

Public Document Pack

Committee Administrator

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Important - this meeting will take place at Phoenix House, but members of the Public and Press can and should attend via Zoom only. Please do not attend Phoenix House without prior agreement. The attached Protocol for Hybrid Meetings explains how this will work.

Join Zoom Meeting

<https://zoom.us/j/93108387324?pwd=NG1DSnZnOFVTSnhwdHRIY3d0Z0xaQT09>

Meeting ID: 931 0838 7324

Passcode: 210202

One tap mobile

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MID DEVON DISTRICT COUNCIL

PLANNING COMMITTEE

A MEETING of the **PLANNING COMMITTEE** will be held in the Phoenix Chamber, Phoenix House, Tiverton on Wednesday, 14 July 2021 at 2.15 pm

A special meeting of the Committee will take place on Wednesday, 28 July 2021 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

STEPHEN WALFORD

Chief Executive

6 July 2021

Councillors: Mrs F J Colthorpe (Chairman), G Barnell, E J Berry, S J Clist, L J Cruwys, Mrs C P Daw, R J Dolley, C J Eginton, P J Heal, F W Letch 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 **ELECTION OF VICE CHAIRMAN**
To elect a Vice Chairman for the remainder of the municipal year.
- 2 **APOLOGIES AND SUBSTITUTE MEMBERS**
To receive any apologies for absence and notices of appointment of substitute.
- 3 **HYBRID MEETINGS PROTOCOL** *(Pages 5 - 12)*
Members to note the Hybrid Meetings Protocol.
- 4 **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.
- 5 **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.
- 6 **MINUTES OF THE PREVIOUS MEETING** *(Pages 13 - 30)*
Members to consider whether to approve the minutes as a correct record of the meeting held on 23rd June 2021.
- 7 **CHAIRMAN'S ANNOUNCEMENTS**
To receive any announcements the Chairman may wish to make.
- 8 **DEFERRALS FROM THE PLANS LIST**
To report any items appearing in the Plans List which have been deferred.
- 9 **THE PLANS LIST** *(Pages 31 - 92)*
To consider the planning applications contained in the list.
- 10 **TREE PRESERVATION ORDER - 21/00002/TPO - 13 The Oaks, Yeoford, Crediton, Devon** *(Pages 93 - 96)*
To receive a report of the Head of Planning, Economy and Regeneration regarding this Tree Preservation Order.
- 11 **Application 19/01679/FULL - Construction of ground-mounted solar PV panels to generate up to 49.9MW (Site Area 60.78ha) and battery storage facility together with all associated works, equipment and necessary infrastructure.** *(Pages 97 - 160)*
To consider a report of the Head of Planning, Economy and Regeneration with regard to the above application.

At the Planning Committee Meeting on 31st March 2021 Members deferred a decision on the above application in order that a site visit take place and officers provided responses to a number of questions raised.

- 12 **MAJOR APPLICATIONS WITH NO DECISION** *(Pages 161 - 162)*
List attached for consideration of major applications and potential site visits.

Covid-19 and meetings

From 7 May 2021, the law requires all councils to hold formal meetings in person. However, the Council is also required to follow government guidance about safety during the pandemic. For a short period – probably until 30 June – the Council will enable all people to continue to participate in meetings via Zoom.

You are strongly encouraged to participate via Zoom to keep everyone safe - there is limited capacity in meeting rooms if safety requirements are to be met. There are restrictions and conditions which apply to those in the building and the use of the building. You must not attend a meeting at Phoenix House without complying with the requirements in the new protocol for meetings. You must follow any directions you are given.

Please read the new meeting protocol which is available here:
<https://democracy.middevon.gov.uk/documents/s21866/aaaaHybridMeetingProtocolMay2021.pdf>

If you want to ask a question or speak, email your full name to 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

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Mid Devon District Council – Hybrid Meeting Protocol

1. Introduction

Remote meetings via Zoom have been used during the Covid-19 pandemic in accordance with the temporary legislation. That legislation ceases to apply from 7 May 2021. However, Covid-19 legislation and guidance continues in place and this places specific requirements for meetings in relation to health and safety, risk assessments and related matters.

The Council has therefore put in place temporary arrangements which will enable meetings to take place in compliance with legislation, whilst providing alternative participation opportunities to maintain a Covid-19 safe environment. All are asked to remember that the Council's offices at Phoenix House are not just meeting rooms – they are the place of employment for many and there are implications beyond just how the meetings are held.

The arrangements set out in this Protocol will apply to meetings from 7 May 2021 to (and including) 30 June 2021, unless the Council decides to change, curtail or extend them. At the date of this Protocol, it is expected that arrangements may change later this year – because the Government may change the law, the Covid-19 pandemic may have further receded and/or the Council makes alternative arrangements.

2. Hybrid arrangements – how will they work?

The primary objective is to ensure that meetings can continue as safely as possible and that the rights of Members and the Public are not diminished simply because the meeting is being held through a mix of online and face-to-face means. The Chairman will retain control and discretion over the conduct of the meeting and the Zoom host will provide administrative support to facilitate the meeting.

Please note that, exceptionally, meeting arrangements may change – in response to legislation, court decisions, or risk. This may include a meeting being postponed, or the hybrid arrangements changing or being withdrawn. We ask that you check the arrangements in advance of joining or attending the meeting.

(a) Members (councillors) entitled to vote

All Members entitled to vote in a meeting must be present in the same room – if they are to be classed as 'present' (count towards the quorum) and to cast a vote. If a Member entitled to vote is not in the room, they may still participate via Zoom (see below), but they will not be present (quorum) nor be able to vote.

(b) Other Members, Officers and the Public

The Council will use Zoom to enable all other Members, officers and the Public to attend and participate in meetings safely. Zoom will be enabled in all public meetings. Those attending the meeting physically will be able to see and hear Zoom participants via the existing large TV/monitor screens in the meeting rooms.

Those on Zoom will be able to hear Members in the room and see them – although this will be a whole room view and there will be no zooming in on individual members. It is essential therefore those Members present in the room use the microphones at all times and identify themselves before speaking.

