the setting however this was balanced in the planning report.*

*I note that the current application is purely outline with access only under consideration and that the concerns that exist with the illustrative layout of development and detailed landscaping can be dealt with, in appropriate detail in the Reserved Matters of Design, Layout and Landscaping to follow.'*

- 2.15 With respect to the objection received from the Devon Gardens Trust to this application, it is interesting to note that no objection was received through the Local Plan consultation on the allocation of this site for development even though DGT was formally consulted. The Local Plan Historic Environment Appraisal noted '*In terms of the consideration of Shobrooke and Creedy Parks, the assessment is as follows:*

*The site adjoins the registered park of Creedy park and is near to Shobrooke Park too. These parks would be visible from within the site and from the parks to the site. There is potential for harm to designated heritage asset by changing what is currently a rural landscape to a developed area. This change in appearance could have a strong impact on the quiet rural setting of the Creedy registered park. The proposal includes a mitigation strip on the north eastern and south western sides that will help reduce impact on Creedy Park. But the north west boundary, due to its close proximity, is also vulnerable to harm. Imposition of a mitigation strip of new tree planting along the full length of this boundary will reinforce the existing screening provided by trees on the edge of Creedy Park. The strong tree lined boundary running along the SE boundary of Creedy should be maintained. As for the relationship to Shobrooke Park the mitigation margin as proposed for CRE2 should be designed to ensure there is no adverse impact in that direction from this development proposal by provision of an appropriate landscape buffer. The likely level of effect is recorded as Amber'.*

- 2.16 Therefore in summary, having considered the wording for policy DM27 of Local Plan Part 3: Development Management Policies and policy DM25 of the Mid Devon Local Plan Review 2013-2033, although the degree of harm to the affected heritage assets arising from the delivery of development on this allocated site is considered to be less than substantial it still must be given considerable weight in the decision making process. Further consideration of this level of impact has been taken into account as part of the overall planning balance.
- 2.17 In terms of effects on landscape character, whilst the proposed development would introduce additional influences of built form into the currently undeveloped site, this would be in the context of a prominent settlement edge and associated infrastructure. These factors limit the sensitivity, remoteness and tranquillity of the site. Whilst the fields would be partially replaced by built form, a sensitive and considered approach to the layout and landscape structure is proposed, including retaining an area of publicly accessible open space and enhancing the setting of the River Creedy corridor.
- 2.18 Assessment of other matters have not identified any other adverse impacts that would arise from the number of dwellings proposed in conjunction with the other land-uses which cannot be satisfactorily mitigated. The scope of the community benefits associated with the application scheme are listed as follows: up to 56 affordable homes, a site to accommodate 5 gypsy / traveller pitches, a new home for Crediton Rugby Club and a site to deliver a new primary school in the Town. Therefore it is considered that paragraph 11 of the NPPF also lends support to the application, in terms of the uplift in the number of residential units proposed, given that the scope of community benefits that are to be delivered are considered.

### 3.0 **THE PROPOSED REVISIONS TO THE WORDING AND ASSOCIATED IMPLICATIONS**

- 3.1 The proposed changes to the planning obligations Heads of Terms (HoT) 2 and 4 are as follows:

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

- *The Owners are not to occupy more than 43% of the Dwellings until a Traveller Pitches Scheme has been approved by the Council. The Traveller Pitches Scheme will set out*
  - i) *The location of the Traveller Pitches Site which are 5 pitches and whether they are off-site, on-site or an off site extension (to an existing AHP) site.*
  - ii) *The specification for the Traveller Pitch Works including for each Serviced Pitch providing and building an Amenity Building, a Hardstanding Area sufficient to accommodate, a large trailer, a touring caravan and parking spaces for two vehicles (2.4m x 4.8m) with the balance of the pitch seeded to grass*
- *In deciding whether to approve a Traveller Pitches Scheme which has off-site Traveller Pitches Site, or an extension of an existing Traveller Pitches Site the Council has regard to Policy DM7*
- *Before the occupation 75% of the development the owner has to complete the Traveller Pitch works to the Traveller Pitches Site and in the case of an on-site or off-site Traveller Pitches Site to transfer the Traveller Pitches Site to an affordable housing provider or the Council for sale price of a £1. There is a fall-back position that if the Council refuses to take the site after completion the developer can develop the rest of the dwellings.*
- *The owners covenant not to use the Traveller Pitches Site other than for a site for Travellers and Gypsies, to maintain the site once completed and not to sell it other than for £1.*

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

- *said site to be transferred to the Council or its nominee (i.e. the Rugby Club) if called for within a period expiring at the date 10 years from commencement of the development on site; and*
- *the provision of a suitable temporary and permanent access road to the boundary of said site.*

3.2 The second head of term relates to the provision of 5 pitches for the Gypsy and Traveller community. Further to ongoing discussions with the applicant, the proposed change to the wording within the Heads of Terms is to finalise the trigger points for delivery and mechanisms to ensure delivery either provided by a registered provider or for the applicant to provide to the Council for a nominal fee of £1 to provide a site with fully laid out pitches for use by Gypsy and Traveller Community.

3.3 In respect to the fourth Head of Term relating to the safeguarding of a site for Crediton Rugby Football Club, further to ongoing discussions with the applicant and the Rugby Club, in order to safeguard the site for the rugby club relocation, a timeframe of 10 years following the commencement of development on site has been agreed to, in order to allow for the rugby club to work on an application to obtain outline planning permission for residential development on their current site which would allow for the finances to purchase the site at Pedlerspool for a fixed recreation land value and to submit an application for a new clubhouse and playing facilities. Therefore the revisions to the wording for this Head of Term are considered to be

acceptable as this inclusion takes into account the legal advice received over the interpretation of policy.

#### **4.0 CONCLUSIONS**

- 4.1 It is considered that the Devon Garden Trust response and the material considerations do not outweigh the previous resolution by Members to approve the proposed development subject to the signing of a S106 agreement. There is no objection to the proposed changes to the Heads of Terms from a planning perspective which are intended to result in the same outcome of safeguarding areas of the site for the relocation of Crediton Rugby Football Club and the delivery of 5 gypsy and traveller pitches within the district, in line with the Local Plan Review policies. Members may also recall that the resolution was made to delegated authority to the Head of Planning, Economy and Regeneration to allow minor changes to wording of planning conditions as reported within the previous committee report to allow for a phased approach to development across the site is also considered to be in line with government guidance.
- 4.2 Therefore the recommendation remains that planning permission be granted subject the prior signing of a S106 agreement to secure:
1. The safeguarding of a 1.1ha site for a Primary School and obligations securing the transfer of said site to Devon County Council if required by the County Council within an agreed time period running from Commencement of Development and expiring 5 years after any Commencement on the western development parcel.
  2. The setting out of a 0.3ha site for provision of up to 5 pitches for the Gypsy and Traveller Community or (if approved by the Council pursuant to the approved scheme) provision of a site with equivalent capacity off-site (or the expansion of an existing Gypsy and Traveller Site) and the following provisions regards delivery and operation:
    - The Owners are not to occupy more than 43% of the Dwellings until a Traveller Pitches Scheme has been approved by the Council. The Traveller Pitches Scheme will set out
      - i) The location of the Traveller Pitches Site which are 5 pitches and whether they are off-site, on-site or an off site extension (to an existing AHP) site.
      - ii) The specification for the Traveller Pitch Works including for each Serviced Pitch providing and building an Amenity Building, a Hardstanding Area sufficient to accommodate, a large trailer, a, touring caravan and parking spaces for two vehicles (2.4m x 4.8m) with the balance of the pitch seeded to grass
    - In deciding whether to approve a Traveller Pitches Scheme which has off-site Traveller Pitches Site, or an extension of an existing Traveller Pitches Site the Council has regard to Policy DM7
    - Before the occupation 75% of the development the owner has to complete the Traveller Pitch works to the Traveller Pitches Site and in the case of an on-site or off-site Traveller Pitches Site to transfer the Traveller Pitches Site to an affordable housing provider or the Council for sale price of a £1. There is a fall-back position that if the Council refuses to take the site after completion the developer can develop the rest of the dwellings.

- The owners covenant not to use the Traveller Pitches Site other than for a site for Travellers and Gypsies, to maintain the site once completed and not to sell it other than for £1.
3. 56 units of affordable housing. The precise tenure and mix of unit sizes to be specified as follows: 40% Discounted housing and 60% Affordable Housing for rent, and with a property size requirement as follows: 1 bed 10%, 2 Bed 50%, 3 Bed 35% & 4 Bed 5%.
    - A phasing plan to manage the delivery of the affordable housing units.
    - Cascade arrangements as set out in the Devon Home Choice policy framework
  4. The safeguarding of 8.6ha of land shown edged [ ] on Plan x appended hereto for the relocation of the Crediton Rugby Club and provisions requiring:
    - said site to be transferred to the Council or its nominee (i.e. the Rugby Club) if called for within a period expiring at the date 10 years from the commencement of the development on site; and
    - the provision of a suitable temporary and permanent access road to the boundary of said site.
  5. The setting up of a management company for the long-term management and maintenance of all communal areas including any parking courts, landscape, public open space and children's play areas.
  6. Sustainable Travel Measures (to include a public transport contribution, a contribution to undertake improvements to existing PROW network and the provision of travel plan vouchers for future occupiers of the 257 houses) - £955,900.00. To be phased over three tranches – First tranche payable upon occupation of the first dwelling and subsequent payments made 12 months and 24 months thereafter.
  7. Primary Education - £13,652 per pupil (63 pupil spaces required) to be phased over three tranches – First tranche payable upon occupation of the first dwelling and subsequent payments made 12 months and 24 months thereafter.
  8. Early Years Education - £250 per dwelling to be phased over three tranches – First tranche payable upon occupation of the first dwelling and subsequent payments made 12 months and 24 months thereafter.
  9. Primary Special Needs - £141 per dwelling to be phased over three tranches – First tranche payable upon occupation of the first dwelling and subsequent payments made 12 months and 24 months thereafter.
  10. Healthcare provision - £363 per dwelling to be phased over three tranches – First tranche payable upon occupation of the first dwelling and subsequent payments made 12 months and 24 months thereafter.
  11. Off-site highway works as follows:
    - Access arrangements from A3072 (Exhibition Way);
    - Pedestrian and cycle access on to the Pounds Hill / Stonewall Cross Junction, Old Tiverton Road and Pedlarspool Lane; and provision of passing places along Stonewall Lane.

**And the following planning conditions imposed:**

1. Before any part of the development hereby permitted is begun, detailed drawings to an appropriate scale of the layout, scale and appearance of the building(s), and the landscaping of the site (hereinafter called the Reserved Matters) shall be submitted to and be approved in writing by the Local Planning Authority.
2. Application(s) for approval for all the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission, and they shall accord with the guiding principles as set out at section 5 of the Design & Access statement (March 2018) to support this outline application.
3. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the Reserved Matters which have been approved, whichever is the latter.
4. The details required to be submitted by condition 1 for each development area shall include the following additional information: boundary treatments, existing and proposed site levels, finished floor levels, and sections through the site indicating the relationship of the proposed development with adjacent development areas.
5. For each phase of development hereby approved no development shall begin until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority to include:
  - (a) the timetable of the works;
  - (b) daily hours of construction;
  - (c) any road closure;
  - (d) hours during which delivery and construction traffic arrive at and depart from the site;
  - (e) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during construction;
  - (f) 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
  - (g) details of wheel washing facilities and road sweeping obligations together with dust suppression proposals.
  - (h) hedgerow and tree protection measures: including an Arboricultural Method Statement and plans showing canopies and root protection areas for all trees on the site and on the site boundaries.
  - (i) Details of the amount and location of construction worker parking.Works shall take place only in accordance with the approved Construction Management Plan.
6. For each phase of development 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 submitted to and 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.

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

8. No phase of the development hereby approved shall be commenced until a site compound and car park have been constructed to the written satisfaction of the Local Planning Authority. No part of the development hereby approved shall be occupied in an agreed phase until the following works have been provided in accordance with the agreed phasing programme:

- a) The access road and roundabout has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 metres back from its junction with the public highway;
- b) The footway on the public highway frontage required by this permission has been constructed up to base course level

9. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out in accordance with the agreed phasing programme and in accordance with details that shall have previously been submitted to and approved in writing by the Local Planning Authority:

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

10. The developments and uses hereby approved shall not be occupied and/or brought into use until the works to the highway off-site and as shown on drawing no. PHL-02 rev F have been constructed, in accordance with a design specification which shall first have been submitted to and approved in writing by the Local Planning Authority, and made available for use.

11. No development shall take place on site until the first 20 metres of a construction access road is built and following this there will be no occupation of dwellings until such time as the off- site highways works for the provision of the access roundabout and new junction alignment for Old Tiverton Road as shown on drawing no PHL03 rev F have been constructed, in accordance with a design specification which shall first have been submitted to and approved in writing by the Local Planning Authority, and made available for use.

12. None of the dwellings hereby approved shall be occupied until the off-site highway works for the improvements to footways along Exhibition Road have been constructed, in accordance with a design specification which shall first have been

submitted to and approved in writing by the Local Planning Authority, and made available for use.

13. The developments and uses hereby approved shall not be occupied and/or brought into use until the off-site highway works for the provision of widening and passing bay provisions on Stonewall Lane between Pounds Hill have been constructed, in accordance with a design specification which shall first have been submitted to and approved in writing by the Local Planning Authority, and made available for use.

14. No development in relation to the proposed playing pitches and associated playing field area associated with the relocation of Crediton Rugby Club shall take place until a detailed design of the facilities proposed, including the proposed drainage facilities and fencing, have been submitted to and approved in writing by the Local Planning Authority beforehand. The design process is required to include an assessment of the ground conditions including a groundwater monitoring programme of the land area affected. The works shall be carried out in accordance with the approved scheme within a timescale to be first approved in writing by the Local Planning Authority.

15. No phase of development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority in relation to that phase. The development shall be carried out at all times in strict accordance with the approved scheme.

16. No part of each of the agreed phases of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system for each phase has been submitted to, and approved in writing by, the Local Planning Authority. The design of the permanent surface water drainage management system for each phase shall be in accordance with the principles of sustainable drainage systems, and the Flood Risk Assessment (dated 22nd February 2016 and 16th March 2018) documents submitted to support this application.

17. No part of each of the agreed phases of the development hereby permitted shall be commenced until the full details of the adoption and maintenance arrangements for the proposed permanent surface water drainage management system have been submitted to, and approved in writing by the Local Planning Authority.

18. No part of each phase of development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve each phase of the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority. The agreed temporary surface water drainage management system for each phase must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site.

19. The development shall take place only in accordance with the recommendations of the Ecological Impact Assessment Report dated November 2016 and March 2018 submitted in support of this application.

20. Before each phase of 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, risk assessment and any recommended remediation works including a timescale for completion shall be submitted to and approved in writing by the Local Planning Authority. Residential occupation of the site, or parts of the site affected by land contamination, shall not take place until the remediation works have been carried out in accordance with the agreed details.

## **REASONS FOR CONDITIONS**

1. The application was submitted as an outline application in accordance with the provisions of Article 3 and 4 of the Town and County Planning (General Development Procedure) Order, 1995, as amended by Circular 1/06.
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, however the allowable timescale to comply with the terms of the condition have been shortened in order to seek to accelerate the delivery of the development.
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, however the allowable timescale to comply with the terms of the condition have been shortened in order to seek to accelerate the delivery of the development.
4. To enable the Local Planning Authority to consider whether adequate provision is being made for the matters referred to in the condition.
5. To ensure adequate facilities are available on site during the construction period in the interests of highway safety and to protect the amenities of existing residents, in accordance with policy DM1 of the Local Plan Review 2013-2033.
6. To ensure that adequate information is available for the proper consideration of the detailed proposals.
7. To ensure the proper development of the site in accordance with policy DM1 of the Local Plan Review 2013-2033.
8. To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents, in accordance with policies S8 and DM1 of the Local Plan Review 2013-2033.
9. To ensure that adequate access and associated facilities are available for the traffic attracted to the site in accordance with policies S8 and DM1 of the Local Plan Review 2013-2033.
10. To minimise the impact of the development on the highway network in accordance with policy S8 of the Local Plan Review 2013-2033.
11. To minimise the impact of the development on the highway network in accordance with policy S8 of the Local Plan Review 2013-2033.
12. To minimise the impact of the development on the highway network in accordance with policy S8 of the Local Plan Review 2013-2033.

13. To minimise the impact of the development on the highway network in accordance with policy S8 of the Local Plan Review 2013-2033.
14. In accordance with the requirements of policy CRE5 of the Local Plan Review and in order to ensure that the ground conditions in relation to the facilities are satisfactory in term of playing pitch provision.
15. In accordance with paragraph 141 of the National Planning Policy Framework (2012) and policy DM25 of the Local Plan Review 2013 – 2033 to ensure that an appropriate record is made of archaeological evidence that may be affected by the development.
16. To ensure that surface water runoff from the development is discharged as high up the drainage hierarchy as is feasible, and is managed in accordance with the principles of sustainable drainage systems, in accordance with policies S9 and DM1 of the Local Plan Review 2013 – 2033.
17. To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development in accordance with policies S9 and DM1 of the Local Plan Review 2013 – 2033.
18. To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area in in accordance with and policies S9 and DM1 of the Local Plan Review 2013 – 2033.
19. To ensure protected species are not harmed by the development in accordance with Policy DM1 of the Local Plan Review 2013 – 2033.
20. To protect future occupiers across the site from risk from contamination in accordance with Policy DM4 of the Local Plan Review 2013 – 2033.