There will be some Officers in the room – the Committee Administrator, the Zoom host and, at times, an additional support officer. There may also be a meeting room host to manage the safety of the meeting. All other Officers should use Zoom, unless they are specifically invited into the room by the Chairman of the meeting.

3. Zoom

Zoom is the system the Council will be using for those attending Hybrid meetings remotely. 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.

4. 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 meeting.

If any other Member wishes to have a paper copy, they must notify 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.

The Public should continue to access agendas via the Council's website - and are encouraged to do so even after the offices at Phoenix House are open again.

5. Setting up the Meeting for Zoom attendance

This will be done by Member Services. They will send a meeting request via Outlook which will appear in Members' Outlook calendar. Members and Officers will receive a URL link to click on to join the meeting. The Public will use the Zoom details on the front of the agenda. The telephone dial-in via Zoom will also be available.

6. Public Access and Participation

(a) Public Access:

Members of the Public will be able to use a web link and standard internet browser. This will be displayed on the front of the agenda. Members of the Public should attend a meeting via Zoom, unless there are exceptional circumstances justifying attendance in person.

If any member of the Public still wishes to attend in person, they must notify Member Services **at least 3 working days before the meeting**. Notifications must be sent by email to:

Committee@middevon.gov.uk

Day of meeting	Notice given by
Monday	Previous Wednesday
Tuesday	Previous Thursday
Wednesday	Previous Friday
Thursday	Monday
Friday	Tuesday

The meeting risk assessment may need to be updated. Member Services will liaise with the Chief Executive, Monitoring Officer and the Chairman of the meeting. A decision will be taken on whether attendance in person can be safely accommodated.

(b) Public Participation (speaking):

Public questions 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. If they wish to circulate their question in advance, that would be helpful.

At public question time, the Chair will ask each registered person to speak at the appropriate time. 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 may not be called to speak, except at the discretion of the Chairman.

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 as well.

7. Arrangements for any person attending meetings at Phoenix House

Anyone attending a meeting in person must observe the following requirements:

- (a) For non-voting members, officers and the Public – are there exceptional circumstances to justify attending? If so, please notify in advance and in paragraph 6 above. It is essential that the Council knows who is attending and how many will be in the room, so that the meeting risk assessment can be updated.

- (b) Do not attend if you: have any symptoms of Covid-19; are self-isolating (with or without a positive Covid-19 test); or are in a period of post-travel quarantine.
- (c) Wear a mask at all times except when invited to speak by the Chairman of the meeting. If you have a medical exemption for wearing a mask, please attend via Zoom unless you are a Member who must attend to vote.
- (d) Use the hand sanitiser which is available in the building.
- (e) Follow the directions for entering, moving around and exiting the building. Follow the instructions of any Officer present to manage the safety of the meeting and/or the Chairman.
- (f) Sign into the meeting if requested to do so – you may be asked to leave contact details
- (g) Enter and leave the building promptly – do not gather inside after the meeting has finished, or during any break in the meeting
- (h) Bring your own water/refreshments, as these will not be available for the time being.
- (i) Maintain social distancing throughout – this is 2 metres apart, or 1 metre with additional safeguards (e.g. face masks).

8. Starting the Meeting

At the start of the meeting, the Member Services Officer will check all required attendees are present 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 attending via Zoom that **all microphones must be 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.

9. Declaration of Interests

Members should declare their interests in the usual way. A Member with a disclosable pecuniary interest is required to leave the room. If they are attending via Zoom, they will be moved to the waiting room for the duration of the item.

10. The Meeting and Debate

- (a) For Members and Officers physically present

Each member should raise their hand to indicate a request to speak. When called, they must identify themselves for the recording and for the benefit of those attending via Zoom. The microphone must be used when speaking – standing will make it difficult for those on Zoom to hear and is discouraged, including at meetings of Full Council.

(b) For any person attending via Zoom

The Council will not be using the Chat function. The Chairman will call speakers in accordance with the usual rules i.e. either at Public Question Time, or for Members and Officers, when they raise their Zoom hand to speak.

No decision or outcome will be invalidated by a failure of the Chair to call a member to speak – remote management of meetings is intensive and the Hybrid arrangements are likely to be more so. It is reasonable to expect that some requests will be inadvertently missed from time to time.

When referring to reports or making specific comments, Members and Officers should refer to the report and page number whenever possible. This will help all present or in attendance to have a clear understanding of what is being discussed.

11. Voting

Voting for meetings in person is normally through a show of hands. The Member Services Officer will announce the numerical result of the vote for the benefit of those attending via Zoom.

12. Meeting Etiquette Reminder for Zoom attendees

- 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.

If there are members of the public and press attending the meeting, then the Member Services Officer will, at the appropriate time, remove them to a waiting 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 Chairman is required to interpret the Council's Constitution and procedural rules and how they apply to remote attendance, 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 (if attending via Zoom) 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 Chairman will warn them accordingly. If that person continues to interrupt or disrupt proceedings the Chairman may ask the Member Services Officer to remove them as a participant from the meeting.

17. Technical issues – meeting management

If the Chairman, the Hosting Officer or the Member Services Officer identifies a problem with the systems from the Council's side, the Chairman 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, the meeting will be adjourned until such time as it can be reconvened.

If the meeting was due to determine an urgent matter 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.

Where any Member, Officer or the Public experience their own technical problems during the course of a meeting e.g. through internet connectivity or otherwise, the meeting will not be automatically suspended or adjourned.

18. Technical issues – Individual Responsibility (Members and Officers)

Many members, officers and the Public 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.

- 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.)
- Have to hand the telephone number of someone attending 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)

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 23 June 2021 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, C J Eginton, P J Heal,
F W Letch, B G J Warren and R J Dolley

Apologies

Councillor(s)

D J Knowles

Also Present

Councillor(s)

R M Deed and Mrs S Griggs

Present

Officers:

Jenny Clifford (Head of Planning, Economy and Regeneration), Kathryn Tebbey (Head of Legal (Monitoring Officer)), Myles Joyce (Interim Development Management Manager), Christie McCombe (Area Planning Officer), Adrian Devereaux (Area Team Leader), Dean Emery (Corporate Manager for Revenues, Benefits and Recovery), Helen Govier (Principal Planning Officer), Sarah Lees (Member Services Officer) and Sally Gabriel (Member Services Manager)

31 APOLOGIES AND SUBSTITUTE MEMBERS (00-04-10)

Apologies were received from Cllr D J Knowles who was substituted by Cllr R J Dolley.

32 HYBRID MEETING PROTOCOL (00-04-26)

The protocol for hybrid meetings was noted.

33 PUBLIC QUESTION TIME (00-04-53)

Referring to item one on the Plans List Tidcombe Hall, Barbara Downs asked.....what are the councillors doing to redress the very real risk of flooding that increased rain fall and the building of 179 new dwellings will pose. This major concern should cause this application to be rejected. The area around the canal is vulnerable to flooding as has been seen in recent times.

The pictures in front of you should show severe and prolonged damage caused by the collapse of the canal bed when heavy rainfall and raging torrents led to the canal

bursting its banks on 22nd November 2012 with water falls cascading into nearby fields. Devon County Council said the sheer volume of rain water meant the breach could not be avoided. The Canal did not re-open until the 19th March 2014 costing in excess of £1m. This was not an isolated incident, in November last year, heavy rainfall caused above ankle deep flooding, down Newts Hill, Tidcombe Lane and Lime Tree Mead. The three pictures show you water and debris everywhere

And as recently as last month the water reached dangerously high levels. Building 179 dwellings, with much of the field disappearing under concrete, the water will find its way down into the canal, a huge concern. With climate change, rainfall has increased 100% over the last 12 months and flooding is a real worry to residents whose properties back onto the canal. Insurance premiums would significantly increase. Many bungalows whose back gardens adjoin the towpath have been and are up for sale. New owners might struggle to get insured as not all underwriters insure property where there has been flooding. For underwriters who would insure, the cost would be much higher. The vendors could be in a position where they cannot sell their property because the buyer cannot get insurance.

LVA cannot give complete re-assurance because they cannot control climate change. If another flood occurs up this end of the canal it could put Mr Brind with the horse drawn barge out of business.

Everything is wrong about this application. Closure of Tidcombe Bridge, which has been in use to traffic for over a century, and alternative rabbit warren routes clogging up other residential areas and diverting traffic down The Avenue makes me wonder if LVA have ever tried to get on to Canal Hill from The Avenue? It's very dangerous now. With extra traffic it's an accident waiting to happen.

All of this just for some greedy developer to ruin our canal and countryside. For all these reasons I recommend the Council to reject this proposal. Thank you.

David Randell speaking in relation to the same application stated.....my point relates to the comment 'ultra low carbon homes'....is the committee aware that the applicant's claim is based on Government guidance for standards proposed to be reached by 2010 and not the Government proposed target with the legislation delayed by the pandemic that by 2020 all new housing should achieve code level 6? This Council has proposed that Mid Devon be carbon neutral by 2030 but developments of this nature can bypass that target as they are being built below the required standards to achieve it. Due to the pandemic the changes to the Building Regulations to enforce this have been delayed but that doesn't stop this Council from requiring a policy to achieve carbon neutrality. With the emphasis on increasing the energy efficiency of housing the largest difficulty is in improving the existing housing stock.

When practicing as an architect my practice was working to code level 4 in 2008. By 2010 we were designing to code level 5 and aiming for code level 6 by 2012. In fact some of my last designs before retiring were code level 6 achievable. Here we have developers still proposing to build houses that will add to the problem which this application proposes.

Again the Government has proposed that all petrol and diesel cars be phased out by 2030 so why is the applicant only proposing 6 electrical vehicle charging points, 12%

of the need to satisfy the development as designed when in reality it is closer to 45%. If not provided to meet the 2030 deadline which is only 8.5 years away then who will pay for the additional charging points? Again we have a development proposed that will require the occupants to spend to improve their homes within 10 years. So back to the question, why is the applicant asking Mid Devon District Council to accept the development that will add to the issue of global warming to the detriment of all and especially the young who will suffer from climate change and which severely breaches local and national policy?

Victoria Pugh again referring to the Tidcombe Hall application stated thatI'd like to ask a question about road safety and to ask the members of the Planning Committee to consider road safety as the principal reason for refusing planning permission.

In order to be able to build 179 new homes, the developer's latest plans include a proposal to close Tidcombe Bridge to vehicles and divert traffic through the Wilcombe estate. Not only would this split the thriving community of Tidcombe in half. It would also pose a significant danger to pedestrians, most notably children.

As a school inspector for 20 years, I've been used to assessing and mitigating the risk to children arriving and leaving school because councils have a statutory obligation to keep these areas as safe as possible.

With 4 schools within half a mile of Tidcombe Lane, road safety is at the very heart of this proposal. Any decision regarding this application will directly impact on Tidcombe Primary, Wilcombe Primary, Blundells Junior and Blundells Senior Schools.

1,309 children currently attend these schools from age 3. Many walk to and from school. Many more are dropped off by car and a few arrive by bus. All do so at peak times.

The closure of Tidcombe Bridge will push extra traffic through the school routes including onto narrow and hazardous roads where parked cars and other dangers impede visibility.

Highways conservatively estimates an extra 60 vehicles per hour at peak times travelling through the Wilcombe Estate alone. The proposed diversion involves Ford Road, Branscombe Road and Temple Crescent. These streets were built in the 1960s and not as wide as modern equivalents. Most residents have no drives or garages, so cars are routinely parked on both sides of the road, sometimes partially blocking pavements and impeding visibility. Children walking to school or playing on skateboards and bikes in these streets as they frequently do, with the expected increased traffic, would be put at an unacceptably high risk given the characteristics of these streets.

The proposal also involves extra traffic being diverted onto the junction of Tidcombe Lane and Blundells Road. Students moving about Blundells School campus regularly cross the single track lane from concealed crossing points with extremely limited visibility and there are no pavements here. Highways initially highlighted this as a significant concern and recommended refusal.

There are a number of possible ways of making these school routes safer. However, in my view, none of them involves building 179 homes on Tidcombe Lane and

diverting the traffic as proposed, pushing more vehicles in the direction of the four schools

My question to the officers is....Has a traffic survey been undertaken to assess the suitability of the roads, in particular Ford Road, Temple Crescent and Branscombe Road, to cope with the extra traffic?