**Contact for any more information**

Mrs Jenny Clifford, Head of Planning,  
Economy and Regeneration  
[jclifford@middevon.gov.uk](mailto:jclifford@middevon.gov.uk) (01884)  
234346

Mr Adrian Devereaux  
Area Team Leader  
[adevereaux@middevon.gov.uk](mailto:adevereaux@middevon.gov.uk) (01884)  
234267

**Background Papers**

Committee Report and minutes relating to  
planning application Planning Application  
17/00348/MOUT

**File Reference**

17/00348/MOUT - Residential development  
of up to 257 dwellings and up to 5 Gypsy and  
Traveller pitches; 8.6 hectares of land made  
available to facilitate the relocation of

Crediton Rugby Club; up to 1.1 hectares of land safeguarded for the delivery of a primary school; access arrangements from A3072 (Exhibition Way); pedestrian and cycle access on to Pounds Hill/Stonewall Cross junction, Old Tiverton Road and Pedlerspool Lane; landscaping and area of public open space; and other associated infrastructure and engineering operations

**Circulation of the Report**

Members of Planning Committee

This page is intentionally left blank

**Application No. 17/00348/MOUT**

**Agenda Item**

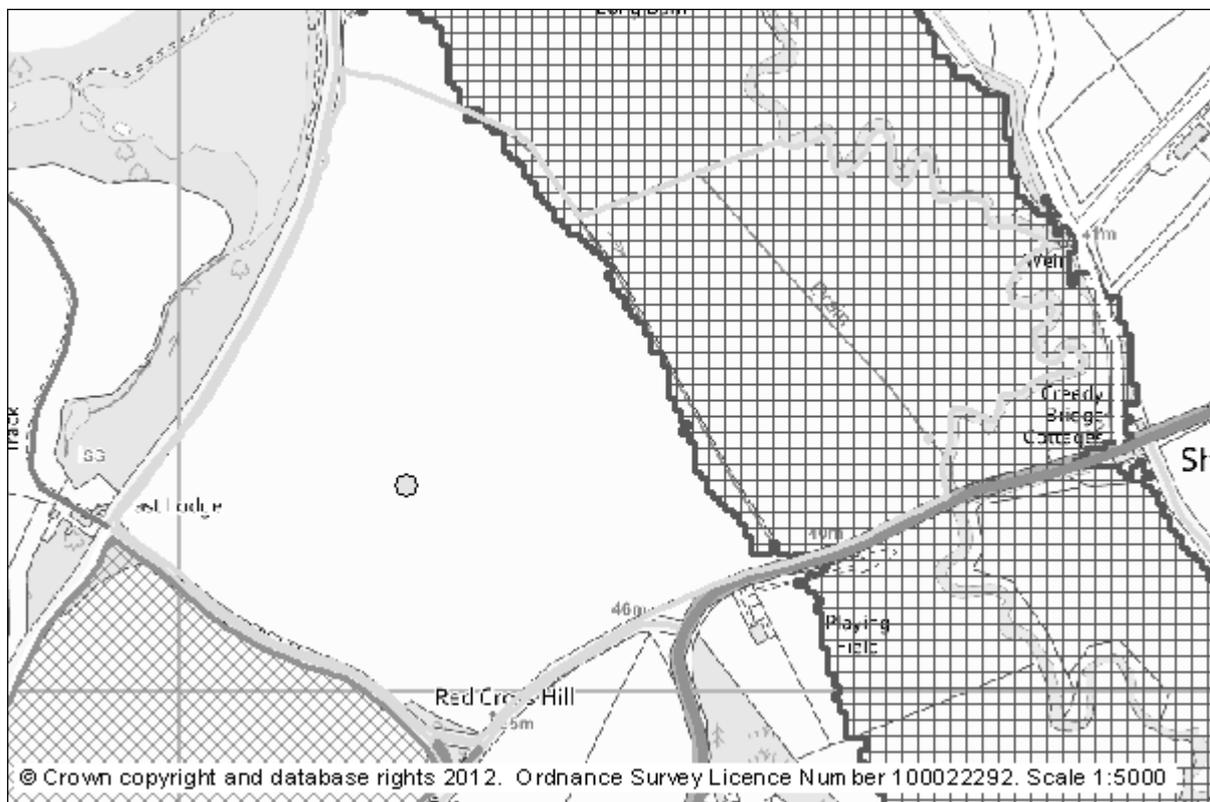
**Grid Ref:** 100951 : 284007

**Applicant:** Messrs T Turner, S Turner, R. Turner, B Stamp & O Taylor

**Location:** Land at NGR 284185 101165 (Creedy Bridge) Crediton Devon

**Proposal:** Residential development of up to 257 dwellings and upto 5 Gypsy and Traveller pitches; 8.6 hectares of land made available to facilitate the relocation of Crediton Rugby Club; up to 1.1 hectares of land safeguarded for the delivery of a primary school; access arrangements from A3072 (Exhibition Way); pedestrian and cycle access on to Pounds Hill/Stonewall Cross junction, Old Tiverton Road and Pedlerspool Lane; landscaping and area of public open space; and other associated infrastructure and engineering operations

**Date Valid:** 6th March 2017



**AGENDA ITEM**

**PLANNING COMMITTEE  
12<sup>th</sup> February 2020**

**REPORT OF THE HEAD OF PLANNING AND REGENERATION**

**17/00348/MOUT - RESIDENTIAL DEVELOPMENT OF UP TO 257 DWELLINGS AND UPTO 5 GYPSY AND TRAVELLER PITCHES; 8.6 HECTARES OF LAND MADE AVAILABLE TO FACILITATE THE RELOCATION OF CREDITON RUGBY CLUB; UP TO 1.1 HECTARES OF LAND SAFEGUARDED FOR THE DELIVERY OF A PRIMARY SCHOOL; ACCESS ARRANGEMENTS FROM A3072 (EXHIBITION WAY); PEDESTRIAN AND CYCLE ACCESS ON TO POUNDS HILL/STONEWALL CROSS JUNCTION, OLD TIVERTON ROAD AND PEDLERSPOOL LANE; LANDSCAPING AND AREA OF PUBLIC OPEN SPACE; AND OTHER ASSOCIATED INFRASTRUCTURE AND ENGINEERING OPERATIONS - LAND AT NGR 284185 101165 (CREEDY BRIDGE) CREDITON DEVON**

**Reason for Report:**

To consider revisions to the wording of three of the Heads of Terms of the S106 agreement and the associated S106 implications from these proposed revisions. The resolution made by Members of the Planning Committee on the 19<sup>th</sup> September 2018 was for planning permission to be granted subject to the prior signing of a S106 agreement, with the revisions sought relating to planning obligation numbers 1, 2 and 4 as outlined within the resolution. Delegated authority is also requested to allow minor changes to the wording of planning conditions in order to allow for a phased approach to development across the site.

**RECOMMENDATION**

- 1. That the revisions to the s106 agreement as set out in paragraph 3.1 be agreed and a S106 agreement be entered into in line with the proposed revisions.**
- 2. To give delegated authority to the Head of Planning, Economy and Regeneration to allow minor changes to wording of planning conditions as reported within the committee report to allow for a phased approach to development across the site.**

**Relationship to Corporate Plan:**

**Financial Implications:**

None in connection with the planning considerations of the proposed revisions with the exception of the Council's legal costs of entering these revisions into the S106 agreement.

**Legal Implications:**

This report addresses consequential legal implications arising from proposed changes to wording for the S106 to be entered into with both Mid Devon District Council and Devon County Council in order to allow outline planning permission to be issued.

## **Risk Assessment:**

The revisions relating to the wording of the four planning obligations within the S106 agreement will address the safeguarding of land to provide community assets for the future use of residents and the delivery and Gypsy and Traveller pitches. The changes sought for planning conditions are in order to allow a phased approach to development but still result in the same outcome from the existing recommended conditions for the delivery of the residential development.

## **Equality Impact Assessment:**

Whilst one of the revisions to the Heads of Terms relates to the delivery of Gypsy and Traveller pitches either on site or off site, it is not considered that the proposed S106 changes will have any impact upon equality matters as the changes are to enable greater flexibility in order to deliver the required pitches. Accordingly the proposed change delivers a better outcome for this community with protected characteristics under the Equalities Act.

## **Relationship to Corporate Plan:**

Homes Aim 2 – Facilitate the housing growth that Mid Devon needs, including affordable housing

Community Aim 1 – Support local communities to retain and develop their local facilities and services.

## **Impact upon climate change:**

No climate change issues are identified arising from this report.

## **1.0 BACKGROUND**

1.1 This outline planning application was considered at Planning Committee on the 19<sup>th</sup> September 2018. As stated within the minutes of that meeting, Members considered the proposed development in light of a number of planning matters with the eventual resolution being that planning permission be granted subject the prior signing of a S106 agreement to secure:

1. The safeguarding of a 1.1ha site for a Primary School, and agreement for the land to be transferred to Devon County Council prior to the commencement of any development.
2. The setting out of a 0.3ha site for provision of up to 5 pitches for the Gypsy and Traveller Community, and the following provisions regards delivery and operation:
  - i. A scheme for the detailed setting out of the 5 gypsy and traveller pitches to be submitted and approved by the occupation of 110th dwelling (i.e. 43% completion); and
  - ii. Gypsy and traveller pitches to be laid out by 193rd occupation (i.e. 75% completion).
3. 56 units of affordable housing. The precise tenure and mix of unit sizes to be specified as follows: 40% Discounted housing and 60% Affordable Housing for rent, and with a property size requirement as follows: 1 bed 10%, 2 Bed 50%, 3 Bed 35% & 4 Bed 5%.

- A phasing plan to manage the delivery of the affordable housing units.
  - Cascade arrangements as set out in the Devon Home Choice policy framework
4. The safeguarding of 8.6ha of land for the relocation of the Crediton Rugby Club, and agreement for the land to be transferred to Rugby Club prior to the commencement of any development, or another date to be confirmed by the Rugby Club.
  5. The setting up of a management company for the long-term management and maintenance of all communal areas including any parking courts, landscape, public open space and children's play areas.
  6. Sustainable Travel Measures (to include a public transport contribution, a contribution to undertake improvements to existing PROW network and the provision of travel plan vouchers for future occupiers of the 257 houses) - £955,900.00. To be phased over three tranches – First tranche payable upon occupation of the first dwelling and subsequent payments made 12 months and 24 months thereafter.
  7. Primary Education - £13,652 per pupil (63 pupil spaces required) to be phased over three tranches – First tranche payable upon occupation of the first dwelling and subsequent payments made 12 months and 24 months thereafter.
  8. Early Years Education - £250 per dwelling to be phased over three tranches – First tranche payable upon occupation of the first dwelling and subsequent payments made 12 months and 24 months thereafter.
  9. Primary Special Needs - £141 per dwelling to be phased over three tranches – First tranche payable upon occupation of the first dwelling and subsequent payments made 12 months and 24 months thereafter.
  10. Healthcare provision - £363 per dwelling to be phased over three tranches – First tranche payable upon occupation of the first dwelling and subsequent payments made 12 months and 24 months thereafter.
  11. Off-site highway works as follows:
    - Access arrangements from A3072 (Exhibition Way);
    - Pedestrian and cycle access on to the Pounds Hill / Stonewall Cross Junction, Old Tiverton Road and Pedlarspool Lane; and provision of passing places along Stonewall Lane.

With conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by Cllr Mrs H Bainbridge and seconded by Cllr R B Evans)

- 1.2 During subsequent negotiations over the wording of the s106 agreement matters have been held up firstly relating to the provision of the five gypsy and traveller site pitches on site, secondly to the safeguarding of part of the site for the relocation of the rugby club and finally from negotiations undertaken with Devon County Council relating to the provision of the primary school. As a result, revisions are requested only to the wording of planning obligations 1, 2 and 4 which relate to these matters.
- 1.3 On the matter of the planning conditions, as outlined within the Committee Report which was accepted by Members, there are a number of pre-commencement conditions. A pre-commencement condition (also known as a 'Grampian' condition) is

a condition imposed on a planning permission which must be complied with before the development permitted by the planning permission begins. Whilst pre-commencement conditions are useful for Local Planning Authorities (LPAs), they prevent works on site starting until they are discharged. Government guidance is that it is important that these conditions are only imposed where justified to prevent unnecessary delays to the delivery of development.

- 1.4 Section 100ZA(5) of the Town and Country Planning Act 1990 provides that planning permission for the development of land may not be granted subject to a pre-commencement condition without the written agreement of the applicant to the terms of the condition (except in the case of a condition imposed on the grant of outline planning permission within the meaning of Section 92 of the 1990 Act or in the circumstances set out in the Town and Country Planning (Pre-commencement Conditions) Regulations 2018).
- 1.5 A pre-commencement condition that does not meet the legal and policy tests may be found to be unlawful by the courts and therefore cannot be enforced by the local planning authority if it is breached. Therefore the request is to allow delegated authority to the Head of Planning, Economy and Regeneration to allow changes to the wording where considered to be appropriate, to require the submission and approval of the additional information/surveys prior to the development of recognised parcels of land allowing for a phased approach rather than for all details for the entire site to be provided upfront which is the current wording. This would allow development to be brought forward earlier on site but still result in the same outcome as agreed.

## **2.0 THE CURRENT RESOLUTION RELATING TO MATTERS TO BE SECURED WITHIN THE S106 AGREEMENT AND ISSUES RAISED WITH THE CURRENT WORDING**

### **2.1 The existing situation**

As resolved the three relevant planning obligations for consideration are worded as follows:

1. The safeguarding of a 1.1ha site for a Primary School, and agreement for the land to be transferred to Devon County Council prior to the commencement of any development.
2. The setting out of a 0.3ha site for provision of up to 5 pitches for the Gypsy and Traveller Community, and the following provisions regards delivery and operation:
  - i. A scheme for the detailed setting out of the 5 gypsy and traveller pitches to be submitted and approved by the occupation of 110th dwelling (i.e. 43% completion); and
  - ii. Gypsy and traveller pitches to be laid out by 193rd occupation (i.e. 75% completion).
4. The safeguarding of 8.6ha of land for the relocation of the Crediton Rugby Club, and agreement for the land to be transferred to Rugby Club prior to the commencement of any development, or another date to be confirmed by the Rugby Club.

## 2.2 The associated issues from the resolution wording

In terms of the first planning obligation, the current wording requires for the land relating to the primary school to be transferred to Devon County Council prior to the commencement of any development. However, further to discussions between the applicant and Devon County Council an amendment has been requested to make it clear that whilst the site would be safeguarded for a primary school, the site would not be transferred to the County Council prior to the commencement of development as was reported previously. Rather it will be transferred if called for during an agreed timeframe which has been set out in Paragraph 3.1. The solicitor at Devon County Council has confirmed that the principles as set out in the revision requested below reflects DCC's understanding with regards to the transfer of the school site.

- 2.3 The second planning obligation relates to the setting out of a 0.3ha site for provision of up to 5 pitches for the Gypsy and Traveller Community with the implementation of the pitches following the delivering of a certain stage of the residential development outlined. However, there was dispute as to whether there should be flexibility in the agreement for the 5 pitches for the Gypsy and Traveller community to allow the pitches to be provided off-site if it was found that no registered provider wanted to take this site forward in order to allow an alternative mechanism for these pitches to be delivered. The Site is allocated as a contingency site under the adopted local plan policy AL/CRE/12 of the Council's adopted site allocations development plan document, the Allocations and Infrastructure Development Planning Document ("AIDPD") which was adopted in 2011. However, because of concerns by the Council that it may not have a robust 5 year supply of housing land it was resolved to bring the Site forward for delivery.
- 2.4 Policy AL/CRE12 says the development on the site is subject to amongst other things five pitches for gypsies and travellers. Officers of the Council had maintained that the Council could not agree in the proposed 106 agreement that the 5 pitches for Gypsy and Travellers could be provided off site, however during the Local Plan Review process that is now at an advanced stage with consultation being undertaken on the main modifications, this policy stance has changed with the wording relating to the provision of Gypsy and Travellers pitches within the Local Plan Review amended to allow more flexibility. The policy now outlines that the provision of the pitches should be provided on site unless it is demonstrated that off-site provision will achieve a more favourable outcome for Gypsies and Travellers taking into account matters of pitch numbers, site facilities, accessibility to services, including health and education; early delivery of serviced pitches or plots which are available for occupation and the provision of an effective mechanism for delivery. Therefore the priority will always be to deliver on site in the first instance unless having carried out a detailed assessment, there would be a more favourable outcome achieved by allowing provision off-site. Therefore the suggested wording has been revised to reflect this below.
- 2.5 The fourth planning obligation relates to the safeguarding of 8.6ha of land for the relocation of the Crediton Rugby Club with the wording of the resolution being that the land needs to be transferred to the Rugby Club prior to the commencement of any development, or another date to be confirmed by the Rugby Club. The issue raised from the current wording is that it ultimately prevents any development of the site commencing until such time as the Rugby Club confirm it can. At the current time negotiations between the applicant and the Rugby Club have stalled with a disagreement between the two parties as to what is expected to be provided by the developer on site for the rugby club in terms of adopted policy and policies within the Local Plan Review. In light of the grounds for disagreement, it is considered that the

interpretation of the policy requirements relating to the development of the Creedy Bridge Development are a key consideration. The applicant having received Counsel advice on the matter with the Local Planning Authority also separately instructing counsel as a result to advise on the interpretation of adopted and emerging development plan policies relevant to the determination of the planning application.

- 2.6 The view of the Rugby Club is that the land should be transferred to them for a nominal fee rather than a fixed recreational valuation of the land together with the provision of improved facilities as referred to within the supporting text of emerging Local Plan Review, Policy CRE5 – Pedlerspool where it states that *'This site will provide an alternative location and improved facilities for the Crediton Rugby Club, allowing for housing development on the site of existing sports field to come forward (Policy CRE6).'* Representatives of the Rugby Club have raised concerns that the relocation of this community club would involve a significant undertaking which they can ill afford to fund.
- 2.7 The applicant has received counsel advice which has been provided to the Local Authority. It relates to the relocation of Crediton Rugby Football Club to the Creedy Bridge site (Pedlerspool) and the view that the policy requirement is only to provide a site in which the rugby club could locate to but which does not go as far as the requirement to transfer the land to the rugby club for a nominal fee or provide improved facilities. Given the different interpretation of the wording of the relevant policy and which was the correct approach to take, officers sought separate counsel opinion to review the counsel advice on behalf of the applicant and provide a legal view as to which interpretation of relevant policies is reasonable.
- 2.8 The following policies were outlined to counsel as being relevant to this proposal:

Within the Allocations and Infrastructure Development Plan Document (AIDPD) which was adopted in October 2010 policy AL/CRE/12 - Pedlerspool, Exhibition Road states:

'A site of 21 hectares at Pedlerspool, Exhibition Road is identified as a contingency site for development to be released in accordance with policy AL/DE/1, subject to the following:

- a) 165 dwellings with 35% affordable housing to include at least five pitches for gypsies and travellers;
- b) 21000 square metres of employment floorspace;
- c) A suitable site for the relocation of Crediton rugby club**
- d) Layout, design and landscaping, including planting on the riverside that reflects the local distinctiveness and its sloping nature;
- e) The protection of the setting of the wider area, including the upper slopes to the south and west for Green Infrastructure and landscaping;
- f) Provision of a Sustainable Urban Drainage Scheme to deal with all surface water from the development and arrangements for future maintenance;
- g) The provision of serviced employment land in step with the housing at a rate of at least 1 hectare per 30 occupied dwellings unless it can be demonstrated to the Council's satisfaction that such an approach would significantly undermine the viability of the scheme as a whole.
- h) This development shall not be commenced until a Link Road between the A377 and Lords Meadow is in operation unless the Council is satisfied that air quality and traffic impacts as a result of the development would not be material.'

There is no further supporting text on criterion C but it is noted that in terms of the existing rugby club site, policy AL/CRE10 - Exhibition Road states:

'A site of 5.35 hectares is allocated as a single site for the relocation of the Queen Elizabeth Community College, subject to the following:

- a) The improvement of adjoining sports facilities to compensate for the loss of playing fields required for the development;
- b) Provision of a Sustainable Urban Drainage Scheme to deal with all surface water from the development and arrangements for future maintenance;
- c) Provision of a suitable alternative site for the relocation of the Rugby Club.'**

The supporting text states that the rugby club will need to be relocated on a suitable alternative site, including facilities associated with that use.

Within the emerging Local Plan Review, Policy CRE5 - Pedlerspool, Exhibition Road states:

'A site of 21 hectares at Pedlerspool, Crediton, is allocated for residential development subject to the following:

- a) 200 dwellings with 28% affordable housing including at least five pitches for gypsies and travellers;
- b) A serviced site of 1.1 hectares for a new primary school;
- c) A suitable site for the relocation of Crediton Rugby Club;**
- d) A phasing strategy which ensures that sites for the sports pitches, affordable housing and gypsy and traveller pitches are delivered broadly in step with the housing development, and the school is transferred to the local education authority at a timetable agreed with Devon County Council;
- e) Layout, design and landscaping, including planting on the riverside that reflects the local distinctiveness and its sloping nature;
- f) The protection of the setting of Creedy Historic Park and Garden and the wider area, including the upper slopes to south and west for Green Infrastructure and landscaping;
- g) Facilitation of access to local bus routes via sustainable travel modes including possible extension of service;
- h) Provision of suitable access arrangements from the A3072 and appropriate highway improvements along Stonewall Lane and Old Tiverton Road;
- i) Improved access to the town centre for pedestrians and cyclists;
- j) Protection and enhancement of trees subject to Tree Preservation Orders within and adjoining the site; and
- k) An archaeological investigation and mitigation scheme.'

As referred to above, the supporting text refers to this site as providing an alternative location and improved facilities for the Crediton Rugby Club to allow for residential development on the site of the existing rugby club.

- 2.9 Counsel advice has been received which concludes that the counsel advice note received by the applicant is the correct interpretation that AL/CRE/12 simply requires the provision of a "suitable site" for the Rugby Club and that is not defined in the glossary or anywhere else as meaning a completed playable facility and hence reading the plain words in their proper context the provision of land only is required. In addition to this, there is nothing in the policy that requires the land to be provided at nil value with the issue of value being a commercial matter between the developers of the AL/CRE10 and AL/CRE 12 sites and the Rugby Club. Any other approach would result in an outcome where the developer of AL/CRE/12 was being required to subsidise the developer of AL/CRE 10.