Has Devon County Council carried out a full risk assessment of the likely increased risk to children arriving at and leaving their schools resulting from the diversion should this planning proposal be accepted and have the four schools been consulted as part of that process?

Ray Rice, again referring to the Tidcombe Hall application and in particular to the preservation of Tidcombe as a conservation area, stated that.....with regard to the unique Grand Western Canal and the heritage asset, having spent the last 30 years living on the banks of the Grand Western Canal I am perhaps more aware of the amenity value of this priceless heritage asset than many local people are. Daily I see the use made of the canal towpath where walkers, families, runners, cyclists, fishermen, charity fund raisers, canoeists, paddle boarders, house boat users plus of course the irreplaceable horse drawn barge facility. The latter is undervalued by many locals I fear. During the normal operating season, of course this is not operating at the moment because of Covid, it normally brings in on a weekly basis several hundred coach, car and cycle tourists for trips on the Grand Western Canal. The value of this to the town is huge and probably underestimated. The current support of local authorities of the canal helps but if this proposal is allowed to proceed it will negate much of the value of that support. It is the amenity value of this heritage asset which is threatened by the proposal being considered here today.

Members will be aware of the statutory duties regarding applications which include a conservation area, listed building or significant heritage assets. The Listed Building and Conservation Areas Act of 1990 requires that 'Special attention is paid in the exercise of the planning function to the desirability of preserving and enhancing the character or appearance of the conservation area'. The Court of Appeal has made it absolutely clear that this is not a mere material consideration. The law requires that when an authority finds, as Mid Devon has, that a development would indeed harm such a setting there is "A strong presumption against planning permission being granted." This obligation is also stated in policy DM25 of Mid Devon's Local Plan review hence Mid Devon's planning officers have correctly recommended refusal. Nonetheless the developers have already stated they will appeal.

To safeguard the countryside at Tidcombe it is very important that this committee unanimously agrees with the officers recommendations regarding harm to the Grand Western Canal conservation area itself and stresses the need to protect the landscape for the future of Tiverton.

Historic England states that this development would "...obliterate a large portion of the rural scene as seen from the canal". Mid Devon District Council concludes that the development would be a visually intrusive feature within the rural area. This is because much of the proposed site is elevated and highly visible from the Grand Western Canal towpath. The land here rises by 27 metres up to the Devon hills beyond which are themselves identified as important to preserve. Given the conclusions drawn by Historic England this development would be harmful to the area so do you not agree that this proposal must be rejected?

Dermot Elworthy spoke again in relation to the Tidcombe Hall application.....my question to the Committee is to ask if it is aware that at least until week or a couple of days ago, the Mid Devon Council had received 412 formal letters of objections submitted by nearly 400 members of the public profoundly unhappy about the implications made by LVA in respect of the proposed Tidcombe Hall development. Also is the committee aware that this is the largest numerical reaction to any proposal made for development in our area and that includes the Eastern Urban Extension and J27?

Given the general level of empathy following consultation that must signify a record number of very upset people. The Council officers have received no indication of public support for the LVA scheme, not one. It is common practice in matters such as this for developers to come back with changes and amendments to the rejected proposition hoping that a revised application would find increased favour with the planners. I submit that in this case no amount of fine tuning will disguise what must be obvious. The problem lies not in the detail, although there are plenty of problems that can be found in the detail, but in the fundamental unsuitability of this scheme in this place.

Therefore, Madam Chairman, may I respectfully ask that rather than side with a land speculator having no ties to this community and offering nothing of any value to the community that the Planning Committee should heed the considered advice given by the Council and refuse this application. Given the obvious strength of public resistance and official rejection of this scheme there can be no justification for accepting this proposal.

I very hope that those elected to represent us will do exactly that and throw out this meritless application preferably unanimously and also to add significant weight to the argument in the event of an appeal. For the Committee to do otherwise would be a shameful rejection of local democracy. Thank you Madam Chairman.

Mr Adam Pilgrim spoke also in relation to the Tidcombe Hall application.....I have been asked by the Grand Western Canal Joint Advisory Committee to speak about its Objection to the Tidcombe Hall Application.

Other speakers have already covered the points about the potential damage to the Conservation Area and the risk of flooding to the canal and properties below the canal.

I am very worried by surface water from the developed site carrying silt down to block the only culvert under the canal. If the culvert is blocked there is a risk of flooding on the site spilling into the canal, polluting the canal and risking its level rising to threaten another breach anywhere along the eleven miles.

At present, I suspect that the grass in the existing pasture may trap silt far better than the hard surfaces of the proposed housing, so reducing the risk of the culvert's being blocked. If the siphon culvert is blocked by run-off silt, clearing it is very expensive and dangerous for those working on it.

The Joint Advisory Committee is also worried about the Developer's proposed public access to canal side parkland. The canal owns a three metre wide strip along the

offside of the whole canal which is a nature buffer zone. The parkland proposal creates the risk of the public disturbing this wildlife strip.

Returning to the issue of visual damage to the Conservation Area, I note that the applicant has omitted critical viewpoints from his assessment.

Speaking as a representative from the Devon CPRE, Mr Sanderson spoke with regard to the same application.....as many of you know CPRE was founded by Government planner Abercrombie in 1926 to control ribbon development such as that between Tiverton and Halberton. The Tidcombe Hall application is one of the worse cases of manipulation of planning that I have ever seen.

My question is twofold, on what basis was this application ever allowed to go forward when the Tidcombe Hall site was a contingency site in the Local Plan 2013 – 2033 which was only adopted on 29th July 2020? The planning department had already stated that there was no need as the 5 year land supply had already been satisfied.

My second question is very simply where and from whom did the pressure come from on the planning department to pursue this application from the LVA. Madam Chairman, thank you very much.