- 2.10 Therefore it follows that any attempt via a Section 106 agreement to compel the transfer of the 8.6 ha to the Rugby Club at nil or notional value must fail the “necessity” test imposed by both Regulation 122 of the Community Infrastructure Levy Regulations and the NPPF because such is not necessary to enable AL/CRE/12 to come forward insofar as it is not a requirement of policy. All that is necessary is that a “site” is provided and that is achieved by the planning proposal which effectively safeguards the land for that use. Policies CRE 5 and CRE 6 do not alter this fact and whilst the supporting text to CRE 5 refers to the provision of facilities, QC advice is that properly read this is simply a narrative commentary on the ambition of policies CRE 5 and CRE 6 which, when read together, envisage the developer of CRE 6 achieving the actual physical relocation of the Rugby Club to the CRE 5 site on an area to be identified for such use or some other site as a prerequisite to the development of CRE 6. In the usual way, the developer of CRE 6 has a burden, flowing from national policy, of providing suitable replacement sports provision.
- 2.11 As such, the wording is proposed to be revised which will allow the safeguarding of the site for the relocation of the rugby club within a certain timeframe but any further requirement above this would be considered to be contrary to adopted policy and fail necessity test imposed by both Regulation 122 of the Community Infrastructure Levy Regulations and the NPPF.

### **3.0 THE PROPOSED REVISIONS TO THE WORDING AND ASSOCIATED IMPLICATIONS**

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

1. The safeguarding of a 1.1ha site for a Primary School and obligations securing the transfer of said site to Devon County Council if required by the County Council within an agreed time period running from Commencement of Development and expiring 5 years after any Commencement on the western development parcel.

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

Prior to Occupation of more than 75% of Dwellings:

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

Prior to Occupation of more than 43% of Dwellings:

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

Cascade:

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

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

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

### 3.2 The associated issues

The first head of term relates to the safeguarding of a site for a new primary school with the wording outlined being in accordance with the requirements of Devon County Council, setting out a timeframe for delivery of the project which is in line with the negotiations undertaken with the Education Services Department at DCC.

3.3 The second head of term relates to the provision of 5 pitches for the Gypsy and Traveller community. In terms of the policy within the Local Plan, as outlined within the Allocations and Infrastructure Development Plan Document (AIDPD), AL/CRE/12 - Pedlerspool, Exhibition Road states:

'A site of 21 hectares at Pedlerspool, Exhibition Road is identified as a contingency site for development to be released in accordance with policy AL/DE/1, subject to the following:

a 165 dwellings with 35% affordable housing to include **at least five pitches for gypsies and travellers;**

Part of the resolution of the previous Planning Committee was as follows:

2. The setting out of a 0.3ha site for provision of up to 5 pitches for the Gypsy and Traveller Community, and the following provisions regards delivery and operation:

- i. A scheme for the detailed setting out of the 5 gypsy and traveller pitches to be submitted and approved by the occupation of 110th dwelling (i.e. 43% completion); and
- ii. Gypsy and traveller pitches to be laid out by 193rd occupation (i.e. 75% completion).

3.4 The proposed change to the wording within the Heads of Terms is to allow for the Gypsy and Traveller provision off site as long as it has been fully demonstrated that this will deliver a more favourable outcome, providing either a site with a financial contribution to enable the pitches to be provided by a registered provider or for the applicant to provide a site with fully laid out pitches. This approach is put forward by the applicant to comply with Policy DM7 within the Local Plan Review. The amended wording for Policy DM7 as outlined within the main modifications is as follows:

#### 1) Planning applications for Pitches and Plots

Planning applications for gypsy and traveller pitches, or plots for travelling showpeople, will be permitted where:

- a) Suitable onsite facilities will be provided including space for children's play;
- b) The proposal will have suitable environmental quality for residents including non-isolating boundary treatments;
- c) The site will not cause unacceptable landscape or ecological impact and is not located in an area at high risk of flooding;
- d) Occupation will be limited to those who meet the Government's published definition of gypsies and travellers, including travelling showpeople or their dependents;
- and
- e) Safe and convenient access to local facilities is provided

Sites with associated employment or storage elements will be permitted where there is specific justification and the location, scale, and nature of the proposed development will not have harmful impacts on local amenity or the local environment. Gypsy and traveller accommodation may be included as part of the affordable housing requirement.

## 2. Provision on allocated sites

Gypsy and Traveller pitches on allocated sites (sought by Policies TIV1, CU1, CU7 or CRE5) should be provided on site unless it is demonstrated that off-site provision will achieve a more favourable outcome for Gypsies and Travellers taking into account:

- i) Pitch numbers;
- ii) Site facilities;
- iii) Accessibility to services, including health and education;
- iv) Early delivery of serviced pitches or plots which are available for occupation;
- and
- v) The provision of an effective mechanism for delivery.

Such sites must also meet the requirements of part 1 of Policy DM7 above.

Amendments to the supporting text in paragraph 4.29 are as follows:

*"4.29 There is a need for 35 new pitches for gypsies and travellers for the period 2014-34, and 11 plots for travelling showpeople for the period 2014-34. The majority of this need is proposed to be met on the largest allocated developments at Tiverton Eastern Urban Extension, North West Cullompton, and Pedlerspool in Crediton. Pitches must be provided onsite unless the more favourable outcome described by Policy DM7 is demonstrated. Any proposals for more favourable off-site provision must identify and provide serviced sites in accordance with Policy DM7. A clear mechanism to ensure that pitches or plots are delivered in such a way as to achieve a more favourable outcome for the travelling community must be identified.*

*This will usually be through a s106 agreement requiring the developer to identify and obtain planning permission (which will not be unreasonably withheld by the Council) for the required number and standard of pitches. The pitches will be provided by the development itself or where the land is transferred for a nominal value, by an agreed third party Registered Provider or other agreed private provider, for the sole purpose of occupation and ancillary business by Gypsies and Travellers. The off-site provision of pitches must be provided and made available for occupation before the occupation of a specified proportion of the provision of on-site open market dwellings as part of the larger housing proposal at TIV1, CU1, CU7 or CRE5. Where gypsy and traveller pitches are provided on-site on housing allocations, these are to be counted against the affordable housing targets for that site."*

- 3.5 As can be seen from the wording of the policies and resolution of Planning Committee, there is the need to provide the pitches, not just a site. The amended

wording for Policy DM7 within the Local Plan Review offers the flexibility to provide the Gypsy and Traveller pitches off site subject to the proposal resulting in a more favourable outcome. Therefore the applicant would need to either first deliver the G & T provision on site or in order to provide a more favourable outcome, deliver the pitches on an alternative site which could comply with the criteria outlined in DM7 or provide the site and a financial contribution in order that the pitches could be delivered. The revised wording would allow for this and the applicant has confirmed to the Council that they agree to provide laid out/serviced pitches (whether they end up on or off-site) as requested by the Council's policy team which includes the agreed cascade whereby in the event a registered provider or the Council are unwilling to take the pitches some additional affordable housing units could be provided on the G&T site in lieu.

- 3.6 In respect to the fourth Head of Term relating to the safeguarding of a site for Crediton Rugby Football Club, the counsel advice received makes it clear that the policies relating to the Pedlerspool site only goes as far as making the site available for the relocation of the rugby club and no more, with the rugby club to use the capital received from developing the existing rugby club site for residential development to facilitate the move to a new site.
- 3.7 In order to safeguard the site for the rugby club relocation, a timeframe of 15 years has been agreed to in order to allow for the rugby club to work on an application to obtain outline planning permission for residential development on their site which would allow the finances to purchase the site at Pedlerspool for a fixed recreation land value and to submit an application for a new clubhouse and playing facilities. Therefore the revisions to the wording for this Head of Term is considered to be acceptable as this inclusion takes into account the legal advice received over the interpretation of policy.

#### **4.0 CONCLUSIONS**

- 4.1 There is no objection to the proposed changes from a planning perspective which are intended to result in the same outcome of safeguarding areas of the site for the delivery of a primary school, relocation of Crediton Rugby Football Club and the delivery of 5 gypsy and traveller pitches within the district, in line with emerging policy within the Local Plan Review. The request for delegated authority to the Head of Planning, Economy and Regeneration to allow minor changes to wording of planning conditions as reported within the committee report to allow for a phased approach to development across the site is also considered to be in line with government guidance.

#### **Contact for any more information**

Mrs Jenny Clifford, Head of Planning,  
Economy and Regeneration  
[jclifford@middevon.gov.uk](mailto:jclifford@middevon.gov.uk) (01884)  
234346

Mr Adrian Devereaux  
Area Team Leader  
[adevereaux@middevon.gov.uk](mailto:adevereaux@middevon.gov.uk) (01884)  
234267

#### **Background Papers**

Committee Report and minutes relating to  
planning application Planning Application  
17/00348/MOUT

**File Reference**

17/00348/MOUT - Residential development of up to 257 dwellings and up to 5 Gypsy and Traveller pitches; 8.6 hectares of land made available to facilitate the relocation of Crediton Rugby Club; up to 1.1 hectares of land safeguarded for the delivery of a primary school; access arrangements from A3072 (Exhibition Way); pedestrian and cycle access on to Pounds Hill/Stonewall Cross junction, Old Tiverton Road and Pedlerspool Lane; landscaping and area of public open space; and other associated infrastructure and engineering operations

**Circulation of the Report**

Members of Planning Committee

This page is intentionally left blank

**APPLICATION 17/00348/MOUT - RESIDENTIAL DEVELOPMENT OF UP TO 257 DWELLINGS AND UP TO 5 GYPSY AND TRAVELLER PITCHES; 8.6 HECTARES OF LAND MADE AVAILABLE TO FACILITATE THE RELOCATION OF CREDITON RUGBY CLUB; UP TO 1.1 HECTARES OF LAND SAFEGUARDED FOR THE DELIVERY OF A PRIMARY SCHOOL; ACCESS ARRANGEMENTS FROM A3072 (EXHIBITION WAY); PEDESTRIAN AND CYCLE ACCESS ON TO POUNDS HILL/STONEWALL CROSS JUNCTION, OLD TIVERTON ROAD AND PEDLERSPOOL LANE; LANDSCAPING AND AREA OF PUBLIC OPEN SPACE; AND OTHER ASSOCIATED INFRASTRUCTURE AND ENGINEERING OPERATIONS - LAND AT NGR 284185 101165 (CREEDY BRIDGE) CREDITON DEVON (2-05-03)**

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

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

He answered the questions posed in public question time

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

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

Consideration was given to:

- Clarification with regard to the safeguarding/transfer of land and the amendment that pre-commencement conditions be removed
- That maybe following delegation to the Head of Planning Economy and Regeneration consultation take place with the Chairman, Vice Chairman and Ward Members to make any changes to the wording of the planning conditions

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

**RESOLVED:**

a) That the revisions to the s106 agreement as set out in paragraph 3.1 be agreed and a S106 agreement be entered into in line with the proposed revisions.

b) That delegated authority be given to the Head of Planning, Economy and Regeneration in consultation with Chairman and Vice Chairman of the Planning Committee and local Ward Members to allow minor changes to wording of planning conditions as reported within the committee report to allow for a phased approach to development across the site.

(Proposed by the Chairman)

Notes:

i) Cllr Mrs F J Colthorpe declared a personal interest as the applicant was known to her;

ii) Cllr F W Letch declared a personal interest as he had attended a presentation at the rugby club;

iii) Cllrs: E J Berry Mrs F J Colthorpe, Mrs C P Daw, Mrs C Collis, L J Cruwys, S J Clist, F W Letch, E G Luxton, D J Knowles, R F Radford, Mrs M E Squires , Miss E Wainwright and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had received correspondence from the applicant/agent;

iv) Mr Graves spoke on behalf of Crediton Rugby Club;

v) Mr Smith spoke as agent;

vi) The Chairmen of Sandford parish Council and Upton Hellions Parish Meeting spoke;

vii) Cllrs Mrs M E Squires and Miss E Wainwright spoke as Ward Members;

viii) The following late information was reported:

Sandford Parish Council has enquired whether S106 contributions identified towards improvements to the existing Public Rights of Way network could be used to deliver a footpath/cycleway between the Pedlerspool site (Creedy Bridge) to the village of Sandford.

Through a meeting with the Local Highway Authority it was explained that the S106 monies contained within the Heads of Terms have been allocated to identify projects and therefore changes at this late stage are not possible.

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

Extract from officers report to highlight changes being proposed

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

1. The safeguarding of a 1.1ha site for a Primary School and obligations securing the transfer of said site to Devon County Council if required by the County Council within an agreed time period running from Commencement of Development and expiring 5 years after any Commencement on the western development parcel.

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

Prior to Occupation of more than 75% of Dwellings:

(i) Provision of 5 serviced pitches on-site prior to Occupation of more than 75% of Dwellings; OR

(ii) If approved by the Council in writing (having regard to criteria under DM7) provision of 5 serviced pitches off-site (new site or extension to existing) OR provision of land off-site and contribution of £500K for Council to deliver.

Prior to Occupation of more than 43% of Dwellings:

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

Cascade:

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

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

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

This page is intentionally left blank

Application No. 17/00348/MOUT

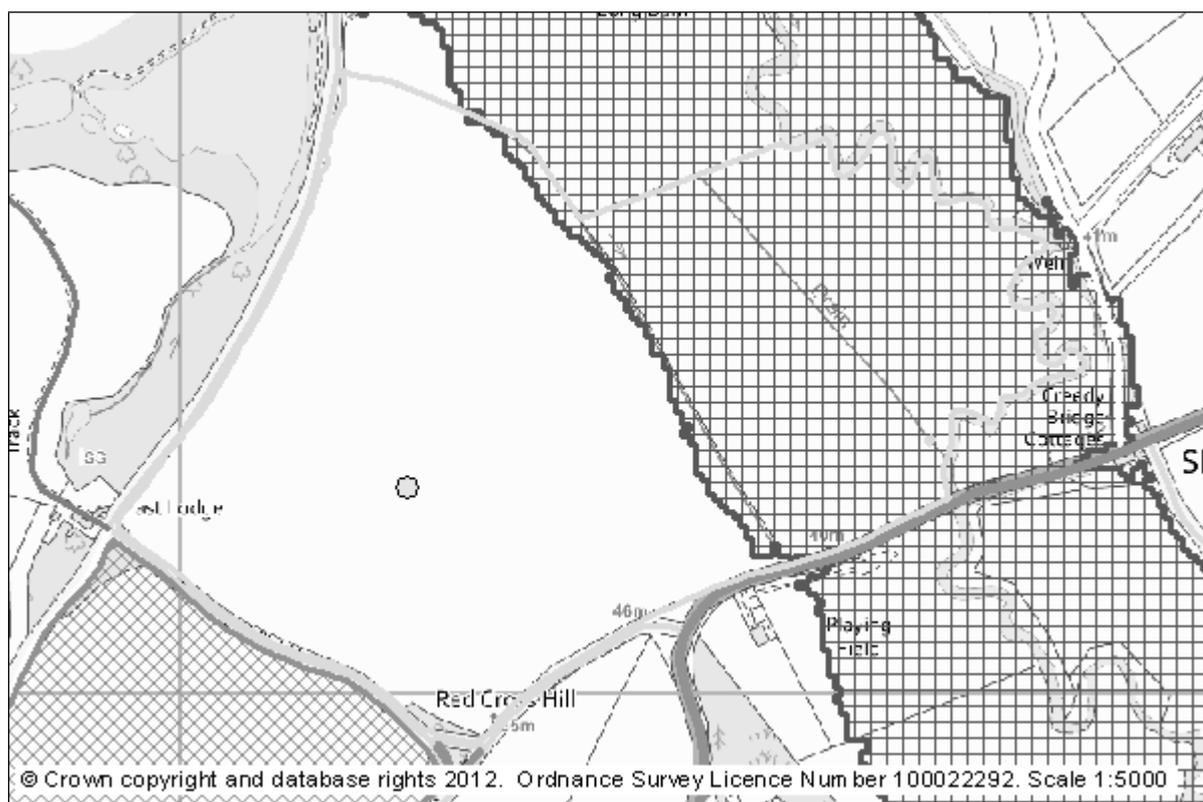
Grid Ref: 284007 : 100951

Applicant: Messrs T Turner, S Turner, R. Turner, B Stamp & O Taylor

Location: Land at NGR 284185 101165 (Creedy Bridge)  
Crediton  
Devon

Proposal: Residential development of up to 257 dwellings and upto 5 Gypsy and Traveller pitches; 8.6 hectares of land made available to facilitate the relocation of Crediton Rugby Club; up to 1.1 hectares of land safeguarded for the delivery of a primary school; access arrangements from A3072 (Exhibition Way); pedestrian and cycle access on to Pounds Hill/Stonewall Cross junction, Old Tiverton Road and Pedlerspool Lane; landscaping and area of public open space; and other associated infrastructure and engineering operations

Date Valid: 6th March 2017



## **APPLICATION NO: 17/00348/MOUT**

### **RECOMMENDATION**

Grant permission subject to the provision of a Section 106 Agreement and conditions.

Section 106 agreement to include:

1. The safeguarding of a 1.1ha site for a Primary School, and agreement for the land to be transferred to Devon County Council prior to the commencement of any development.
2. The setting out of a 0.3ha site for provision of up to 5 pitches for the Gypsy and Traveller Community, and the following provisions regards delivery and operation:
  - i. A scheme for the detailed setting out of the 5 gypsy and traveller pitches to be submitted and approved by the occupation of 110th dwelling (i.e. 43% completion); and
  - ii. Gypsy and traveller pitches to be laid out by 193rd occupation (i.e. 75% completion).
3. 56 units of affordable housing. The precise tenure and mix of unit sizes to be specified as follows: 40% Discounted housing and 60% Affordable Housing for rent, and with a property size requirement as follows: 1 bed 10%, 2 Bed 50%, 3 Bed 35% & 4 Bed 5%.
  - A phasing plan to manage the delivery of the affordable housing units.
  - A cascade clause agreed to protect for local occupation for a fixed period of 6 months (specifically to respond to the concerns raised by Sandford Parish Council).
4. The safeguarding of 8.6ha of land for the relocation of the Crediton Rugby Club, and agreement for the land to be transferred to Rugby Club prior to the commencement of any development, or another date to be confirmed by the Rugby Club.
5. The setting up of a management company for the long-term management and maintenance of all communal areas including any parking courts, landscape, public open space and children's play areas.
6. Sustainable Travel Measures (to include a public transport contribution, a contribution to undertake improvements to existing PROW network and the provision of travel plan vouchers for future occupiers of the 257 houses) - £955,900. 00. To be phased over three tranches – First tranche payable upon occupation of the first dwelling and subsequent payments made 12 months and 24 months thereafter.
7. Primary Education - £13,652 per pupil (63 pupil spaces required) to be phased over three tranches – First tranche payable upon occupation of the first dwelling and subsequent payments made 12 months and 24 months thereafter.
8. Early Years Education - £250 per dwelling to be phased over three tranches – First tranche payable upon occupation of the first dwelling and subsequent payments made 12 months and 24 months thereafter.
9. Primary Special Needs - £141 per dwelling to be phased over three tranches – First tranche payable upon occupation of the first dwelling and subsequent payments made 12 months and 24 months thereafter.

10. Healthcare provision - £363 per dwelling to be phased over three tranches – First tranche payable upon occupation of the first dwelling and subsequent payments made 12 months and 24 months thereafter.

11. Off-site highway works as follows:

- Access arrangements from A3072 (Exhibition Way);
- Pedestrian and cycle access on to the Pounds Hill / Stonewall Cross Junction, Old Tiverton Road and Pedlarspool Lane; and provision of passing places along Stonewall Lane.

## **PROPOSED DEVELOPMENT**

The application was first submitted on the 6th March 2017 with the following description of development:

Residential development of up to 326 dwellings; 8.6 hectares of land made available to facilitate the relocation of Crediton Rugby Club; up to 1.1 hectares of land safeguarded for the delivery of a primary school; access arrangements from A3072 (Exhibition Way); pedestrian and cycle access on to Pounds Hill/Stonewall Cross junction, Old Tiverton Road and Pedlarspool Lane; landscaping and area of public open space; and other associated infrastructure and engineering operations.

Following ongoing discussions over a lengthy period of time with officers the terms of the application scheme were amended with the following description of development (scheme revision date 26th March 2018).

Residential development of up to 257 dwellings and upto 5 Gypsy and Traveller pitches; 8.6 hectares of land made available to facilitate the relocation of Crediton Rugby Club; up to 1.1 hectares of land safeguarded for the delivery of a primary school; access arrangements from A3072 (Exhibition Way); pedestrian and cycle access on to Pounds Hill/Stonewall Cross junction, Old Tiverton Road and Pedlarspool Lane; landscaping and area of public open space; and other associated infrastructure and engineering operations.