Mr Elstone....stated that he had three questions to ask in respect of the wording that appears in the draft minutes of the Planning meeting on 16th June 2021. Draft minutes to be signed off by committee members as per item 5 on the agenda. Question one, the draft minutes quote word for word two important questions I asked at the meeting of 16th June, questions I asked of the planning officers in regard of the Redrow Homes Tiverton Reserve Matters application 21/00374 that's for the Tiverton EUE. I received no response to either of these two questions at the Planning Committee meeting. Similarly no written reply to my questions is recorded in the minutes of that meeting, therefore these questions remain unanswered. Madam Chair, for good order could I please ask that written answers to my questions be provided by the planning officers and promptly? That the answers will be made available to Members as well as myself?

Question two, at the same meeting I made the case that I be allowed a further 15 questions but was prevented from doing so. I have since provided the full details of the further 15 questions to be answered. This is to every Planning Committee member including yourself, it is in clear form. As will be seen from these questions several relate to the very real road safety concerns I have plus related planning questions. Safety concerns and planning issues warrant full examination by the committee members, all again related to the Redrow Homes Tiverton EUE Reserve Matters application. Madam Chair could I please ask that you ensure written answers to these questions be made available to committee members as well as myself.

Question three, the Mid Devon District Council Complaints and Feedback Policy dated September 2018 states, section 6, titled 'Confidentiality' that all complaints would be dealt with in the strictest confidence. Therefore it was with a real disbelief that the MDDC Operations Manager for Legal and Monitoring very publically stated in your meeting that not only had I raised complaints but also that I'd asked for a deferral of the Redrow Homes planning application. I consider that the MDDC legal officer stating this in the meeting had no basis for doing so.

The Chairman stated that the questions Mr Elstone was asking were beyond the scope of this committee and suggested that if he had complaints they be made direct either to the Chief Executive or to the Head of the Legal Department This afternoons meeting was about determining the applications which were on the agenda for today. Mr Elstone responded by saying that he was asking questions in relation to the agenda item to do with the minutes from the previous meeting, however, if the questions raised today are not accepted then could she please accept his request to get a response to the 17 questions I have already asked and in writing and made available to the Planning Committee. They were very straight forward questions and at least two of them should have been answered last time but were not. The Chairman stated that if they were questions relating directly to the planning application they would be answered probably by the case officer and they could certainly be made available to all members of the committee.

Mr David Barnes speaking in relation to the Tidcombe Hall application stated that.....we have a Local Plan. We have an excellent Local Plan. It is **our** Local Plan. The product of years of hard work from Mid Devon Officers, Councillors and local residents. It is a plan we can be proud of you. It has cost tens of thousands of Mid Devon tax payers' money to produce. Today's meeting will determine whether all the years of deliberation, consultation and money invested in the Plan was worth it.

Our Local Plan was deemed sound by a Government Inspector in July last year and was subsequently adopted by Mid Devon. At the same time the planning application being considered today for a housing estate beside the Grand Western Canal was submitted. This planning application flies in the face of our Local Plan. The majority of the land in question has not been identified for development in our Local Plan Review. The rest is identified as contingency. This contingency land is to be considered for housing if future targets are not being met. It is an important strategic element of our Local Plan. A safety net. Not something that can be moved from one category to another to suit a developer.

The Local Government Association/Planning Advisory Service publication 'Probity in Planning' for councillors and officers states on page 14: 'All applications that are clearly contrary to the development plan must be advertised as such, and are known as 'departure' applications.'

I was reassured when, in response to a query I made dated 28th August 2020 to Mrs Clifford, Head of Planning, Economy and Regeneration, she confirmed that, 'the application is not in accordance with the Local Plan Review'. It goes on to state that councils must have clear justification for agreeing any departure application.

This planning application is a direct challenge to our Local Plan Review. It was submitted within days of the Local Plan Review being endorsed by the Government's representative and adopted by our Local Council. Polite circles might refer to it as 'a bit of a nerve'. I can think of less generous descriptions.

It is difficult, if not impossible, to imagine on what grounds such a brazen deviation could be justified. Our Local Plan is our vision for Mid Devon up to 2033. Are we to abandon it at the first challenge by a speculative developer?

My questions to the committee are: 'Was all that effort and expense involved in delivering our Local Plan Review for nothing? Have we the courage of our convictions? Will you as a committee back our Local Plan Review?'

Regarding the Tidcombe Hall application Mr Jeremy Salter stated that.....my question relates to the protection of Tidcombe as a Conservation Area, the unique Grand Western Canal and the heritage assets.

The members will be aware of the statutory duties regarding applications which include a Conservation Area, Listed Buildings and significant Heritage assets.

The Listed Building and Conservation Areas Act of 1990 requires that "special attention is paid in the exercise of Planning Functions to the desirability of Preserving and Enhancing the character or appearance of a Conservation Area". The Court of Appeal has made it absolutely clear that this is not a mere material consideration. The law requires that when an authority finds, as Mid Devon has, that a development would indeed harm such a setting there is, to quote, "a strong presumption against planning permission being granted". This obligation is also stated in policy DM25 of Mid Devon's Local Plan Review.

Hence, Mid Devon planning officers have correctly recommended refusal.

Nonetheless, the developer has already stated they will appeal. To safeguard the countryside at Tidcombe it is very important that this committee unanimously agrees with the officers' recommendations regarding harm to the Grand Western Canal Conservation Area itself and stresses the need to protect the landscape for the future of Tiverton.

Historic England states that this development, to quote, "would obliterate a large proportion of the rural scene, as seen from the canal". And Mid Devon concludes that the development would be "a visually intrusive feature within the rural area". This is because much of the proposed site is elevated and highly visible from the Grand Western Canal towpath. The land here rises by 27 metres up to the Devon hills beyond which are themselves identified, in the Local Plan, as important to preserve.

Given this, do you agree that the elevated rural landscape south of the Grand Western Canal should be protected from future development which, it has been agreed, would be significantly harmful to the Conservation Area?'

34 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (00-45-02)

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

35 MINUTES OF PREVIOUS MEETING (00-45-17)

The minutes of the meeting held on 16 June 2021 were agreed as a true record and signed by the Chairman.

36 CHAIRMAN'S ANNOUNCEMENTS (00-46-48)

The Chairman had the following announcements to make:

- Consideration of the items after No 1 on the Plans List would not be discussed until after 4pm
- A special meeting of the Planning Committee would take place on 28 July 2021
- Kathryn Tebbey (Head of Legal and Monitoring Officer) would be leaving the authority at the end of the week and the Chairman thanked her for all her hard work in supporting the committee (and members generally) and wished her well for the future.

37 DEFERRALS FROM THE PLANS LIST (00-46-48)

There were no deferrals from the Plans List.

38 THE PLANS LIST (00-49-09)

The Committee considered the applications in the *Plans List.

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

- a) Application 20/01174/MOUT – (Outline for the erection of up to 179 dwellings, including the conversion of Tidcombe Hall and outbuildings to 12 dwellings, a shop, café, an open sided shelter, community allotments, community orchards, public open space, associated infrastructure and access with all other matters reserved) - Tidcombe Hall, Tidcombe Lane, Tiverton***

The Principal Planning Officer outlined the contents of the report by way of presentation highlighting the site location plan, the proposed site area and the area outlined in Policy TIV13 (the contingency site within the Local Plan) for 100 dwellings on 8.4ha, an aerial photograph of the site, an illustrative indicative masterplan of the proposal which included the area of green infrastructure, the proposed access and pedestrian and emergency access. Individual plans were also shown of the access points and photographs were supplied indicating the main access to Tidcombe Hall, the location of the proposed access, views from Tidcombe Bridge looking into the proposed access, Tidcombe Hall itself and the outbuildings, the 2nd access point from Warnicombe Lane, views down the lane and from various locations looking into the site.

The officer then outlined her recommendation for refusal and highlighted the 4 additional letters of representation and the response from the applicant as shown on the update sheet.

Referring to the questions raised in Public Question Time – with regard to the flooding issues, the Lead Local Flood Authority had confirmed that the discharge from the site could be managed appropriately to prevent increased flood risk elsewhere and that the detailed drainage scheme could be managed by conditions; the low carbon element proposed a 75% improvement upon current Building Regulations; the vehicle charging points were in line with policy DM5 (1 charging point per 10 dwellings) and could be controlled by condition;. With regard to the highway issues, these had been surveyed and modelled and included a safety audit, Highways had felt that the proposal was acceptable; the 4 schools had not been

consulted, but one had commented. With regard to the number of letters of objection received, 412 letters had been received from 293 different contributors. With regard to the issues raised by the CPRE, the Local Planning Authority had to consider all applications that it received – it could not choose which applications to determine.

The following questions were posed by members of the committee:

- Issues with regard to the Environmental Impact Assessment and the process which involved the Secretary of State and the pre application process which had been covered by the applicant providing a technical note.
- The proposed closure of Tidcombe Bridge and the fact that the Highway Authority would have to close it by way of a Traffic Regulation Order
- Human ashes were scattered on the site (when the hall was a hospice), had there been a designated area on the site which had been recorded – the case officer was unaware of this.
- The protection of trees on the south bank of the canal – would those trees be protected by the Tree Preservation Orders on the site – the trees in the Conservation Area had some protection and conditions could include a tree protection plan.
- Reason for refusal 4 – the lack of a S106 agreement – had the authority not entered into an agreement with the developer and if the application went to appeal, could a S106 agreement be submitted at that stage – the case officer stated that because the recommendation was one of refusal, a S106 agreement had not been progressed, however such an agreement could form part of an appeal.
- The impact of the proposal on the setting of the historic building (Tidcombe Hall) and whether any architectural works had been undertaken – this was referred to in reason for refusal 2. It was believed that the hall had at one point been listed, but had been delisted but was still a non-designated heritage asset.
- The statement of the Secretary of State with regard to the Environmental Impact Assessment (EIA) – this was to do with the EIA Regulations, rather than the determination of the planning application.
- With regard to the highways assessment, had there been any impact assessment of the proposal and had a route plan for traffic been considered – a survey had taken place following objection and traffic flows had been predicted with regard to impact and capacity on the road network.

Consideration was given to:

- The views of the objector with regard to the number of objections received for the application; the impact of closing Tidcombe Bridge which would generate a number of detours for traffic through residential development and the risk to the school children in the area on safety grounds; one of the routes was crossed by the barge horses for the canal and who would be accountable if someone was hurt by the increased traffic on those routes; the flood risk of the proposal and the impact on Glebelands with examples of flooding issues in North Devon following a particular development and the willingness to fight an appeal.
- The views of the agent for the application with regard to the unique opportunity for development in this area, the low carbon scheme which would provide an exemplary development. The community benefit of the scheme with regard to

the canal park land, the green infrastructure, the renovation of Tidcombe Hall and the community facilities that would be provided which were highlighted in the indicative masterplan. The fact that the applicant sought to enhance Tidcombe Hall, this was high quality sustainable development and had the support of the Highway Authority.

- The views of the Ward Members with regard to: the application being in the wrong location, the impact of the development on local residents, the additional traffic, the burden of traffic on Tidcombe Lane, the impact on the canal, concerns with regard to heavy rainfall and the impact of this on the homes below the hill, the application was not compliant with the Local Plan and the preservation of the green space should be a priority. The setting of Tidcombe Hall and the views from the canal, the impact on the original street scene in the areas, the impact of the traffic travelling through the Wilcombe estate and the parking problems in that area; air quality issues for residents of Wilcombe, and the disturbance to the natural habitat. Further concerns with regard to flooding caused by heavy rainfall from the hills surrounding the site, the indicative plans provided, the maintenance of the retention ponds proposed, the impact of the closure of the bridge, the lack of space for a second bridge.