The application proposes a new access into the site from A3072, and a pedestrian access in the South Western corner. Pedlarspool Lane is to become largely a pedestrianised route with restricted vehicular access at either end. Appearance, landscaping, layout and scale are reserved matters and will be dealt with at the next planning stage (reserved matters).

The site is bounded by Exhibition Road to the south, Stonewall Lane to the west, Long Barn Drive to the North with open countryside and the River Creedy to the east. The tree lined Pedlarspool Lane runs through the application site effectively creating two development areas (referred to eastern and western development areas below). The site is currently in agricultural use and actively farmed

Although submitted as an outline application an illustrative masterplan has been submitted showing how the proposed land uses would be arranged across the site. The masterplan is submitted at a scale of 1:2000. The layout shows the following disposition of land uses.

Eastern Development area:

1. Access directly into the site from Exhibition Road with a new mini roundabout arrangement proposed.
2. Provision is made on this part of the site for the relocation and enhancement of Crediton Rugby Club to include the following facilities: Club house, car park and provision for up to 4 playing pitches.

3 An area of approximately 6.6 hectares for residential development proposing 203 residential plots (including 47 affordable units) which equates to 30.75 dwellings per hectare.

Western Development Area:

4. An area of approximately 1.8 hectares for residential development proposing 54 residential plots (including 9 affordable units) which equates to 30.0 dwellings per hectare.
5. An area of approximately 0.3 hectare for a gypsy and traveller site to provide pitches. Access to this facility would be proposed by Pedlerspool Lane (4 plus 5 = 2.1 hectares)
6. An area of approximately 1.1 hectare for a one form entry primary school.

## **APPLICANT'S SUPPORTING INFORMATION**

Following the applicants decision to amend the terms and scope of the application as set out above amended plans and reports were submitted on 26th March 2018. The list of drawings as set at point 1 below are the drawings showing the revised scheme. The list of reports as set out at point 2 confirm the scope of the supporting information submitted in support of the application. The original reports as submitted have been supplemented by addendum reports to reflect the scope of the scheme revisions.

1. Application form, site plan, topographical survey and other drawings as follows:  
Land Use Plan rev M, Access and Movement Plan rev N, Density Parameter Plan rev M, Scale Parameter Plan rev M, Green Infrastructure Plan rev K, Illustrative Masterplan rev D,

### **2. Supporting Reports**

Archaeological desk-based assessment report prepared by CgMS consulting;  
Archaeological trench evaluation report prepared by AC Archaeology;  
Built Heritage statement prepared by CgMS consulting;  
Design & Access statement and Landscape & Visual Impact assessment reports prepared by Barton Wilmore;  
Ecological Impact assessment and Landscape and Ecological Management Strategy reports prepared by ead Ecology: dated February 2017;  
Statement of Community engagement prepared by Meeting Place communications: dated February 2017;  
Transport Assessment report, Flood Risk & Drainage strategy report and Utilities Technical note prepared by AWP consulting;  
Planning Statement report and Waste Management statement report prepared by Vail Williams;  
Air Quality Assessment report prepared by Kairus Ltd;  
Arboricultural Survey, including Tree Constraints plan prepared by Tom Hurley.

In addition a Transport Assessment Addendum note 2 has been submitted to examine the capacity of internal network of routes for use by farm traffic. This documents is dated 14<sup>th</sup> June.

## **RELEVANT PLANNING HISTORY**

There is no planning history in relation to the application site. The application as referred below relates to the planning permission issued (now time expired site) for the adjacent site at Red Hill Cross.

11/00602/MOUT: Outline for the erection of up to 135 dwellings and associated works, including 22% affordable housing.

## **DEVELOPMENT PLAN POLICIES**

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

COR1 - Sustainable Communities  
COR3 - Meeting Housing Needs  
COR8 - Infrastructure Provision  
COR9 - Access  
COR11 - Flooding  
COR12 - Development Focus  
COR15 - Crediton

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

AL/DE/1 - Housing Plan, Monitor and Manage  
AL/DE/2 - Overall Affordable Housing Provision  
AL/DE/3 - Affordable Housing Site Target  
AL/IN/3 - Public Open Space  
AL/IN/5 - Education Provision  
AL/CRE/8 - Crediton Air Quality  
AL/CRE/12 – Pedlerspool, Exhibition Road – included as a contingency site, in accordance with policy AL/DE/1.

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

DM1 - Presumption in favour of sustainable development  
DM27 – Heritage Assets

### **Proposed Local Plan Review (2013 – 2033) Proposed submission January 2017**

Mid Devon Local Plan Review (2013 – 2033) Proposed submission (incorporating proposed modifications January 2017

CRE5 – Pedlerspool, Exhibition Road:

## **CONSULTATIONS**

Given that the application proposals have been amended two separate consultation exercises have been undertaken. The list of responses as set out below confirms the latest response for each Statutory Consultee. The original consultation responses provided by the Parish/Town Councils are also set out as in many instances the respective Parish Council have confirmed that their original comments still apply.

For members information since the Consultees provided their original and further comments on the application, the guidance as set out in the National Planning Policy Framework as originally issued in 2012 has been updated. As part of this process the Government have issued an updated Guidance document (dated July 2018), and therefore the references as set out by many of Consultees will have been superseded. However your officers have considered the comments in light of the July 2018 guidance and remain satisfied that the comments provided remain consistent with the updated guidance in the Framework.

### **SANDFORD PARISH COUNCIL - 15th May 2018 - OBJECTION RAISED**

Further to our previous comments (25th April 2017) regarding the above proposed Housing Development, we wish to add the following comments.

The lack of proposed improvements to the roads to the South and East (Stone wall Lane and above East Lodge to the crossroads) is of great worry as there has been a significant increase in traffic using these roads since the traffic survey was originally carried out, due mainly to increase in delivery vans, generated by shopping on line, and larger farm machinery having to use this route. As such these roads will be used well beyond their safe carrying capacity. However, any widening might necessitate taking down mature trees and this must be well monitored.

Additionally, DCC Highways (Ian Sorenson) indicated that there is likely to be another housing development site on the south side of Stonewall Lane in future . The junction of Old Tiverton Road and Stonewall Lane, where vision is extremely limited, is a potential accident black spot. Any farm traffic with trailers, combine harvesters, and large delivery lorries etc will necessitate long reverses if meeting on coming traffic. The need for such traffic having to reroute through either the new estate or down into Crediton round extremely narrow lanes is of great concern.

Although Gleesons have reduced the number of dwellings from the 326, there is huge concern over the 'increase' in number of houses from the Local Plan allocation of 200 to 257. Parishioners want to know why is this application even being considered by MDDC when they were originally looking for a maximum of 165 houses, albeit increased later to 200 dwellings? As this is 'only' an outline planning application there is no way of knowing what the proposed new development would look like.

Added to this the amount of affordable housing is only 21% (5 gypsy and traveller pitches) = 23% when the requirement in the Local Plan is for 28%. There is also great concern over the potential use of three storey houses in the development to squeeze in sufficient (for Gleesons) dwellings to apparently make the scheme financially viable.

These tall dwellings would appear above the tree line and be an eyesore in this beautiful valley. We have been asked why there is a double standard in not allowing the cottage at the cross roads to have a shed in the garden due to its proximity to Shobroke Park and yet potentially 257 of unknown design and finish the opposite side of the cross roads is being considered by MDDC. Sandford Parish Council strongly feel that IF planning consent is given it should be limited to the 200 dwellings noted in the Local Plan AND the full number of Affordable dwellings should be made available primarily to Local Residents. The Potential for Local People to have the opportunity to gain in this way should be widely advertised to ensure local people are aware of this. Alternatively how many plots could be available for local people to build their own homes potentially 5%.

Original comments 26th April 2017 – Sandford Parish Council wish to register their objections due the non-compliance with many of the Local and National Planning Policy frameworks and strategies, as follows: -

1. The stated strategy for Crediton is 'that development will be targeted to develop underused and brown field sites within towns in preference to greenfield land. The proposed development is obviously a greenfield site currently used for growing crops, is also outside the Crediton town boundary as specifically defined by a main road and is within the rural parish of Sandford.

2. Housing Policy CR5 indicates an allocation of only 200 dwellings, having been increased from 165, yet the application is for 326 dwellings. Additionally, there is only an allocation for 16% affordable dwellings but the plan indicates that this should be 28%. This is in direct contradiction to the MDDC stated Local Plan.

3. If such a development were to be considered it should be on the basis of the Vision for Villages, and Countryside, i.e. Sandford, outside defined towns and villages; it should meet agricultural and other rural business needs but does not; it should promote environmental enhancement considering landscape and biodiversity but does not, it should encourage appropriate economic diversification to support the rural economy but does not and it should provide infrastructure to meet the needs the economy but will it???

4. The Policy SP9 Environment says that 'development will sustain the distinctive quality, character and diversity of Mid-Devon's environmental assets' but with the high density of dwellings proposed and many also being 3-story town houses, this will obviously be much more like urban dormitory towns looking like Lego Land than distinctive character, etc.

5. Historic England note that the application site is significantly larger than the site intended for allocation and the Built Heritage Statement does not entirely follow the sequence of steps recommended within the guidance on The Setting of Heritage Assets since it does not include the fourth step relating to the maximising of enhancement and minimising harm arising from a development.

6. Part of the proposed site is within Environment Agency Flood Zone 3. The National Planning Policy Framework Environment Agency states that the flood risk Sequential Test has to be satisfactory in accordance with that Policy otherwise this will be sufficient justification to refuse the planning application.

7. The proposed development would be adjacent to the River Creedy which is at present used by several protected species such as otters and the pristine white clawed crayfish as well as for angling. Additionally, so many houses with potentially polluting dogs and cats that prey on all small animals, birds and frogs would decimate the local populations and foul the pavements.

8. The proposed site is outside the CREDITON town boundary and distant from the town centre, the train station and has poor bus access. The vision stated in the Local Plan is to reduce the need to travel by car, increasing the potential of public transport, cycling and walking but will be impossible without substantial infrastructure improvement, which would be additionally destructive of the existing environment.

9. One of the access routes would be via the narrow single carriageway Stonewall Lane, where it is also proposed to build an additional 50 houses. DCC indicated that proposed road widening for passing places would limit the destruction of trees to those that are diseased or 'in the way'. Hedgerows are protected under the Hedgerows Regulations 1997 from being removed or worked on without control and hedgerows are defined as inter alia those that are at least 30-year-old. The existing hedges are certainly that age.

10. The proposed increase in population would require a new pumped main to cope with sewerage increase and so would increase the carbon foot print and, as placed, the pumping station would be vulnerable to flooding and power outages caused by any flooding being on the flood plain - which is subject to flooding.

11. Existing Doctors' surgeries are at full capacity. It is understood that Gleasons consulted the Crediton Town Council but there is no indication that the doctors' practices were consulted. There are insufficient local medical services existing to support this development.

12. The traffic survey carried out was based on 2011 data and the proposer's consultants have not apparently taken into account the rural traffic such as a big tractors with trailers nor

the additional cars generated by the rugby club at evenings and weekends, adding massively to the pollution, run-off and congestion in and around Crediton and Sandford.

13. The Crediton Rugby Club is lobbying for acceptance of the proposed application, which would mean that the Club could sell their existing premises for additional housing which in turn would provide an allocation of perhaps another 100 houses, on similar densities. The District Local Plan Review requires 6800 new dwellings so with the permitted Wells Parks, Redhills, and potential Chapel Downs developments around Crediton, the Tiverton allocations and the Cullompton 5000, there is no apparent need for the Creedy Bridge development. The Rugby Club could still transfer to the Pedlerspool land if desired with far less disruption to people, environment, infrastructure and existing services.

14. Natural England states that the consultation documents indicate that this area includes an area of priority habitat, as listed on Section 41 of the Natural Environmental and Rural Communities (NERC) Act 2006.

If significant harm resulting from a development cannot be avoided than planning permission should be refused.

We therefore reiterate that this application should be refused. In addition we would like to highlight the many issues that were raised at the Public Meeting held in Sandford of 6th April 2017 and these are attached to this letter.

#### **CREDITON TOWN COUNCIL: 17th May 2018: OBJECTION RAISED**

Comments: It was resolved to support Sandford Parish Council's concerns and OBJECT to the application on the following grounds:

The housing density for the site is more than 25% higher than the allocation in the emerging Local Plan. This level of density has negative effects. It is detrimental to the town setting and views of the town because the site is agricultural farm land bordered by trees in a river valley. The NPPF (11.109) recommends that the planning system 'should contribute and enhance the natural and local environment by protecting and enhancing valued landscapes'. If the density were lower, especially with a reduced density on the north side of the site, which is most visible, and a more ambitious green infrastructure plan introduced, the development would fit better into the setting and the negative impact on the valley would be reduced.

If the development were to be approved, it is essential to the historic street layout that the mature oaks along Pedlerspool Lane be retained. Keeping these and more robust landscaping would help to 'establish a strong sense of place ... and ... create [an] attractive and comfortable place to live.' (NPPF 7.58), also helping to protect a much valued landscape.

The NPPF (11.125) recommends that planning policies and decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation. The negative aspects of light pollution have not been addressed at the outset and will impact on what as previously been a naturally dark landscape.

Para 4.35 of the NPPF stresses the desirability of developments having access to 'high quality public transport facilities' and a robust Travel Plan. This site is not well located for easy access to the town's public transport, especially for commuter routes. To mitigate this, 'developments ... should... give priority to pedestrian and cycle movements'. The outline plan does not adequately address sustainable transport, especially pedestrians and cyclists as the most direct routes into the town centre have not been identified for the whole site.

In addition, the proposal to close Pedlerspool Lane to motor vehicles and to divert through the development to the A3072 may also divert local through-traffic up the single track Longbarn Lane, which is unsuitable.

Also, it is agreed that additional traffic will use Stonewall Lane. Although there are proposals to improve passing places, there are still stretches where it will remain single track because of the topography. This is will not be an adequate link between such a large development and the western end of the town or even the town centre itself.

### **UPTON HELLIONS PARISH COUNCIL 18th May 2018 - OBJECTION RAISED**

Thank you for the opportunity of seeing the new proposals. Having studied them I am afraid that the views of Upton Hellions Parish Meeting with regard to our objection are unchanged. This also applies to my own objection submitted previously. Please accept the previous objections as relevant to the present proposals:

Original Comment: On 20th March 2017, the residents of Upton Hellions held a parish meeting hosted by Mr Peter Coleman, the Chairman. We know from this meeting, subsequent conversations, and written objections already made to MDDC that 21 out of the 25 households in the Parish strongly oppose the application for Planning permission. To our knowledge, the remaining 4 have not been involved in this process.

Upton Hellions is a small, rural, historic parish which is separated geographically from Sandford and is the Parish that would be most affected by this development. The residents took part in a detailed Character Assessment of the area we inhabit and this document has been submitted to MDDC. From this one can understand the rural and heritage significance of this locality. The land in the area is actively farmed and constitutes a beautiful, scenic area which would suffer immeasurably by the proposed development. The adverse impact would be great on those of us who live here and daily use the country lanes that surround the site on three sides.

Rather than reiterating the many grounds on which this application should be rejected, we wish to endorse the detailed and well informed views already submitted to MDDC. We would urge the Councillors of the Planning Committee to examine these documents. In particular, we suggest the following submissions, which are by professionals who bring their considerable expertise to oppose this development at Creedy Bridge.

There has been no expense spared by the promoters in commissioning numerous, often lengthy assessments in support of their application. On examining these, we note significant omissions, inaccuracies and sometimes conclusions which appear to be at odds with the body of the reports. Some are inconclusive and suggest that ongoing monitoring and further reports are necessary to protect the natural environment.

We also oppose granting of OPP because the plans run counter to many of MDDC's own policies expressed in adopted and emerging Local Plans. These policies have been well thought out and should continue to be the guiding principles for growing our towns and protecting our countryside.

Because of irreparable harm that could be done to this area, it is vital that the Planning Committee takes full heed of the objections submitted by existing residents who stand to be in the forefront of witnessing the consequences of a calamitous decision.

We do not accept that the allocation of this land for development should be irreversible, because situations change, and more information or potential sites in the District may become available.

We urge the Council to do the right thing, reject this application, and remove this site from the Local Plan.

### **SHOBROOKE PARISH COUNCIL - 11 May 2018 - OBJECTION RAISED**

Shobrooke Parish Council considered the revised application at the May meeting and still wish to object to this application on the grounds that the potential extra traffic that will travel through the village of Shobrooke has not been properly considered, assessed and appropriately mitigated.

One of the main concerns for Shobrooke parish is additional traffic and the impact this will have on the rural parish of Shobrooke. The transport assessment carried out as part of the application assumes that the majority of traffic will travel to Exeter along the A377. However, as this already busy main road gets even busier, how long will it be before commuters and other drivers seek out alternative routes? An obvious alternative route is from Shobrooke Park to Langford via Efford and Shute. The rural village of Shobrooke risks becoming "rat run" as commuters try to find quicker, less congested routes. If there is a problem on the A377, such as an accident or road works for example, this alternative route will be used even more. Cars pass each other on the narrow roads of the parish only by making use of private driveways. In addition, Shobrooke does not have many pavements, leading to a greater risk to pedestrians, especially if they are walking at "rush hour". Agricultural traffic travels through the parish on a regular basis and this will also present hazards as well as leading to potential jams. The Parish Council has been concerned for a while about the speed of traffic through the village and with an increasing number of vehicles, this concern will only increase. We request that an impact assessment is carried out on the additional traffic that will use the road through Shobrooke.

Mid Devon Local Development Framework - Allocations and Infrastructure Development Plan Document (AL/CRE/12) states that this development will have 21000 square metres of employment floorspace. However, there is no such allocation in the current planning application. This lack of employment opportunity will mean that residents will be forced out of the area to work, thus increasing the traffic. Again, this proposal fails to meet MDDC development requirements.

There are no provisions for additional health care. Chiddenbrook and New Valley practice are stated as being undersized by 40% and 43% respectively. We are concerned about the wider impact on hospitals such as RD&E.

We understand that part of the proposed site is within an Environment Agency Flood Zone 3. A few years ago, this area was badly flooded and the road impassable. Will the proposed retention pools perform well enough to prevent this?

The proposal includes a new 200 place primary school. We are concerned that this provision will not be enough and that existing schools will be put under pressure to accept more pupils. DCC advise that there is enough secondary school provision, but this still remains a concern.

Public transport - we note that improvements are proposed to public transport and cycle lanes. Such improvements will be essential as current provision will not be adequate. The station is not close and the trains are infrequent. Buses are already overcrowded.

Given the likely impact on Shobrooke parish that this development will have, the Parish Council would like assurances that it will benefit from S106 money should this development take place, as proposed or through an amended application.

Shobrooke Parish Council asks MDDC planning committee to reject the current proposal and to carry out an impact assessment on the effect additional traffic travelling through Shobrooke will have on our rural parish.

**CREDITON HAMLETS PARISH COUNCIL** - 10th May 2018 - Crediton Hamlets Parish Council met on the 8th May and resolved they were neutral in respect of this application

Original comments 4th April 2017: Crediton Hamlets Parish Council met on the 3rd April and resolved to offer the following comments on this development in a neighbouring authority. The Council expressed surprise that part of the development seemed to be on a flood plain. They expressed concern about increased traffic issues and about the overdevelopment in the Crediton area leading to increased pressure on existing services. Original Comments 6th September 2017: Crediton Hamlets Parish Council commented on this application in April and raised its concerns. The Council met again on the 4th September and considered the application again and resolved to object to the application. Their further concerns were the lack of employment locally which would lead to more residents travelling to Exeter for work creating further traffic congestion. They also stressed again the over development in the Crediton area and its implication for the existing services/infrastructure.

**DOWN ST MARY PARISH COUNCIL** - 28th March 2017

The Down St. Mary discussed this application at their last meeting. The Council were opposed to the application. The area chosen was damp and there would be problems with the water flow. The Council felt that the site was wholly unsuitable. The plan needed to be better thought out.