Further consideration was given to:

- The traffic being diverted through high development housing estates
- The closure of Tidcombe bridge
- The contingency site as set out in the Local Plan
- The number of objections to the application

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

(Proposed by Cllr F W Letch and seconded by Cllr B G J Warren)

Reason for the Decision – as set out in the report

Notes:

- i.) Cllrs Mrs F J Colthorpe, G Barnell, E J Berry, S J Clist, L J Cruwys, Mrs C P Daw, C J Eginton, P J Heal, F W Letch and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had all received correspondence with regard to the application;
- ii.) Cllr F W Letch declared a personal interest as an active member of the National Trust;
- iii.) Cllr Mrs C P Daw stated that she was a member of Tiverton Town Council and the Grand Western Canal Joint Advisory Committee;
- iv.) Cllr G Barnell stated that he had visited the site but retained an open mind on the application;
- v.) Mr Welchman spoke as an objector;

- vi.) Mr Chick spoke as the agent on behalf of the applicant;
- vii.) Cllrs Mrs S Griggs, Mrs C P Daw and L J Cruwys spoke as Ward Members;
- viii.) The following late information was provided:
 - Since the officer report was finalised a further 4 letters of representation have been received. However it is not considered that these raise any issues that are additional to those already summarised within the representations section of the report.
 - The applicant has also submitted a further letter (dated 21st June 2021) which queries the number of letters of objections that have been received. The figures that are referred to in their letter are taken from the Council's website, these do not take account of where more than one letter has been received from one member of the public, for example where a further representation has been made following submission of further information. To clarify, at 21st June 412 letters of representation have been received from 293 contributors.
 - The other matters raised in the applicant's letter include;
 - The applicants have undertaken extensive pre-application discussions and a comprehensive public consultation exercise
 - Positive discussions were had in relation to how the site could act as a show case for low carbon place making
 - The scheme includes significant community benefits including the canal parkland, green infrastructure and renovation of Tidcombe Hall which should be given substantial weight
 - The location of the access was agreed with the Highway Authority at pre-application stage
 - Issues from the Tree Consultant and Landscape Consultant have been raised late in the day and were not previously raised by the Council.

b) Application 21/00128/MFUL – (Erection of 86 dwellings to include public open space, landscape planting, pedestrian, cycle and vehicular links; and associated infrastructure at land at NGR 298634 113714 (Braid Park), Uplozman Road, Tiverton.

The Area Planning Officer outlined the contents of the report explaining that the application formed part of the Eastern Urban Extension development, the details of the approved outline application and that the current application sought to make changes with the introduction of a further 18 units. Members viewed the site location plan and the existing development to the west of the site, the illustrative framework plan of the urban extension, the aerial view of the site, the proposed site layout which included the road infrastructure, the building plots, the attenuation ponds and the dwelling mix. The officer explained the difference in the current application from the

reserved matters application and that the application accorded with the NPPF with regard to the increase in the number of dwellings. The presentation outlined the material plan, the landscape details, access points, elevations of house types, sections and street scenes and photographs from surrounding areas looking into the site. The officer further explained the S106 contributions required and the deed of variation

Questions were then raised by members of the committee with regard to:

- The location of the gypsy and traveller site and the speed limits in the area
- The detail of the deed of variation compared to the original S106 agreement and the sums involved with the amendment to the number of dwellings
- The formula used for the education contributions
- The design principles for the development
- Biodiversity on the site
- The timing of the phases and the need for a phasing plan to be received
- The number of amended drawings and the delay in loading them to the public access site
- Consultation with the Lead Local Flood Authority

The views of the agent for the applicant were heard which included information with regard to the re-planned areas, the success and popularity of the site, the rebranding exercise that had taken place with a greater mix of housing, the trigger for the gypsy and traveller site and the submission of a phasing plan.

It was therefore **RESOLVED** that: subject to the prior signing of a deed of variation S106 agreement to include:

- Affordable housing off-site contribution: £80,000 (£40,000 per dwelling).
- Community facilities contribution: £13,811 (£1,973 per dwelling).
- 5 Custom and self-build plots
- 3 Gypsy and Traveller pitches to be provided prior to the occupation of the two hundredth and ninety third (293) open market dwelling within the wider site of 13/01616/MOUT
- Education contribution:
 - Primary School Land: £3,773 (£539 per dwelling)
 - Primary School Education: £12,453 (£1,779 per dwelling)
 - Secondary School Education: £10,717 (£1,531 per dwelling)
 - Special Education: £3,584 (£512 per dwelling)
 - Early Years: £1,750 (£250 per dwelling)
 - NHS contributions: £3,654 (£522 per dwelling)
- Pro rata increase in prior financial contributions in the original S106 agreement to reflect the uplift in the number of dwellings

Planning permission be granted as recommended by the Head of Planning, Economy and Regeneration with an additional condition to state:

First occupation of any dwelling in any agreed phase of the development shall not take place until details of the fencing to be provided alongside the boundary with No. 18 Uplowman Road has previously been submitted to and approved in writing by Local Planning Authority. The approved details shall be thereafter installed prior to

the occupation of any dwelling in any agreed phase of the development and shall be permanently retained and maintained thereafter.

REASON: To ensure a good standard of residential amenity and security for residents.

(Proposed by Cllr P J Heal and seconded by Cllr E J Berry)

Reason for the Decision – as set out in the report

Notes:

- i) Cllrs Mrs F J Colthorpe, G Barnell, E J Berry, S J Clist, L J Cruwys, Mrs C P Daw, R J Dolley C J Eginton, P J Heal, F W Letch and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had all received correspondence with regard to the application;
- ii) Mr Matthew spoke on behalf of the applicant;
- iii) The following late information was reported:

1. Background

The number of additional units that will be generated by this application will be seven (7) and not six (6) as detailed in the report. The number of additional units arises through the calculation from the affordable housing on the original outline planning application. The outline planning application (13/01616/MOUT) granted planning consent with a signed S106 for 330 dwellings. All contributions agreed through the S106 were calculated according to the construction of 330 dwellings. The outline application required 21.5% affordable housing contribution:

$21.5\% \text{ of } 330 = 70.95 = 71 \text{ affordable housing units}$

This translates into the following number of additional housing units in terms of calculating financial contributions for this application (21/00128/MFUL) as follows:

330 units (Outline Planning application 13/01616/MOUT) – 180 units (the number of units south of Uplowman Rd, Reserved Matters Application 18/00133/MARM) – 86 (the number of units north of Uplowman Road sought through this application, 21/00128/MFUL) – 71 units (the number of affordable housing units to be constructed south of Uplowman Road, 13/01616/MOUT) = 7 additional units.