**MORCHARD BISHOP PARISH COUNCIL** - 4th April 2017 - Unanimously supported with two provisos: 1. No houses to be built on the flood and 2. Phased development of infrastructure before development of houses.

**CHERITON FITZPAINE PARISH COUNCIL** - 23rd March 2017 - No comments

**DEVON COUNTY COUNCIL 30/04/2018:** Thank you providing the opportunity to comment on this amended planning application. This response provides the formal views of Devon County Council in relation to those areas listed below except healthcare provision, where comments have been provided by NHS England:

- Local transport provision
- Local education provision (including early years)
- Waste planning
- Potential historic environment impacts
- Surface water flooding
- Public health
- Healthcare provision

This response is separated into sections relating to each of the subject areas set out above

**Local transport provision:** The Highway Authority has considered the application, through pre-application advice, and through the submitted application before us.

The Highway Authority has considered the trip generations and these are in keeping with previously accepted figures. Therefore the Highway Authority has no objection in principle to the above development with only the recently installed mini roundabout at the junction of Exhibition Road and Commercial Road coming close to capacity and any future developments will need to consider their impact on this junction. The Highway Authority welcomes the improvements detailed in the transport assessment, and drawing PHL-02rev F is generally in accordance with requirements and should be conditional of any consents and

should be part of the section 278 of the highways act by legal agreement. In addition the access roundabout on PHL-03rev F and PHL05 footway enhancements should also be conditional and form part of the package of offsite works subject to section 278 of the highway act. Also the widening of Stonewall Lane will form part of a package of measures under section 278 of the highways act. The Highway Authority would recommend that the off-site measures are secured through a section 106 legal agreement subject to the Town and country planning act. The Highway Authority would also seek further contributions to the provision of sustainable travel measures including footway improvement works along the existing ROW between the sports centre and Shobrook. A contribution of £250,000 is requested. Also the provision of contributions to public transport have been Identified and a contribution of £135,000 per annum for 5 years is requested.

Travel plans will necessitate the provision of bus and cycle vouchers in the information pack for the first owners of the property at a rate of £250.00 for bus vouchers and £50.00 for cycles per household. Therefore should the Local Planning Authority be minded to grant consent the following conditions should be imposed:

Recommendation:

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

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

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

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

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

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

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

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

5. Off-Site Highway Works No occupation of the development shall take place on site until the off-site highway works as shown generally in accordance with but not limited to drawing no. PHL-02 rev F have been designed and approved in Writing by the Local Planning Authority, constructed and made available for use.  
REASON: To minimise the impact of the development on the highway network in accordance with Paragraph 32 of the NPPF.

6. Off-Site Highway Works No development shall take place on site until the off-site highway works for the provision of the access roundabout and new junction alignment for Old Tiverton road generally in accordance with but not limited to drawing no. PHL03 rev F have been designed and approved in writing by the Local Planning Authority and have been constructed and made available for use.  
REASON: To minimise the impact of the development on the highway network in accordance with paragraph 32 of NPPF.

7. Off-Site Highway Works No occupation of the dwellings development shall take place on site until the off-site highway works for the improvements to footways along Exhibition road have been designed approved in writing, have been constructed and made available for use.  
REASON: To minimise the impact of the development on the highway network in accordance with policy paragraph 32 of NPPF.

8. Off-Site Highway Works No occupation of the development shall take place on site until the off-site highway works for the provision of widening, and passing bay provisions on Stonewall lane between Pound Hill and the Access entrance have been designed and approved in writing and have been constructed and made available for use.  
REASON: To minimise the impact of the development on the highway network in accordance with paragraph 32 of NPPF.

Additional comments from Highway Authority via email on 09/05/2018 regards the following matters:

1. Are the arrangements for Pedlerspool Lane acceptable in terms of closed to vehicular access other than to serve the proposed gypsy and travellers pitches, with other vehicular movements diverted through the development area back out onto A3072.
2. Are the access arrangements to the school as proposed acceptable, ie through the new development area via the new access off the A3072.

The application is in outline with all matter reserved except access. Therefore the masterplan is considered as illustrative only and internal details will be dealt with at the reserve matter application however I have the following observations to make on the layout as requested.

The access to the school while acceptable in principle would need careful consideration and the school will need to include sufficient parking for parents to drop off and Pick up otherwise the neighbouring residential streets will be parked upon , alternatively the introduction of sufficient visitor layby parking close to the school needs to be provided with appropriate footway linkages.

The Distributor road alignment in its current alignment gives cause for concern as indicated by the parishes. It is essential that the route is of sufficient width to cater for Agricultural vehicles, and swept paths of the largest tractor and trailer combination needs to be applied to show that two vehicles can pass each other particularly on the bends and in particular the junction of Pedlars pool with the distributor road which now appear to give priority to the estate road traffic . Its proximity to the junction from the west into the estate and a give way junction at the distributor road should be modelled to indicate any queue lengths and forward visibility of traffic entering the estate should be such that there is sufficient site stopping distance to the end of the maximum length queue. The current layout gives rise to the potential for greater conflict with residential properties as the number fronting the road appears to have increased. The Highway Authority when viewing the reserve matter would wish to see the number of residencies minimised fronting the Distributor road and its route from roundabout to Pedlars a more direct but still a sinuous route to keep speeds down.

With regard to the lane itself the Highway Authority are happy for its closure with all Agricultural traffic using the new distributor provided it is of sufficient width and alignment with the lane being restricted to travellers site only and the rest being a public footpath/cycleway. If the Local Planning Authority is minded to keep the lane open then the junction onto Old Tiverton road will need to be designed so that it has appropriate radii and visibility splays of 2.4m by 45m in either direction with no obstruction greater than 600mm This will necessitate removal of trees and bank and probably require the central island being removed as part of the design. But with the limit use current proposed it would be unreasonable to request such improvements based on current traffic generations.

Further comments were provided by the Highway Authority having considered the addendum note received on 14<sup>th</sup> June. The purpose of the note was to consider the proposed route of the internal road network and the ability for vehicles and farm traffic, including tractors and trailers, to travel on the more direct route through the site once Pedlerspool Lane has been closed to vehicular traffic. It was prepared in response to concerns raised by local stakeholders and residents in relation to farm traffic utilising the proposed main internal road network. Having considered the scope of this further submission it is confirmed that the layout of the internal route is more than capable of carrying farm traffic.

**Local education provision (including early years):** In assessing the education requirements from this development, Devon's revised Education s106 Policy has been applied: <https://new.devon.gov.uk/planning/planning-policies/pupil-place-planning>. The proposed 257 family-type dwellings will generate an additional 64.25 primary pupils and 38.55 secondary pupils.

It is set out in the DCC Education Section 106 Infrastructure Approach that approximately 1.5% of the school population require specific Special Education provision, therefore this development is likely to generate 1.53 pupils who will require a specialist place. DCC would

request for additional SEN provision that would be required as a result of the development. The request would be a total of £37,119 (based on £24,261 per SEN pupil).

By the time the development is at implementation phase it is forecasted that the primary schools within the area of development (Landscape and Haywards) are likely to be at capacity and would not be able to support the pupils likely to be generated by this development. DCC will not seek additional primary contributions on SEN pupils because of the request made above and therefore Devon County Council will seek a contribution towards the remaining 63.29 primary pupils likely to be generated by the development. The contribution request is £864,035.00 (based on the current DfE extension rate of £13,652 per pupil for Devon), these contributions would be used towards increasing capacity within the town.

The need for a new primary school to serve Crediton has been identified through the Local Plan review process. Devon County Council has forward funded schemes at Landscape Primary School and Hayward's Primary School, which we will retrospectively apply developer contributions towards. Whilst this provides more primary places in the town to accommodate some development and increasing demographics in the town, it is not forecast to be sufficient to accommodate the level of development proposed within the town. A school site was identified on this site as it would assist in distributing school places across the town as currently both schools are towards the southern side of the town.

A school site of 1.1 ha to accommodate a 210 place (one form entry) primary school is considered to be sufficient to accommodate the level of development planned within the town. This includes the development identified for Crediton in the Local Plan Proposed Submission as well as the increase in dwellings on this site compared to this. The location of the school site on the submitted masterplan is noted and it is recognised that at this stage, the masterplan is indicative and not fixed. Options to locate the school site towards the southern / eastern edge of the application site should be considered to ensure that it is well located for both the existing and future housing. This would also allow earlier delivery of the school, to ensure that there remain sufficient school places to serve the town. Opportunities to share provision with the rugby club will be explored including car parking and outdoor pitches. It is expected that the school site will be secured through the s.106 process, with appropriate triggers for acquiring the site, its access and servicing.

There is currently capacity at the local secondary school for the number of pupils likely to be generated by this development and therefore a contribution towards secondary education is not sought.

In addition, a contribution towards Early Years education is needed to ensure delivery of provision for 2, 3 and 4 year olds. This would cost £64,250 (based on the s.106 policy of £250 per dwelling). This will be used to provide additional early years provision for pupils likely to be generated by the proposed development.

Additional comments from Education Authority via email on 10/05/2018 regards the following matters:

1. Is the location of the primary school campus supported in delivery terms.
2. Are the access arrangements to the school as proposed acceptable, ie through the new development area via the new access off the A3072.

In responses to the first issue below, we would like to confirm that we are happy with the broad location of the school campus in delivery terms. We would however need to ensure appropriate vehicular, pedestrian and cycle access points to the site within appropriate time scales.

**Waste Planning:** The application includes a Waste Management Statement that partly meets the requirements for a waste audit statement on Policy W4 of the Devon Waste Plan. It is recognised that, at this outline stage, limited information will be available on the waste types and quantities that will be produced by the development, but the submitted statement provides a reasonable overview and outlines principles for minimising and managing waste. It is therefore recommended that the outline permission requires submission of a detailed waste audit statement at the reserves matters stage, to include measures for the storage of waste when the development is occupied (to take account of Mid Devon's SPD) and for the waste that will be generated during construction.

**Historic Environment:** The archaeological work undertaken in support of this application has demonstrated the presence of archaeological deposits associated with late Iron Age and Romano-British activity on the site. As such, groundworks for the construction of the proposed development have the potential to expose archaeological and artefactual deposits associated with the known archaeological activity on the site and will result in the destruction of these heritage assets. These heritage assets are not of such significance that there is a requirement for preservation in situ, and the impact upon these heritage assets can be mitigated by a programme of archaeological works to be undertaken in advance of any construction works commencing. For this reason and in accordance with paragraph 141 of the National Planning Policy Framework (2012) the Devon County Council Historic Environment Team would advise that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

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

REASON: 'To ensure, in accordance with paragraph 141 of the National Planning Policy Framework (2012) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013), that an appropriate record is made of archaeological evidence that may be affected by the development.'

The Historic Environment Team would envisage a suitable programme of work as taking the form of the archaeological excavation of all areas affected by the proposed development that may contain archaeological or artefactual deposits associated with the known prehistoric and Romano-British activity to ensure an appropriate record is made of these heritage assets prior to their destruction by the proposed development. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report.

The Historic Environment Team would be happy to discuss this further with you, the applicant or their agent and can provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work.

**Surface water flooding** (see also comments below submitted 10th November 2017): The applicant should clarify whether the rugby club and school will drain into the surface water drainage system that has been proposed for this planning application. The applicant should also clarify the long term storage discharge rate.

Flood/Coastal Risk Management Team - 10th November 2017 - At this stage, we have no in-principle objections to the above planning application, from a surface water drainage perspective, assuming that the following pre-commencement planning conditions are imposed on any approved permission:

**Observations:**

Further clarification has been received from the applicant's consulting engineers regarding the proposed contributing areas, therefore a suitable outline surface water management strategy has been put forward within the submitted Flood Risk Assessment (Ref:0029, Rev D, dated February 2016) and we have no further objection to the proposals from a surface water management perspective.

- No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Flood Risk Assessment (Ref:0029, Rev D, dated February 2016).

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

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

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

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

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

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

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

**Public Health:** It is recommended that the application is accompanied by a Health Impact Assessment to assess the impact of the development on public health.

Healthcare provision: The population growth as a result of this development will place additional pressure on existing GP practices in the area which are already at capacity. Whilst it is considered that the size of this development would not merit a new GP practice, the

NHS would need to create additional physical capacity in one of its existing practices in the area. The funding for such expansion would be sought through developer contributions and would support the provision of appropriate local primary healthcare facilities and services.

The current position in CREDITON is that there are two practices:

1. Chiddenbrook Surgery is currently 46% undersized; and
2. New Valley Surgery is currently 43% undersized.

As can be seen there is currently a lack of physical capacity in CREDITON and there are discussions being held about the potential development of a health and wellbeing hub. Such a development would be based on the current number of patients registered with the practices so any required expansion, as a result of this development, of such a facility would be required to be funded using the evidence base below.

NHS England applies an evidence based methodology for calculating development impact in terms of GP practices and has been benchmarked against other authorities. They are based on a health provision standard of 500 sq m per 6,000 people. Average household size and the capital cost of £2,000 per sq m have been used to generate a cost per dwelling as set out in the table below. These costs have been calculated from figures provided by the Primary Care Trust, and benchmarked against other authorities. They are based on a health provision standard of 500 sq m per 6,000 people.

At present the detail, including exact mix of dwelling sizes and types, is unknown and will be determined at the detailed reserved matters stage. As a result an average contribution per dwelling of £363 has been calculated using the figures in the table above. Applying this methodology to the dwelling types included in the proposed development in the context of the existing capacity issues at GP practices in the area, the total contribution, across each housing type proposed by this development would equate to £93,291. This sum is requested on behalf of NHS England.

#### **DEVON WILDLIFE TRUST - 4th May 2017 – Objection as follows**

We have confined our comments to biodiversity aspects of this proposal as follows.

We object to this planning application on the grounds that the proposal will result in the loss of 3.5 hectares of floodplain grazing marsh, which is listed as a habitat of principal importance for conservation in England, under section 41 of the Natural Environment and Rural Communities Act 2006. National planning policy states that planning policies should -

"promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations..." (NPPF paragraph 117)

"The planning system should contribute to and enhance the natural and local environment by:

minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures." (NPPF paragraph 109)

We were encouraged to see that the Mid Devon Local Plan 2013-2033 publication stage policy map for CREDITON has put this policy into action by identifying this area as Priority Habitat and included it as an integral part of the River Creedy floodplain. Furthermore, your Local Plan proposes a green infrastructure buffer area between any proposed new development and this Priority Habitat/ Floodplain corridor. Unfortunately, the planning application now being considered, would seriously compromise this intention.

The planning application, if approved, would take a 3.5 hectare bite out of this Priority habitat/Floodplain. The land use proposed in its place, together with any associated lighting,

would result in an adverse change to the habitat of this area and to its role as part of the Mid Devon ecological network. We further consider that the mitigation measures proposed would not make up for this.

We conclude that the planning application is in direct conflict with your Local Plan and we consider that it goes against the national policy in NPPF paragraph 109 to 'establish coherent ecological networks that are more resilient to current and future pressures'.

**ENVIRONMENT AGENCY - 30th March 2017 - Environment Agency Position: No Objection**

From the development and flood risk perspective we hold no in principle objections to the proposal and take this opportunity to state the following.

We can report that the layout of the proposal complies with the sequential approach as set out on the National Planning Policy Framework, the principle of providing playing pitches, and other recreational assets, within the floodplain being quite compatible with policy requirements.

However the provision of pitches is subject to there being no loss of floodplain storage or conveyance, especially should any re-profiling be carried out. We are therefore pleased to see this has been highlighted within para 3.9 of the applicant's Flood Risk Assessment including a statement that any loss of floodplain storage must be compensated for on a level for level basis.

Advice - Sequential Test: Your Authority will need to be content that the flood risk Sequential Test has been satisfied in accordance with current Government guidance within the National Planning Policy Framework (NPPF) if you have not done so already. As you will be aware, failure of the Sequential Test is sufficient justification to refuse a planning application.

**HOUSING ENABLING & BUSINESS SUPPORT MANAGER - 7th April 2017: No Objection**

Currently there is a need for 203 units in Crediton (86 x 1 bed, 79 x 2 bed, 38 x 3 / 4bed)  
Currently there is a need for 11 units in Sandford (6 x 1 bed, 1 x 2 bed, 3 x 4bed)  
Currently there is a need for 3 units in Shobrooke (1 x1 , 1 x 2 bed, 1x 3 bed).

In terms of size and tenure the following comment applies (09/06/2017)  
40% Discounted housing in some form  
60% Affordable Housing

With a bedroom split of:

- 1 bed 10%
- 2 Bed 50%
- 3 Bed 35%
- 4 Bed 5%

**MDDc PUBLIC HEALTH - 16th March 2017 : No Objection**

Contaminated Land - A Phase 1 assessment will be required with the full application

Air Quality - The Air Quality Assessment is satisfactory

Environmental Permitting - N/A

Drainage - no objections to these proposals

Noise & other nuisances - A Construction Management Plan would be required to help minimise the impact from noise, hours of operation and other nuisances, both for construction on site and the transport arrangements for construction and other servicing.

Housing Standards - No comment

Licensing - No comments with regards to the proposed development. However, should the Rugby Club relocate to a new site a new premises licence would be required and the existing licence would need to be surrendered. For more information please contact the licensing team via email [licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk) Food Hygiene - no objection to this proposal. Informative: If Rugby club relocated they would need to reregister as a food business with Environmental Health. School would need to register if they make or serve food. Advice can be given on layout & other requirements.

Private Water Supplies Not applicable

Health and Safety I have - no objection to this proposal enforced by HSE.

**SPORT ENGLAND** - 23rd March 2017 - The proposal is to construct new playing fields /sports facility as a replacement for Crediton RFC. In addition 300+ new homes and a primary school. With associated infrastructure. The application site is currently agriculture.

The illustrative masterplan shows 4 adult rugby pitches with clubhouse and community facility with parking (8.6ha). This part of the application site, as stated in the application documents from the agent, falls within Flood Zone 3 which is the highest classification of flooding. Adjacent a 1x FE Primary School with playing fields (1.1ha).

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

<http://www.sportengland.org/facilities-planning/planning-for-sport/aims-and-objectives>

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

1. Protect existing facilities
2. Enhance the quality, accessibility and management of existing facilities.
3. Provide new facilities to meet demand

In assessing this application, Sport England notes that:

1. These 'replacement' rugby playing pitches are located in Flood Zone 3.
2. We note that the loss of the existing rugby pitches is not considered here in this application. But the applicant/agent should note that any future planning application on the existing rugby playing fields will need to demonstrate meeting paragraph 74 of the NPPF and Sport England Playing Field Policy, and in particular, exception E4 which states: "The playing field or playing fields which would be lost as a result of the proposed development would be replaced by a playing field or playing fields of an equivalent or better quality and of equivalent or greater quantity, in a suitable location and subject to equivalent or better management arrangements, prior to the commencement of the development."
3. Sport England would wish to see compliant rugby size pitches x4 including safety run-offs that meet the Performance Quality Standards (PQS), appropriate access, car parking and ancillary facilities such as changing rooms with storage, social and catering space.
4. There is no current Playing Pitch Strategy (PPS) in place to help identify current and future needs for playing pitches in the area for a range of pitch sports.
5. The occupiers of 300+ new homes will generate demand for sporting provision not just rugby pitches. The existing provision within an area may not be able to accommodate this increased demand without exacerbating existing and/or predicted future deficiencies. Therefore, Sport England considers that new developments should contribute towards meeting the demand that they generate through the provision of on-site facilities and/or providing additional capacity off-site.
6. The primary school has potential to help facilitate community sport for indoor and outdoor sport and recreation activities subject to design and management

7. The development - using Active Design - could create the right environment to help people get more active, more often in the interests of health and wellbeing through good urban design.

#### Construction of Playing Pitches

The new/replacement playing field is located in Flood Zone 3 which is not recommended nor supported by Sport England.

In order to assess the suitability of the site to accommodate pitches, it will be important that the ground conditions and pitch specification to prepare the site as a playing field are given careful consideration. The preparation of 4 x new sports pitches will benefit from specialist consideration by sports turf consultants/agronomists due to the need to understand the implications of topography, soils, drainage, and surface preparation etc. and to ensure the pitches are fit for purpose. Without this there is a risk that playing pitches will not meet needs because they will suffer from problems such as waterlogging and uneven surfaces. Consideration also needs to be given to matters such as soils, seeding, water supply depending on the ground conditions, and the standard of pitch to be provided.

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

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

We have consulted the Rugby Football Union (RFU):

Crediton RFC is a RFU Accredited Club with teams throughout all Age Groups from U7-U18's including three girl's teams, and having 3 adult male teams. The current club site is over capacity and the club are reliant on the use of the pitches on land positioned adjacent to the club site. The current ancillary facilities are not adequate for the current demand of players and the changing facilities are not NGB compliant for modern standards. The volume of activity and throughput of users at the site causes considerable operational challenges for the club. The club have a strong and robust management board, including a current club business plan which is continually reviewed. The club engage fully with both Devon RFU and the RFU on all developmental activities and wider club support matters.

In terms of this proposal, the RFU considers that 4 natural turf pitches on this site would support the club in improving its playing operations. The RFU would expect that the pitches are constructed and developed in accordance with SE/RFU technical specification, including full drainage to support all year round use. Technical guidance can be found here:

[http://www.englandrugby.com/mm/Document/Governance/ClubSupport/01/30/86/97/Naturalurf pitches\\_Neutral.pdf](http://www.englandrugby.com/mm/Document/Governance/ClubSupport/01/30/86/97/Naturalurf pitches_Neutral.pdf)

With no technical details on the ancillary facilities being available, the RFU wish to identify the need for the appropriate number of changing rooms for 4 pitches (8 C/R's) to maximise the pitch allocation. The RFU Guidance note on changing rooms and clubhouses is:

[http://www.englandrugby.com/mm/Document/Governance/ClubSupport/01/30/36/32/facilities-gn-2009-final-approved-version\\_Neutral.pdf](http://www.englandrugby.com/mm/Document/Governance/ClubSupport/01/30/36/32/facilities-gn-2009-final-approved-version_Neutral.pdf)

Similarly the floodlight technical specification is not included in this outline application, and the RFU wish to identify that the club will need at floodlighting provision at this site to support the clubs current operations.

[http://www.englandrugby.com/mm/Document/General/General/01/32/32/22/RFUguidetofloodlighting\\_Neutral\\_English.pdf](http://www.englandrugby.com/mm/Document/General/General/01/32/32/22/RFUguidetofloodlighting_Neutral_English.pdf)

The club would require replacement prior to lose, to ensure that the clubs operations are not duly affected or disrupted.

In principle the RFU are in support of this proposal.

#### Primary School

The school site depending upon final design, has the potential to facilitate an improved level of sport and recreation which could include new playing field, tennis court/MUGA and indoor space. We would strongly support a community use agreement as part of any planning application as the site could be widely used for community sport out of core school hours.

#### Active Design

Sport England, in conjunction with Public Health England, has produced 'Active Design' (October 2015), a guide to planning new developments that create the right environment to help people get more active, more often in the interests of health and wellbeing. The guidance sets out ten key principles for ensuring new developments incorporate opportunities for people to take part in sport and physical activity. The Active Design principles are aimed at contributing towards the Government's desire for the planning system to promote healthy communities through good urban design. Sport England would commend the use of the guidance in the master planning process for new residential developments. The document can be downloaded via the following link:  
<http://www.sportengland.org/facilities-planning/planning-for-sport/planning-tools-and-guidance/active-design/>

Appendix 1 contains a checklist that can demonstrate that the proposal has been / will be designed in line with the Active Design principles.

Cycle and walking networks should be extended to linking the existing town with the new development, and access to the surrounding countryside.

#### Conclusion

The new/replacement playing field is located in Flood Zone 3 which is not recommended nor supported by Sport England.

We recommend that further discussions and amendments are made to the proposal to take on board the comments above before the application is determined. A solution includes reviewing the location of the new x4 rugby playing pitches and moving them out of Flood Zone 3 to another part of the site.

In the event that the Council is minded to approve the application without amendment, the following planning conditions should be imposed:

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

and approved in writing by the Local Planning Authority after consultation with Sport England.

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

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

2. The playing field/s and pitch/es shall be constructed and laid out in accordance with the [planning application \*, Section \* and Drawing No. \*\*] and with the standards and methodologies set out in the guidance note "Natural Turf for Sport" (Sport England, 2011), and shall be made available for use before first use or occupation [or other specified timeframe] of the development [or specified part of the development/] hereby permitted.

Reason: To ensure the quality of pitches is satisfactory and they are available for use before development (or agreed timescale) and to accord with Development Plan Policy \*\*.

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

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

4. No development shall commence until details of the design and layout of changing facilities [and other sports facilities to be named] have been submitted to and approved in writing by the Local Planning Authority [after consultation with Sport England]. The changing facilities [and other sports facilities to be named] have shall not be constructed other than substantially in accordance with the approved details.

Reason: To ensure the development is fit for purpose and sustainable and to accord with Development Plan Policy \*\*.

Informative: The applicant is advised that the design and layout of the [sports facility] should comply with the relevant industry Technical Design Guidance, including guidance published by Sport England, National Governing Bodies for Sport.

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

DEVON, CORNWALL & DORSET POLICE – DEVON, CORNWALL & DORSET POLICE  
19th April 2018: No objections

Thank you for this amended application. The amended Illustrative Masterplan (9800) is noted, Police have no further comments at this time to add to those submitted 8th March 2017

Original Comments: Having reviewed the illustrative masterplan, which I accept may change, please note the following information, initial advice and recommendations from a designing out crime, fear of crime, antisocial behaviour (ASB) and conflict perspective:-

Residential - Building Regulations - Approved Document Q - Security.

The new security element within the Building Regulations, namely Approved Document Q (ADQ) creates security requirements in relation to all new dwellings, including those resulting from a change of use, for example commercial, warehouse or barns undergoing conversion into dwellings. It also applies to conservation areas.

All doors at the entrance to a building, including garage doors where there is a connecting door to the dwelling, and all ground floor, basement and other easily accessible windows, including roof lights, must be shown to have been manufactured to a design that has been tested to an acceptable security standard i.e. PAS 24 2012 or equivalent.

To assist with this requirement and to ensure compliance with ADQ it is recommended that all doors and windows are sourced from a Secured by Design (SBD) member company. SBD requires that doors and windows are not only tested to meet PAS 24 2012 standard by the product manufacturer, but independent third-party certification from a UKAS accredited independent third-party certification authority is also in place, thus reducing much time and effort in establishing the provenance of non SBD approved products.

SBD also incorporates a bespoke element to assist in the crime prevention approach with regard to listed buildings and heritage status.

Secured by Design (SBD) is a crime prevention initiative owned by the Mayor's Office for Policing and Crime (MOPAC) on behalf of the UK police services. SBD aims to reduce crime, the fear of crime and opportunities for antisocial behaviour and conflict within developments by applying the attributes of Environmental Design, as follows, in conjunction with appropriate physical security measures:-

- o Access and movement: Places with well-defined and well used routes, with spaces and entrances that provide for convenient movement without compromising security

- o Structure: Places that are structured so that different uses do not cause conflict

- o Surveillance: Places where all publicly accessible spaces are overlooked, have a purpose and are managed to prevent creating problem areas which can attract the antisocial to gather, dumping and dog fouling

- o Ownership: Places that promote a sense of ownership, respect, territorial responsibility and community

- o Physical protection: Places that include necessary, well-designed security features as laid out in SBD Homes 2016

- o Activity - Places where the level of human activity is appropriate to the location and creates a reduced risk of crime and a sense of safety at all times.

- o Management and maintenance - Places that are designed with management and maintenance in mind, to discourage crime and Anti Social Behaviour.

An early point to consider is vehicular access and egress for the proposed school and rugby club. The volume of traffic at the start and end of a school day and at weekends / match days for the rugby club cannot be underestimated. If adequate space is not provided for

vehicles they will be parked on nearby roads, paths and any available space which can create real upset and angst with local residents. Police can spend a lot of time dealing with issues related to parking or conflict over parking near schools and sports facilities.

I look forward to reviewing a more detailed application in due course but in the meantime please do not hesitate to contact me if I can assist further at this stage.

### **HISTORIC ENGLAND: No objection**

1st May 2018 - On the basis of this information, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.

Original Comments: 28th March 2017 This is an outline planning application for up to three hundred and twenty six dwellings on a prominent sloping greenfield site on the north-eastern approach to Crediton. We understand from the application that the site has been proposed for a mixed use allocation in Mid Devon Council's local plan, but that this application has been brought forward in advance of that process, although with the Council's knowledge.

The application site is significantly larger than the site intended for allocation. It now extends from the north-eastern edge of Crediton down the slope to the Creedy river, taking up a considerable amount of open countryside and the western side of the valley. The lower-lying part of the site is proposed for the relocation of Crediton Rugby Club, but otherwise the proposal is now entirely for housing, although it is also intended to incorporate a school. We have provided pre-application advice on the contents of an environmental impact assessment and the preparation of a heritage statement for the proposed development.

From Historic England's perspective, we think it unlikely that there will be a significant impact on highly graded heritage assets which fall within our remit, due to local topography and their distance from the development site. However, that does not mean that the site is without heritage sensitivities, since it is prominently located and does form part of the setting of a number of grade II listed buildings and a grade II registered park and garden at Shobrooke Park. The Built Heritage Statement, written in support the application, refers to Historic England's guidance on The Setting of Heritage Assets. However, it does not entirely follow the sequence of steps recommended in that document for assessing the impact of a development, since it does not include the fourth step - relating to the maximising of enhancement and minimising of harm arising from a development. Whilst the report concludes that some harm will be caused by the development to the setting of assets such as Shobrooke Park - whose wider landscape context will be "eroded"- it does not address the question of whether that harm could be further reduced, or alternatively, the setting of the park enhanced through other means.

See comments below from the LPA case officer which resulted from completion of the steps outlined above.

We trust that the Council's Conservation Officer will be assessing in greater detail the impact of the development on heritage assets in the vicinity to determine what level of harm might be caused to them, and whether that harm could be further reduced or mitigated. Once the level of harm has been independently verified, it can be afforded the appropriate weight when weighed in the balance against any public benefits afforded by the development.

**LPA Conservation Area Officer: No objections are raised – 25th July 2017.** The boundary of the edge of the new housing on its eastern side adjacent to Shobrooke Park has been set back to respond to the concerns as initially raised.

NATURAL ENGLAND - 19th April 2018 - Natural England has previously commented on this proposal and made comments to the authority in our letter dated 18 March 2017 - No objection

The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal.

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us

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

The Wildlife and Countryside Act 1981 (as amended)  
The Conservation of Habitats and Species Regulations 2010 (as amended)

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

Statutory nature conservation sites - no objection

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

Protected species

We have not assessed this application and associated documents for impacts on protected species. Natural England has published Standing Advice on protected species. You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence is needed (which is the developer's responsibility) or may be granted.

If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us with details at [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

Priority Habitat as identified on Section 41 list of the Natural Environmental and Rural Communities (NERC) Act 2006

The consultation documents indicate that this development includes an area of priority habitat, as listed on Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006.

The National Planning Policy Framework states that 'when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.'

#### Local sites

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

#### Biodiversity enhancements

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application.

This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat.

#### Landscape enhancements

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

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

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the [data.gov.uk](http://data.gov.uk) website.

**SOUTH WEST WATER - 16th March 2017 / 12th April 2018 - No objection**

## **REPRESENTATIONS**

When the application was first submitted 140 letters were sent out to near neighbours of the site (07.03.2017). Furthermore site notices were posted at various locations around the site on the 09.03.2017 and a press notice was placed in the public notices section of the Tiverton Gazette on 14.03.2017. 126 representations were received, and of these approximately 91 of the representations raised objections to the proposals with 35 comments expressing support.

When the scope of the application was amended on 26th March 2018 (as referred above), notification letters setting out the scope of the changes to the description of development and clarifying the scope of the additional information submitted on 09.04.2108 were sent to the 126 contributors as referred above. 12 further representations of objection have been received.

A brief summary of the comments received in relation to the application as it has been amended is set out below.

1. The scope of the consultation undertaken on the application is considered to be questionable
2. The number of houses proposed exceeds the number in the allocation leading to a high density of development.
3. The application scheme is not considered to be policy compliant.  
Concern that a development of three-storey buildings is inappropriate in this location
4. The closure of Pedlerspool Lane.
5. Concerns over the capacity of the proposals for relocation of the Rugby Club regards the provision of two pitches in the flood zone.
6. Concern of the siting of the primary school.
7. Housing need for Crediton is not met.
8. It is noted that Sport England object to the application.
9. The site should not be promoted for development in the development in the local plan.
10. The revised landscape and visual impact assessment is not considered to be accurate.
11. The application scheme is not considered to be adequate in terms of transport infrastructure and the traffic assessment is also considered to deficient.
12. The proposals result in the loss of open countryside / agricultural land. There are other locations in Crediton that should accommodate residential development.
13. The proposal is result in a reduction in air quality in the town.
14. The proposals will result in the loss of ecological habitats.
15. The proposals will adversely affect the setting of the historic gardens at Shobrooke Park
16. The proposals do not include the required infrastructure including GP surgeries, highway capacity and lack of public resources to build the school.
17. Inadequate information regards the architectural designs of the proposed housing.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

1. Principle of development, including 5 year land supply - Policy Issues.
2. Highways, Movement & Air Quality Issues.
3. Local context considerations, impact on landscape character, visual amenities, local environment and density of development.
4. Affordable housing provision and Section 106 matters.
5. Contamination, Flood Risk & Drainage issues.

6. Ecological/ Aboricultural Impacts
7. Other matters.
8. Summary & Planning balance

### **1. Principle of development, including 5 year land supply - Policy Issues.**

In the adopted development plan the site is proposed for development as a contingency site. The adopted policy (AL/CRE/12) as set out below promotes a range of land-uses and criteria that need to be satisfied as set out below. In the adopted plan the criteria for the site's release is clarified under policy AL/DE/1 which confirms that if there is insufficient land being brought forward to deliver new housing (in terms of the site's allocated for housing as set out in the plan) the contingency sites will be released for development.

A site of 21 hectares at Pedlerspool, Exhibition Road is identified as a contingency site for development to be released in accordance with policy AL/DE/1, subject to the following:

- a. 165 dwellings with 35% affordable housing to include at least five pitches for gypsies and travellers;
- b. 21000 square metres of employment floorspace;
- c. A suitable site for the relocation of Crediton rugby club
- d. Layout, design and landscaping, including planting on the riverside that reflects the local distinctiveness and its sloping nature;
- e. The protection of the setting of the wider area, including the upper slopes to the south and west for Green Infrastructure and landscaping;
- f. Provision of a Sustainable Urban Drainage Scheme to deal with all surface water from the development and arrangements for future maintenance;
- g. The provision of serviced employment land in step with the housing at a rate of at least 1 hectare per 30 occupied dwellings unless it can be demonstrated to the Council's satisfaction that such an approach would significantly undermine the viability of the scheme as a whole.
- h. This development shall not be commenced until a Link Road between the A377 and Lords Meadow is in operation unless the Council is satisfied that air quality and traffic impacts as a result of the development would not be material.

Members will be aware that the Link Road between the A377 and Lords Meadow has since been completed.

The Local Plan Review (2013-2033) proposes that the site is allocated for residential development under policy CRE/5 as follows:

A site of 21 hectares at Pedlerspool, Crediton, is allocated for residential development subject to the following:

- a) 200 dwellings with 28% affordable housing including at least five pitches for gypsies and travellers;
- b) A serviced site of 1.1 hectares for a new primary school;
- c) A suitable site for the relocation of Crediton Rugby Club;
- d) A phasing strategy which ensures that sites for the sports pitches, affordable housing and gypsy and traveller pitches are delivered broadly in step with the housing development, and the school is transferred to the local education authority at a timetable agreed with Devon County Council;
- e) Layout, design and landscaping, including planting on the riverside that reflects the local distinctiveness and its sloping nature;
- f) The protection of the setting of Creedy Historic Park and Garden and the wider area, including the upper slopes to south and west for Green Infrastructure and landscaping;

- g) Facilitation of access to local bus routes via sustainable travel modes including possible extension of service;
- h) Provision of suitable access arrangements from the A3072 and appropriate highway improvements along Stonewall Lane and Old Tiverton Road;
- i) Improved access to the town centre for pedestrians and cyclists;
- j) Protection and enhancement of trees subject to Tree Preservation Orders within and adjoining the site; and
- k) An archaeological investigation and mitigation scheme.

Policy CRE5 was included as a site specific allocation at the 2015 consultation stage of the Local Review Plan process, and was carried through to the 2017 submission document. Comments of objection and support that have been received as summarised in the tables appended to this report, at Appendix A. While the application as proposed includes all of the land uses as set out in Policy CRE5, the Local Plan Review is currently subject to its examination and as such little weight can be given to Policy CRE5 given there are also objections received to it. However, Policy CRE5 is the Council's most recent statement of policy for the development of the site and the range of uses sought, including serviced land for a new primary school.

Members will also be aware of the Cabinet decision taken on 7th August 2015 to bring forward allocations in the emerging local plan for development in order to assist with housing delivery across the district. This includes the local plan allocation Policy CRE5 at Pedlerspool, Crediton and is an approach that is consistent with the principle of policy AL/CRE/12 and AL/DE/1 in terms of timing of delivery. Whilst the scope of the application site area extends beyond the site allocation on the local plan policies map (both adopted and emerging), the focus for built development reflects the site allocation on the policies maps (adopted and emerging) with the additional site area proposed to accommodate two pitches as part of the new facilities for the Rugby Club.

Other policies in the development plan that need to be considered in the assessment of the application scheme are policy COR1 of the Mid Devon Core Strategy (LP1) seeks to manage growth in a sustainable way to support the diverse needs of communities, including the provision of affordable housing and making the most efficient use of land appropriate to local context. The policy establishes a minimum delivery target of 30 dwellings per hectare. Policy COR3 seeks to meet the diverse housing needs of the community, including a target provision of approximately 100 affordable dwellings per year across the District. COR8 with COR9 seeking to improve accessibility by reducing the need to travel by car and increasing public transport use, cycling and walking. Policy AL/IN/3 of the AIDPD seeks to provide at least 60 square metres of public open space for each new market dwelling and to contribute to the provision and maintenance of existing and new open space. Policy AL/IN/5 states that new housing development must cover the cost of additional education facilities where the development would lead to existing facilities being oversubscribed. Policy AL/CRE/8 requires development which would result in increased levels of traffic passing through Crediton and which would worsen existing air quality in the Management Area to mitigate its likely impact on air quality by making a financial contribution toward the implementation of the mitigation measures contained in the town's Air Quality Action Plan and in accordance with the adopted Air Quality SPD.

In summary, the proposed development is broadly consistent with the principle of development through AIDPD Policy AL/CRE/12 (adopted) and the more recent Local Plan review Policy CRE5 (subject to examination). However, permission is sought for a greater number of dwellings (257) than either Policy AL/CRE/12 (165) or Policy CRE5 (200). The following sections of this report consider the impacts of the development when considered against the objective of delivery sustainable development, the extent to which the scheme is

complaint with the range of other development plan policies, and finally weighs in the balance the benefits of the proposal against any identified harm.

As stated above in this report Members will be aware that a new National Planning Policy Framework came into force on 24th July 2018, which is material to the determination of this planning application. Paragraph 11 makes clear decisions should apply a presumption in favour of sustainable development. For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

For applications involving the provision of housing, development plan policies which are most important for determining the application would be out of date in situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer- which is 20%). The Council's most recent statement of housing supply was published in July 2018. This shows Mid Devon's housing supply as 4.45 years. This is reflected in policy DM1 of the Local Plan 3 Development Management Policies which takes a positive approach to sustainable development, allowing development to be approved wherever possible.

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

The application scheme is served via a new vehicular access into the site via a new combined roundabout (design type: 28m) at the junction of Old Tiverton Road and the A3072. Entry at this point will then link to a series of principal streets that will circulate around the eastern development area serving the new housing and the rugby club facilities and crossing over Pedlerspool Lane at two specific points to serve the primary school and the housing proposed for the western development area. Access along Pedlerspool Lane for vehicular traffic is to be restricted other than to serve the gypsy and traveller site, and to link back to the bottom of Pounds Hill. Stonewall Lane will remain open to vehicular traffic with improvements to it with the introduction of passing places.

Pedestrian access is proposed in the vicinity of Pounds Hill Cross, with internal circulation routes running down through the western parcel across Pederspool Lane and into the eastern parcel down to the proposed Rugby Club facilities. A further link directly into the eastern development area is proposed adjacent to the existing practise pitches on Exhibition Road. In addition, and as stated above the applicant has agreed to deliver improvements off site to improve connectivity back into Crediton (specifically along Pounds Lane and to the bottom of Jockey Hill).

Finally the applicant has agreed to provide a package of financial contributions to improve an existing public right of way that will link the site back to the Sports Centre and Shobrooke (first phase of), improve public transport facilities serving the site and across Crediton, and to provide assistance for future occupiers to use public transport.

The applicant submitted a Transport Assessment (TA) to set out the scope of the impacts of the development as proposed, which is supported by an Addendum note (dated 14th March

2018) to provide an accurate audit trail following the scope of the amendments to the application scheme that are now proposed from a land-use point of view. In addition a further technical note has been submitted to demonstrate the scope of the design that will be required for the internal road network in order to demonstrate that it would be capable of carrying larger sized vehicles, although this issue would be formally resolved at the reserved matters stage of the process.

In terms of traffic flows arising from the development the applicant has completed a full peak am and pm survey with existing flows passing the site access and travelling onto; Old Tiverton Road, Exhibition Road South and Exhibition Road North. The results of the survey indicate current flows of 416 trips in the AM peak and 410 in the PM peak. Using the TRICS data base the TA then estimates the proposed AM and PM peak trip generations flows that would arise from the proposed development mix predicting 278 and 196 trips respectively. For information this exercise was completed on the basis of the scheme as it was originally submitted (ie with a higher level of development than is now proposed) and excluding the Rugby Club traffic. The applicant's consultant using a traffic modelling system has sought to clarify the impact of this additional traffic on the key junctions around the Town, and these are set out in full in the TA report.

These aspects of the application assessment have been reviewed and checked by officers in the Highway Authority in terms of the existing network having capacity to manage the additional traffic and they are satisfied that the network will be able to carry the additional flows without resulting in detriment to highway safety for other users of the highway. As reported in their comments they note that the junction of Exhibition Road and Commercial Road will function close to capacity with the additional flows as predicted.

In terms of the scope of the proposals off site as highlighted above these aspects of the application scheme have been formulated in close conjunction with officers in the Highway Authority in order to improve connectivity between the site and the key facilities in the town for pedestrians and cyclists.

The indicative site layout shows how the site could be developed for 257 dwellings and ensure compliance with policy DM8 in terms of providing 2 spaces either on site or adjacent to site.

Given that some of the traffic generated by the development is likely to pass through the Crediton Air Quality management area (AQMA), the development has the potential to affect air quality in the Crediton Air Quality management area (AQMA). As stated above the applicant has agreed to provide a financial contribution (total of £955,900.00) to deliver various initiatives off site as described above. The level of contribution has been dictated by the requirements of Policy AL/CRE/8 (257 x £4434.00) and the package of initiatives that will be delivered will not only assist with reducing vehicular trips on the network it is also considered to represent a significant community benefit. Further analysis of the Section 106 package that is proposed is discussed further at 4 below.

Although Sandford Parish Council, Crediton Town Council and the Creedy Valley Protection group have raised concerns about the transport and movement implications of the development (refer to section 7 of this report) the application scheme is considered to be in compliance with policy COR9, subject to conditions as recommended by the Highway Authority and the terms of the Section 106 as outlined above in this report.

### **3. Local context considerations, heritage impacts, impact on landscape character and visual amenities, overview of development principles and density of residential development**

### **Local Context:**

The development would sit as an extension to the urban edge of Crediton on its eastern boundary. The site presents as two separate field areas divided by Pedlerspool Lane, and with sections of highway running parallel to all the site boundaries except the eastern boundary which shares a boundary with a section of the River Creedy and an agricultural field. The roadside boundaries are contained by Devon hedgebanks interspersed with tree planting. The boundaries along Stonewall Lane, Pounds Lane and in particular Pedlerspool Lane are particularly impressive in terms of the contribution that they make towards the landscape character and visual amenities of the area. The boundary to the A3072 is more open and Stonewall lane forms the boundary between the site and the rear of the residential properties along Pounds Hill/ Beech Park (currently the settlement boundary).

The site does not lie within a nationally or locally designated landscape. There are no heritage assets (listed buildings and/or SAMs) within the Site. Creedy Park and the coach house building (referred to as East Lodge) and other associated buildings which are grade II listed sits adjacent to the site on western boundary. The Park is on the Devon Local Register of locally important parks and gardens. To the east of the Site there are several Grade II Listed buildings located in and around the Shobrooke Park Grade II listed Registered Park and Gardens. The Site is identified within the Yeo, Culm and Exe Lowlands Landscape Character Area. Generic qualities for the area relate to the rivers (Yeo and Creedy) meandering through the landscape within wide floodplains. Fields are generally medium to large and semi-regular in shape divided by thick often flower rich hedgerows, hedgerows sometimes hedgerow trees, and these are clearly applicable to the application site. In terms of the Character types as identified in the Mid Devon's Landscape Character Assessment (2011) the majority of the eastern development area falls with the Sparsely Settled Valley Floors character type, and the western area is either not classified or falls within the Lowland Plains character type.

As stated the application site is promoted for development by the Council in the existing and emerging development plan. As part of the plan making process a strategic environmental impact assessment of bringing forward development on the site has been already undertaken. In addition the applicant has commissioned site specific studies to support this application as commented on below.

### **Heritage Impacts:**

In terms of how the development would affect the setting of the Heritage assets, as stated above the scope of the development area on the site was plotted in order to seek to deliver an acceptable relationship in terms of how the development would affect the setting of the various heritage assets within the vicinity of the site and as described above.

Following further analysis at the planning application stage, including consideration of Heritage Statement(s) submitted by the applicant, the scope of the buffer on the eastern boundary (adjacent to the external boundary of the proposed new housing development area) has been increased at the request of the Council's Conservation Officer as now shown on the indicative masterplan. The reasoning for this is to provide an additional buffer on this side of the site to afford an improved relationship and setting with Shobrooke Park. With these changes to the scope of the development area the separation distance between the new areas of built form and the affected assets are considered to be acceptable. Although the degree of harm to the affected heritage assets arising from the delivery of development on this allocated site is considered to be less than substantial it still must be given considerable weight in the the decision making process. Further consideration of this level of impact is taken into account as part of the overall planning balance that is considered at section 8 of this report.

Finally it is noted that Historic England have not raised an objection to the application scheme, and conditions are recommended by the County Archaeologist to cover various matters following on from field work/investigations that have already been undertaken, in order to satisfy archaeological matters.

### **Landscape Character impacts:**

The applicant has commissioned a site specific Landscape and Visual impact assessment as part of this planning application process which was undertaken by Barton Wilmore. The visual impact of the development has been considered from 13 viewpoints including near distance, medium and long distance views, including from the various public rights of way in the vicinity of the site and the town generally. The conclusions arising from the assessment as undertaken are summarised below:

In terms of likely effects on landscape features, whilst the proposed development will result in limited loss of an area of agricultural land, there is potential for a positive contribution to, and enhancement of, a number of features, including trees, woodland and the River Creedy corridor. This is likely to increase with the establishment and ongoing management of proposed planting over the Medium term.

In terms of effects on landscape character, whilst the proposed development would introduce additional influences of built form into the currently undeveloped Site, this would be in the context of a prominent settlement edge and associated infrastructure. These factors limit the sensitivity, remoteness and tranquility of the site. Whilst the fields would be partially replaced by built form, a sensitive and considered approach to the layout and landscape structure is proposed, including retaining an area of publicly accessible open space and enhancing the setting of the River Creedy corridor.

### **Visual impacts:**

In terms of visual impacts the development will be clearly visible, albeit contained behind the perimeter hedgerows, from near distant views and from more distant views the development would present as extension to the existing town boundary. The proposed mitigation arising from the scope of the assessment as undertaken are set out below, which are embedded in the application scheme under the development principles and translated into the indicative masterplan.

1. The incorporation and reinforcement of the principal hedgerows and trees within a network of green infrastructure, providing protection to the existing vegetation structure and creating opportunities for reinforcement and enhancement;
2. The creation of a managed woodland buffer to the north of the site along Stonewall Lane;
3. The alignment of the roads to minimise the impact of access routes on existing vegetation, and the incorporation of substantial landscape buffers along Pedlerspool Lane;
4. The management of existing tree belts to enhance biodiversity and recreational value, maintain its value as a distinctive landscape feature, and as a visual buffer;
5. Building heights – development restricted from the top part of the site and heights of building blocks largely restricted to 2 storeys.
6. The creation of a landscape buffer and areas of open space along River Creedy.

## **Development Principles:**

Given the application is submitted in outline the mitigation as identified above is set out by establishing a series of supporting principles which can then be used as a basis to inform and assess detailed proposals that come forward at the reserved matters stage. These are set out in within the design and access statement submitted to support this application. Furthermore an illustrative masterplan layout has been submitted to set out how the site could be developed in accordance with the key principles, which are explained further below:

- The Rugby Club facilities to form an anchor at the bottom of the site (eastern plot)
- Formation of green infrastructure/movement corridors that provide connecting routes down into the development area managing the topography of the site.
- Retention of greenery along the site edges and formation of a green plateau at the top of the site to function as an amenity/play space. Development will be kept to the Southern area where topography raises no issues.
- New sections of Highway to be designed so they are fit for purposes (capacity to be used by farm traffic).
- Formation of three character areas reflecting the site's topography, the proposed density and the menu of land-uses as proposed as described below:
  - Park View – A low density residential environment (a maximum of two storey buildings) sitting adjacent to the primary school site with the gypsy and traveller pitches adjacent.
  - Central Gardens – A medium density residential area (with occasional 2.5/3 storey buildings).
  - Crediton Gateway - A medium density residential area (a maximum of two storey buildings) set closest to the proposed new entrance to the site

## **Density of Residential Development:**

The application proposes the necessary land uses to comply with the site allocation requirements as set out in the emerging development plan policy framework. Permission is sought for up to 257 houses, and the illustrative masterplan seeks to demonstrate how the required land uses can be accommodated across the site in addition to the quantum of residential development as proposed.

The policy framework allows a gross site area of 21 acres (8.7 hectares) to accommodate the residential development. The masterplan confirms a land budget in area terms of 0.3 of a hectare to accommodate the gypsy and traveller pitches. With a disposition as shown on the masterplan across the remainder of residential land budget (8.4 hectares, including 0.81 hectare of incidental open space) 257 dwellings would equate to 30 units per hectare (gross) which is considered to be in accordance with guidance as set out at policy COR1.

In addition to the illustrative masterplan a proving plan has also been submitted which imposes the masterplan layout at a larger scale so it is possible to undertake a preliminary analysis of the layout in more detail at this outline stage. Although a final decision on the layout matters would be taken at the reserved matters stage of the process, it is considered that the applicant has at this stage demonstrated that a new residential environment with

upto 257 units could be achieved in a satisfactory manner across the site, in addition to the other land uses that are required.

Local stakeholders have raised concern about the delivery of 2.5/3 storey units, and as stated above the masterplan vision includes provision for occasional siting of taller buildings towards the middle of the site area (Central Gardens), and away from the more sensitive edges of the site. Finally on this point it is noted on other estate locations in Credition 2.5/3 storey units have been considered acceptable.

Summary: At this stage of the planning process the applicant is not seeking to provide the level of information in terms of the sitting, layout and design matter to enable an assessment to be undertaken in terms of resolving if the criteria outlined at policy DM2, DM8 and DM14 have been satisfactorily met. The scope of the application details (as embedded in the development principles / indicative masterplan) have been informed by the completion of a detailed landscape and visual and historic asset impact assessment(s) which build on the Strategic Environmental Impact assessment already undertaken by the LPA. Taking into account the scope of the information as provided it is considered by officers that it has been satisfactorily demonstrated that if the application was to be supported at this outline stage the level of residential development proposed (up to 257 units) in conjunction with the other land uses could be delivered across this strategically allocated site in a comfortable manner, be respectful to the existing houses adjacent, the amenities of the area generally and not adversely affect the landscape character and/or visual amenities of the wider locality. On this basis the application scheme at this outline stage is considered to be in accordance with policies: COR2, DM1, DM2 and DM27 and reflecting the requirements of emerging policy AL/CRE/5 albeit with an increased level of housing development which would be delivered at a density which complies with policy COR1 and reflects the aspiration of section 123 of the NPPF as revised.

The applicant is advised that parking provision should be made on plot or adjacent to plot and not within courtyard arrangements which are not supported from a policy point of view.

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

In the recommendation section of this report above the heads of terms, as agreed by the applicant, for inclusion within a section 106 agreement are set out if planning permission is to be granted. The section below overviews how the terms relate to the requirements of the following parts of the development plan framework (COR8 - Infrastructure Provision, AL/DE/1-3 – Affordable Housing (general), CRE5 (proposed modifications) replacing AL/CRE/13-site specific requirements, AL/IN/3 - Public Open Space, AL/IN/5 – Education and AL/CRE/8 – Credition Air Quality).

Total contribution agreed towards delivering off site Educational Infrastructure – £965,516.00 (including £864,035 towards primary school facilities) - policy requirement AL/IN/5.

Total contribution agreed towards delivering off site sustainable transport measures - £955,900.00. Please note that the total sum based on a charging rate of £4434.00 per unit would exceed this level of contribution (refer to comment on affordable housing) - policy requirement AL/CRE/8.

Total contribution agreed towards delivery off site healthcare provision - £93,291.00.00 – policy requirement COR8.

In order to address the requirement of policy AL/IN/3, the masterplan identifies a land budget of 0.81 hectares to deliver a range of public open space facilities as integral part of the new residential environment to be created, and this is indicated largely at the top of the site

adjacent to the boundary with Stonewall Lane. Based on a requirement of 60 metres of open space as required by policy a total area of 15,420 square metres would be required to be laid out as public open space. Therefore the layout as shown on the indicative masterplan would deliver a policy compliant scheme without needing to seek an off-site contribution. The specification for the delivery of this space and scope of facilities to be provided, and the future maintenance arrangements are proposed to be secured as part of the Section 106 agreement.

**Affordable Housing:** It is considered that the requirements of Policy AL/DE/3 in this case should be superseded by the requirements of emerging Policy CRE5 which establishes an affordable housing target of 28%. Furthermore the policy framework at both the local level recognises that although affordable housing is a high priority and if evidence is submitted which proves that the delivery of affordable housing and infrastructure requirements would render the site unachievable a reduced level of provision can be negotiated. At the time when the AIDPD (January 2011) was drafted specific reference was made to the high costs associated with bringing forward development on the site of the Urban Extension to Tiverton given the high infrastructure costs that are likely to be associated with bringing forward that specific development.

As background to this particular case the applicants have sought to defend a reduced quantum of affordable housing referencing viability issues and threshold land value requirements. The application was submitted in March 2017 and the delay in reporting this application to the planning committee has been due to ongoing discussions largely regarding the housing aspects of the scheme (refer to planning history section of this report), including the provision allowed for affordable housing. Following on from these discussions when this revised application was submitted the applicant had indicated that 54 of units would be provided as affordable units. Following further discussion since April 2018 the applicant has agreed to increase the number to 56 to reflect the offset between contribution level agreed for sustainable transport measures and the level that would be required based on the charging rate as confirmed by policy AL/CRE/8. The revised proposals of 56 affordable homes equates to a 22.3% of total amount of housing proposed on the site, which is increased to 24% reflecting on the 5 gypsy and traveller pitches that are now proposed as part of the application scheme.

As stated above the applicant has agreed to make a financial contribution of just over one million nine hundred and ninety six thousand pounds to deliver initiatives off site. In addition off site highway works are also to be undertaken. Given the scope and cost of the infrastructure that the applicant has agreed to deliver, which is pro rata comparable to the infrastructure costs associated with delivering the development at Tiverton as referred above a reduction in the quantum of affordable housing below the policy target of 28% is considered to be justified in policy terms. The tenure and mix as requested by the Housing Options manager will be included with the Section 106 to ensure that the affordable housing responds to local needs. Furthermore the quantum of affordable housing as has been negotiated is considered reasonable by the Housing Options manager given the specific circumstances.

## **5. Contamination, Flood Risk & Drainage issues**

**Contaminated Land Issues:** There are no concerns regarding the suitability of the site to accommodate the proposals given concerns regarding the site suffering contamination. Conditions are recommended to set out a process of further investigation that must be undertaken in advance of development commencing on site.

**Flood Risk Issues:** The scope of the built development area is all contained within land that is classified as Flood Zone 1, land with the lowest probability of flooding. However part of the

site that accommodates the training pitches as part of the Rugby Club complex fall within floodzone 3. There is an existing drainage ditch which forms the edge of the zone 3 area. The local profile across the extent of the development area would be raised (refer to surface water drainage section below), and it is noted that any loss of flood plain would need to be compensated for in the event that changes in topography are proposed across the section of site that falls within the flood plain (see comments below: Environment Agency and Sports England).

The Environment Agency have confirmed that the layout of the proposals as shown on the supporting Masterplan complies with the sequential approach as set out on the National Planning Policy Framework, the principle of providing playing pitches, and other recreational assets, within the floodplain being quite compatible with policy requirements. However the provision of pitches is subject to there being no loss of floodplain storage or conveyance, especially should any re-profiling be carried out. It is noted, as clarified by the EA, that this matter has been highlighted within para 3.9 of the applicant's Flood Risk Assessment including a statement that any loss of floodplain storage must be compensated for on a level for level basis.

As part of the strategic environmental impact assessment work undertaken as part of the Local Plan Review process a strategic flood risk / sequential test assessment of bringing forward development on the site has been undertaken.

**Surface Water Drainage Issues:** To reflect the application scheme a surface water drainage strategy is proposed which has been informed following percolation testing undertaken in 2015. The surface water drainage strategy will serve the development area/hardscape (excluding the external facilities for the Rugby Club). The strategy includes the provision of adoptable and non-adoptable underground pipework; swales; detention basins providing storage volumes of 3940 cubic metres (incorporating hydraulic controls) to ensure that the run off rate from with the proposed development in situ is equivalent to green field run off rates. In turn this will ensure that flood risk down- stream of the site should not become an issue in normal circumstances and upto the 100 years critical storm event. The Lead Flood Authority have considered the strategy that has been proposed and have not raised an objection to the scheme subject to a number of conditions in relation to the design details to be built out.

**Proposed Foul Water Strategy:** A new pumping station is proposed adjacent to the Old Tiverton Road that is proposed to manage flows from the development to the existing South West Water (SWW) network sewer. As noted above SWW have not made any objections to the proposals.

**Sport England:** The comments from Sport England are set out in full in the Consultation section above, which they have provided in conjunction with discussion with the Rugby Football Union. Their comments focus on operational matters about Crediton RFC moving to the site and on the matter of the pitches that are to be laid out on the part of the site that falls within the flood plain. In the event that planning permission is granted for this aspect of the development condition 14 is recommended to redress the drainage and pitch design issues that would need to be satisfactory resolved before build out commences. The other matters raised would be largely addressed by the reserved matters applications.

## **6. Ecological/ Aboricultural Impacts**

On behalf of the applicants, EAD have completed an Ecological Impact Assessment in support of this application. This study is accompanied by a survey of the existing trees on the site.

At present there are 17 trees across the site, positioned largely on the boundary of Pederspool Lane, with a group of freestanding oaks in the northern eastern end of the site. In addition there are a number of larger stems in the hedgerow along Stonewall Lane. The Oaks are considered to be of individual value whereas the other trees across the site create value on a collective basis. The masterplan which has been submitted to demonstrate that the scope of the application scheme could be delivered across the site identifies that 3 of the trees on the site would need to be removed to accommodate the masterplan layout (2 x unclassified specimens and 1 category C specimen). In addition sections of hedgerow (upto 110 metres) would be required to be removed to accommodate the vehicular access in to the site and then along Pederspool to enable the connections between the site.

The field areas that form the application site are classified as improved or semi improved grasslands boarded by hedgerows and incorporate wet ditches across the site, however they do not form a protected landscape. The assessment undertaken by the applicant is considered to have been comprehensive including an extended Phase 1 habitat survey and phase 2 protected species survey to supplement desk based surveys. The results of the site surveys identified the following on the site;

Plants: Primrose was recorded at the base of the hedgerows and Himalayan balsam was recorded growing along the river bank within the site.

Invertebrates: Numerous notable invertebrate species have been recorded within the study area with hedgerows containing hawthorn providing an appropriate habitat, but following the site survey no evidence of white clawed crayfish was recorded within the River Creedy.

Amphibians: No suitable amphibian breeding habitat was present within the site boundary. The hedgerows, scrub, woodland, grassland and tall ruderal within the site could provide foraging habitat for common amphibians.

Reptiles: A 'low' population of slow worm was recorded within the site. The grassland and margins of arable fields provided suitable basking and foraging habitats for slow worm, and hedgerows, scrub and woodland provided suitable resting and hibernation habitat for these species.

Birds: The site provided suitable nesting and foraging habitat for a variety of common and widespread birds. A total of 26 bird species were recorded on or adjacent to the site. Of these, 12 were considered to be confirmed or near certain breeders, and 9 probable / possible breeders.

Bats: An initial survey 2013 and then re-survey 2016 have been undertaken. Overall, the bat activity surveys recorded moderate levels of common pipistrelle and soprano pipistrelle activity across the site with the highest levels activity were recorded adjacent to the River Creedy in the northeast of the site.

Hazel dormouse: An initial survey 2013 and then re-survey 2016 have been undertaken. A single nest was uncovered in 2013, with two nest uncovered in 2016.

Otter and water vole: The presence of otters along the section of the River Creedy were identified. The wet ditches were also considered movement corridors but are unlikely to form part of a core territory. No evidence of water vole was recorded.

Badger: A single outlier badger sett with one entrance hole was recorded. This sett showed signs of active use, including feeding remains in August 2016. Mammal tracks, and badger feeding signs and latrines were present throughout the southern field, with some signs also present in the south of the central field.

Given the site is allocated for development, this planning application proposal has responded to the ecological presence at the site by incorporating specific design and avoidance measures as follows:

- Retention of the majority of the existing trees, woodland and hedgerows within the public realm.
- Retention and enhancement of grassland adjacent to River Creedy, which forms component of floodplain grazing marsh. Inundation would still occur over proposed rugby pitches within the floodplain.
- Creation of wetland scrapes within the retained floodplain grazing marsh.
- Retention and enhancement of wet ditches, which form the key component of the floodplain grazing marsh.
- Creation of new wildflower-rich grassland, including wet grassland species mixes where appropriate.
- Creation areas of new native woodland belts.
- Creation of SUDS including swales and attenuation ponds.
- Scattered trees throughout development.

In addition the following mitigation /control measures would be put in place to manage the build out phases of the project:

- Measures would be put in place to ensure legal compliance and to protect animal welfare in respect of reptiles, common amphibians, nesting birds, bats, dormouse, badger and hedgehogs; these measures would include timing of works and appropriate ecological supervision.
- Removal of dormouse habitat (hedgerow) would be subject to a Natural England Mitigation Licence; mitigation measures to be implemented in accordance with the method statement, including timing / method of removal and provision of replacement habitat.
- Bat and bird boxes would be installed on retained trees and integrated into new buildings to increase available roosting / nesting habitat.
- Pre-construction checks would be undertaken to ensure no new badger setts had established on the site. Protection measures during construction would prevent injury to badgers in excavations.

Full detail of the scope of mitigation, compensation and enhancements that proposed through the planning application proposals are set out at Section 4 of the Ecological Impact Assessment report, and appropriately worded condition is recommended (Condition 2) to ensure that these requirements, including protective measures to be put in place during construction will also be required as part of the construction management plan, are carried through to the reserved matters and implementation stages.

The Devon Wildlife Trust have objected given the extension of the site to accommodate the Rugby Facilities into the floodplain and closer to the River Creedy. Although the application proposals will increase the extent of the use of this area of the site, the conditions as recommended will ensure that it functions as it currently does, ie as part of the floodplain adjacent to the River Creedy. It is noted that Natural England have not raised an objection to the application.

Overall the application scheme is considered acceptable and in accordance with policy COR2, DM2 and DM28 of the local plan in terms of the ecological impacts that are likely to arise.

## 7. Other matters

Crediton Rugby Club: The Club have confirmed that the current club house and car park cannot meet the capacity needs and standards expected from its members and the community, and also that the Club continues to expand (500 members currently on roll). They have been involved in discussions with land owner about relocating to the site for a number of years and consider that the Club and community would benefit significantly from relocation to the proposed Creedy Bridge development, in that greater use could be made of new, fit for purpose, future proofed facilities located on a single site. The masterplan layout shows an arrangement with the club house and carpark facilities abutting the proposed new residential area with two pitches set adjacent and then two further pitches within the floodplain.

Although the Club in their letter dated 30<sup>th</sup> April expressed concerns about the layout as shown on the indicative masterplan they have since confirmed (3<sup>rd</sup> September) that the Rugby Club is now fully supportive of the application scheme as it has been submitted.

For clarification the application proposals make provision for replacement of the existing facilities comprises with two additional pitches (a junior and practice pitch) also shown. Notwithstanding the application and the proposed masterplan drawing showing how the pitches could be accommodated and laid out (including the required run-off distances) whilst the submitted drainage strategy demonstrates how appropriate drainage can be achieved. The applicant has confirmed that further discussions are being held with the Club to give them comfort as to the type of design which could be incorporated to ensure playability is not prejudiced. As stated above if planning permission is granted the site area will be conveyed to the Rugby Club in accordance with a phasing plan and it would then be a detailed design matter for the Club to determine through the reserved matters stage of the process. However the masterplan layout confirms that the existing facilities can be provided for on the site with the opportunity to further enhance the club's playing infrastructure by designing an appropriate layout for the additional training pitches on land within the flood plain.

Parish / Town Council comments: The comments provided by Sandford and the other neighbouring Parish Council's and Crediton Town Council are set out in full in earlier sections of this report. It is clear that there is little support from the Parishes or the Town Council in terms of bringing the site forward for development, however the principal of development the site was agreed as far back as January 2011, and this outline application responds positively to the policy framework against which it should be assessed. The uplift in housing numbers proposed whilst more than promoted by the policy CRE5 is in accordance with policy COR1.

The issue of primary school and secondary provision continues to be raised. However as set out above based on the County Councils standard formula the 257 houses would generate a need to manage 63 more pupils into the local primary school environment. The applicant has agreed to make a financial contribution towards providing these places and a site is safeguarded as part of the application scheme so that a new single form new primary school can be built as and when required which will be a decision for the Education Authority (LEA) to make. Given that the new development will be completed on a phased basis over a number of years the LEA should be able to make a strategic decision to ensure continuity of the local primary schools so that there are sufficient places to meet existing and future needs. On this basis these concerns are not considered justified.

The major challenge for the applicants design team, which in part reflects its position beyond the edge of Crediton town boundary, is how to ensure a reasonable level connectivity between the site and facilities within the Town and the surrounding Parishes.

As set out above in this report the application is providing a significant financial contribution so that connectivity between the site and the local facilities in the area can be improved for pedestrians and cyclists this in addition to specific localised works which will also assist. Notwithstanding Sandford PC remain concerned that the applicant is not being required to carry out improvements which would assist connections between the application site and Sandford village, and Crediton Town Council have highlighted other infrastructure requirements across the Town which would be desirable to assist pedestrian and cycle travel.

The Community Infrastructure Levy Regulations 2010 provide the framework for the use of planning obligations, clarifying that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation: (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development.

The package of works that has been negotiated between officers and the applicants is considered to comply with the regulations. Furthermore other localised improvements will be secured as other development sites which are allocated are brought forward. For instance when site CRE6 (local plan review) is brought forward it will be possible to secure an improved pedestrian and cycle connection back along Stonewall Lane towards the site from the existing off road route for cyclists and pedestrians that already links Higher Road back to Sandford village.

Upton St Hellions Parish Council /Creedy Valley Protection Group (CVPG): In addition to the matters relating to the principal of bringing the site forward for development, as covered above Parish Council have via the Creedy Valley Protection Group undertaken their own assessment of the landscape and visual impact and transport impact.

Transportation Issues: CVCPG consider that the site is unsustainable in transport terms, questions whether a safe and suitable access can be achieved and questions if the application scheme would deliver a severe cumulative impact. A detailed overview as to why the application scheme is considered to be acceptable in terms of highway capacity and roads safety terms is set out above. The proposed works on and off site have been subject to a Stage 1 Road Safety Audit, and will be subject to further safety audits as the projects progresses through to build out. Furthermore all the key facilities within Crediton including education, employment opportunities, local retail, health services, leisure facilities and the town centre would all be accessible by foot within the 2 kilometres.

Landscape & Visual Impact Issues: CVCPG commissioned an alternative review of the site in terms of landscape and visual importance utilising a different methodology to LIVA methodology as carried by the applicant's consultants which is considered a more objective methodology.

Furthermore given that the application scheme brings forward a contingency and proposed allocation the LPA accept there will be some Visual and Landscape impact and therefore the focus as set out above has been how to seek to mitigate the impact as far as possible. In this regards the lighting details proposed will be a key consideration for further assessment at the reserved matters stage.

New Homes Bonus: The proposed dwellings would be eligible for counting towards the New Homes Bonus. If the New Homes Bonus is distributed across Council Tax Bands in the same way as in 2015, the award for each house would be £1,028 per year (each affordable house attracting a further £350 bonus), paid for a period 5 years. The amount of New Homes Bonus to be generated by this development would be in excess of £1.3 million pounds.

## **8. Summary & Planning balance**

The overall thrust of Government policy as set out in the updated Framework is to encourage the delivery of sustainable development and requires local authorities to boost significantly the supply of housing. The Council is currently unable to demonstrate a 5 year supply of housing. The most recent assessment (July 2018) shows Mid Devon's housing supply as 4.45 years.

This application reflects the emerging local policy framework which covers the period 2013 – 2033, which has been updated to reflect local circumstances, since the site was first identified as contingency development site back in 2011. The proposals offer a scheme which includes all the required land uses with a slightly reduced quantum of affordable housing to reflect the circumstance as outlined above at Section 4 of this report. In addition it has been demonstrated by the applicant in terms of the design work undertaken at this outline planning application stage that up to 257 dwellings could be accommodated on the site in a sympathetic manner and which would achieve a development in density terms which reflects the requirements of policy COR1. Given that the site is a contingency/proposed allocation for development the scope of the design process undertaken by the applicant has been to focus on the scope of mitigation proposed to seek to shape the development going forward and mitigate the impact.

Following on from the changes to the development area as proposed the harm arising from the proposed development to the surrounding heritage assets is considered to be less than substantial. Furthermore given the nature of the impact in that it is limited to how the development would affect setting, the harm is not considered severe and/or overriding. Notwithstanding the impacts are still required to be afforded considerable weight in the decision making process.

Assessment of other matters has not identified any other adverse impacts that would arise from the number of dwellings proposed in conjunction with the other land-uses which cannot be satisfactorily mitigated.

The scope of the community benefits associated with the application scheme are listed as follows: up to 56 affordable homes, a site to accommodate 5 gypsy / traveller pitches, a new home for Crediton Rugby Club and a site to deliver a new primary school in the Town. Therefore it is considered that paragraph 11 of the NPPF also lends support to the application, in terms of the uplift in the number of residential units proposed, given that the scope of community benefits that are to be delivered are considered to outweigh the impacts of bringing forward the development as it is proposed.

On this basis it is therefore it is recommended that planning permission should be granted subject to conditions and the completion of a Section 106 as outlined above.

### **CONDITIONS**

1. Before any part of the development hereby permitted is begun, detailed drawings to an appropriate scale of the layout, scale and appearance of the building(s), and the landscaping of the site (hereinafter called the Reserved Matters) shall be submitted to and be approved in writing by the Local Planning Authority.
2. Application(s) for approval for all the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission, and

they shall accord with the guiding principles as set out at section 5 of the Design & Access statement (March 2018) to support this outline application.

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

4. The details required to be submitted by condition 1 for each development area shall include the following additional information: boundary treatments, existing and proposed site levels, finished floor levels, and sections through the site indicating the relationship of the proposed development with adjacent development areas.

5. For each phase of development hereby approved no development shall begin until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority to include:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic arrive at and depart from the site;
- (e) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during construction;
- (f) 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
- (g) details of wheel washing facilities and road sweeping obligations together with dust suppression proposals.
- (h) hedgerow and tree protection measures: including an Arboricultural Method Statement and plans showing canopies and root protection areas for all trees on the site and on the site boundaries.
- (i) Details of the amount and location of construction worker parking.

Works shall take place only in accordance with the approved Construction Management Plan.

6. For each phase of development 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 submitted to and 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.

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

8. No phase of the development hereby approved shall be commenced until:

- a) The access road and roundabout has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 metres back from its junction with the public highway;
- b) The ironwork has been set to base course level and the visibility splays required by this permission laid out;

- c) The footway on the public highway frontage required by this permission has been constructed up to base course level;
- d) A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority

9. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out in accordance with details that shall have previously been submitted to and approved in writing by the Local Planning Authority:

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

10. The developments and uses hereby approved shall not be occupied and/or brought into use until the works to the highway off-site and as shown on drawing no. PHL-02 rev F have been constructed, in accordance with a design specification which shall first have been submitted to and approved in writing by the Local Planning Authority, and made available for use.

11. No development shall take place on site until the off-site highway works for the provision of the access roundabout and new junction alignment for Old Tiverton road as shown on drawing no PHL03 rev F have been constructed, in accordance with a design specification which shall first have been submitted to and approved in writing by the Local Planning Authority, and made available for use.

12. None of the dwellings hereby approved shall be occupied until the off-site highway works for the improvements to footways along Exhibition Road have been constructed, in accordance with a design specification which shall first have been submitted to and approved in writing by the Local Planning Authority, and made available for use.

13. The developments and uses hereby approved shall not be occupied and/or brought into use until the off-site highway works for the provision of widening and passing bay provisions on Stonewall lane between Pounds Hill have been constructed, in accordance with a design specification which shall first have been submitted to and approved in writing by the Local Planning Authority, and made available for use.

14. No development in relation to the proposed playing pitches and associated playing field area associated with the relocation of Crediton Rugby Club shall take place until a detailed design of the facilities proposed, including the proposed drainage facilities, have been submitted to and approved in writing by the Local Planning Authority beforehand. The design process is required to include an assessment of the ground conditions including a groundwater monitoring programme of the land area affected. The works shall be carried out

in accordance with the approved scheme within a timescale to be first approved in writing by the Local Planning Authority.

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

16. No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system for each phase has been submitted to, and approved in writing by, the Local Planning Authority. The design of the permanent surface water drainage management system for each phase shall be in accordance with the principles of sustainable drainage systems, and the Flood Risk Assessment (dated 22nd February 2016 and 16th March 2018) documents submitted to support this application.

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

18. No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve each phase of the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority. The agreed temporary surface water drainage management system for each phase must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site.

19. The development shall take place only in accordance with the recommendations of the Ecological Impact Assessment Report dated November 2016 and March 2018 submitted in support of this application.

20. 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, risk assessment and any recommended remediation works including a timescale for completion shall be submitted to and approved in writing by the Local Planning Authority. Residential occupation of the site, or parts of the site affected by land contamination, shall not take place until the remediation works have been carried out in accordance with the agreed details.

## **REASONS FOR CONDITIONS**

1. The application was submitted as an outline application in accordance with the provisions of Article 3 and 4 of the Town and County Planning (General Development Procedure) Order, 1995, as amended by Circular 1/06.

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, however the

allowable timescale to comply with the terms of the condition have been shortened in order to seek to accelerate the delivery of the development.

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, however the allowable timescale to comply with the terms of the condition have been shortened in order to seek to accelerate the delivery of the development.

4. To enable the Local Planning Authority to consider whether adequate provision is being made for the matters referred to in the condition.

5. To ensure adequate facilities are available on site during the construction period in the interests of highway safety and to protect the amenities of existing residents, in accordance with Policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

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

7. To ensure the proper development of the site in accordance with Policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

8. To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents, in accordance with Policy COR9 and Policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

9. To ensure that adequate access and associated facilities are available for the traffic attracted to the site in accordance with policy COR9 and Policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

10. To minimise the impact of the development on the highway network in accordance with Policy COR 9.

11. To minimise the impact of the development on the highway network in accordance with Policy COR 9.

12. To minimise the impact of the development on the highway network in accordance with Policy COR 9.

13. To minimise the impact of the development on the highway network in accordance with Policy COR 9.

14. In accordance with the requirements of policy AL/CRE/12 and emerging policy CRE5 and in order to ensure that the ground conditions in relation to the facilities are satisfactory in term of playing pitch provision.

15. In accordance with paragraph 141 of the National Planning Policy Framework (2012) and Policy DM27 of the Mid Devon Local Plan Part 3 (Development Management Policies) and to ensure that an appropriate record is made of archaeological evidence that may be affected by the development.

16. To ensure that surface water runoff from the development is discharged as high up the drainage hierarchy as is feasible, and is managed in accordance with the principles of sustainable drainage systems, in accordance with Policies COR11 of the Mid Devon Core

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

17. To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development in accordance with Policies COR11 of the Mid Devon Core Strategy (Local Plan Part 1) and DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

18. To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area in accordance with Policies COR11 of the Mid Devon Core Strategy (Local Plan Part 1) and DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

19. To ensure protected species are not harmed by the in accordance with Policies COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

20. To protect future occupiers across the site from risk from contamination in accordance with Policy DM7 of Mid Devon Local Plan Part 3 (Development Management Policies).

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

The principal of developing the site for a mixed use scheme including residential development with five pitches for gypsies and travellers, and the safeguarding of land to provide a primary school and facilities for Crediton Rugby are considered to be in accordance with policy AL/CRE/12 (Adopted in 2011) which has been updated to reflect local circumstances as set out at policy CRE5 (2013-2033). Although the number of houses proposed exceeds the emerging policy target it remains at a density which is policy compliant. The means of access is considered acceptable in terms of highway safety and local area capacity concerns. Matters relating to architecture and design of all buildings, height, scale and massing of all buildings and site layout issues, including the design of all open space, landscaped areas, drainage infrastructure and parking provision are all reserved for future consideration. The applicant has agreed to enter into a section 106 agreement to cover matters relating to the level and nature of affordable housing to be provided on site, contributions towards delivering education facilities off site, improvements to the highway network off site and a contribution to assist with the delivery of infrastructure to encourage sustainable travel, and to safeguard the land to deliver the community uses as required by policy. No issues are raised in terms of this application scheme regards; impact on drainage, flood risk and/or ground contamination, the impact on any neighbouring heritage assets and without resulting in any impacts on protected species/ecology that can not be satisfactorily mitigated against. The impact of the application proposal on heritage assets is considered to be less than substantial and this been carefully considered against the benefits that would be delivered as outlined above. Overall it is not considered that the scope of harm that arises outweighs the benefits that would be delivered.

On this basis the application scheme is considered to meet the requirements of Policies COR1, COR2, COR8, COR9, COR11 of the Mid Devon Core Strategy (Local Plan Part 1), Policy AL/IN/3, AL/DE/3, AL/IN/5/, AL/CRE8 of the Mid Devon Allocations and Infrastructure Development Plan Document (Local Plan Part 2) and Policy DM1 and DM27 of the Mid Devon Local Plan Part 3 (Development Management Policies).

Given the proposals respond positively to the emerging policy allocation for the site as set out at policy CR5 in the Local Review (2103-2033), the weight in the application assessment given to existing policy AL/CRE/12 has been reflected accordingly. Furthermore given the proposed community benefits that will be delivered in terms of securing on site affordable

housing, the safeguarding of land to deliver a new primary school and a new home for Crediton Rugby Club, which are considered to outweigh any harm arising, the proposals are considered to be in accordance with the National Planning Policy Framework, both paragraph 11 and the guidance as taken as whole, in terms of the number of residential units that are proposed.

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.

This page is intentionally left blank