On this basis, the report needs updating as follows:

- Page 63 (reports pack): Recommendation. Bullet point 2: Amend to £13,811. (£1,973 / dwelling)
- Page 63 (reports pack): Recommendation. Bullet point 4: 3 Gypsy and traveller pitches to be provided prior to the occupation of the two hundredth and ninety third (293) open market dwelling within the sites of the 13/01616/MOUT.
- Page 63 (reports pack): Recommendation. Bullet point 5: Special Education: Amend to £3,584 (£512 per dwelling)

- Page 95 (reports pack): para 10.4: Amend text to: 71 affordable dwellings.
- Page 95 (reports pack): para 10.5: Amend text to: 71 affordable housing units.
- Page 95 (reports pack): para 10.5: Amend text to: this equates to 337 units, 7 dwellings in excess of the outline planning permission.
- Page 95 (reports pack): para 10.6: Amend text to: 7 additional units.
- Page 95 (reports pack): para 11.1: Amend text to: 7 dwellings in excess.
- Page 95 (reports pack): para 11.2: Amend text to: two hundredth and ninety third (293).
- Page 96 (reports pack): para 12.3: Amend text to: 7 units in excess of the outline planning application.
- Page 96 (reports pack): para 12.4: Amend text to:
Bullet point 2: £13,811. (£1,973 per dwelling).
Bullet point 4: 3 Gypsy and traveller pitches to be provided prior to the occupation of the two hundredth and ninety third (293) open market dwelling within the sites of the 13/01616/MOUT.
Bullet point 5: Special Education: £3,584 (£512 / dwelling)

2. During the course of the application process a number of revised drawings have been submitted. The following drawing numbers referenced in the report need amending:

Page 87. Para 3.6: Amend Drawing Number GL0735 19E to GL0735 20D

Page 89. Para 3.12: Amend Drawing Number 1931 1111 Rev D to 1931 1111 Rev F

Page 89. Para 3.14: Amend Drawing Number 1931 1100 Rev G to 1931 1111 Rev I

Page 90. Para 3.17: Amend Drawing Number 1931 1114 Rev C to 1931 1114D

Page 90. Para 3.17: Amend Drawing Number 1213 PL03 to 1213 PL04 and 1214 PL03 to 1214 PL04

Page 93. Para 7.4: Amend Drawing number GL0735 19E to GL0735 19D

Page 99. Condition 11. Amend drawing number 1203 PL04 to 1203 PL03 and 1204 PL03 to 1204 PL02

Updated New Condition

First occupation of any dwelling in any agreed phase of the development shall not take place until details of the fencing to be provided alongside the boundary with No. 18 Uplowman Road has previously been submitted to and approved in writing by Local Planning Authority. The approved details shall be thereafter installed prior to the occupation of any dwelling in any agreed phase of the development and shall be permanently retained and maintained thereafter.

REASON: To ensure a good standard of residential amenity and security for residents.

- c) Application 20/01483/TPO – (application to shorten the lowest branches on the south and south east side of 1 oak tree by 2m and reduce regrowth from previous pruning back to old pruning points, protected by Tree Preservation Order 99/00002/TPO) 4 Cornflower Close, Willand.**

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the location of the tree in question, the aerial view of the location of the tree and photographs from various locations. He outlined the proposed works and reported that the application had been justified by the tree consultant.

Consideration was given to the timing of the works.

It was therefore **RESOLVED** that: the application be approved as recommended by the Head of Planning, Economy and Regeneration.

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

Reason for the Decision – as set out in the report

- d) Application 20/01484/TPO – (application to shorten the lowest branches overhanging the garden(s) on the south side of 1 oak tree to give approximately 4m clearance above ground level; reduce the canopy over the garden(s) by 2-3m and reduce branch on north side by 1-2m protected by Tree Preservation Order 88/00004/TPO) 9 Hawthorne Road, Tiverton**

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the location of the tree and providing photographs from various aspects looking towards the tree which also highlighted the footpath clearance that was required.

It was therefore **RESOLVED** that: the application be approved as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by Cllr E J Berry and seconded by Cllr R J Dolley)

Reason for the Decision – as set out in the report

- e) Application 21/00678/TPO – (application to reduce overhanging branches by 1.5m and 2m of 1 Oak Tree protected by Tree Preservation Order 88/00004/TPO) east of 7 Jasmine Close, Tiverton**

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the location of the tree and providing an aerial view along with photographs from various locations looking towards the tree. He outlined the proposed works and reported that the application had been justified by the tree consultant.

It was therefore **RESOLVED** that: the application be approved as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by the Chairman)

Reason for the Decision – as set out in the report

f) Application 20/01825/TPO – (application to fell 1 Ash and 2 Oaks and remove deadwood/limbs from 2 Ash and 2 oak trees protected by Tree Preservation Order 96/00006/TPO – land at NGR 305855 112143 (Woodland East of Harvesters), Uffculme.

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the location of the trees in question and the works proposed and provided photographs from various locations looking towards the trees. He then explained the views of the tree consultant and that he was proposing a split decision on the application and outlined the reasons for refusal and those of approval.

Consideration was given to:

- The initial works that had already taken place which involved unsympathetic pruning
- Possible enforcement action
- The detail of the tree consultant's report
- The views of the Ward Member (statement read by the Chairman) who had called in the application to committee – which included the history of issues on the site and the need to protect the surrounding woodland.

It was therefore **RESOLVED** that:

- i) Consent be **refused** for the proposed felling of trees T3, T4 and G2
- ii) Consent be **granted** for the proposed felling of tree T1 Ash in the application and for the removal of deadwood from the trees referred to as G2 and the proposed pruning of T5, Ash and T6, Oak to remove branch stubs (subject to informative notes)

(Proposed by Cllr B G J Warren and seconded by Cllr G Barnell)

Reason for the Decision – as set out in the report

Notes:

- i) Cllrs S J Clist and B G J Warren made declarations made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had received correspondence with regard to the application;

(The meeting ended at 6.00 pm)

CHAIRMAN

PLANNING COMMITTEE AGENDA - 14th July 2021

Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	20/01631/FULL - Erection of a dwelling and construction of new vehicular access at Land and Building at NGR 305693 110454, (East Of Butsons Farm), Stenhill. RECOMMENDATION Refuse permission.
02.	21/00229/FULL - Erection of a dwelling and demolition of existing agricultural building at Rosemount, Kentisbeare, Cullompton. RECOMMENDATION Grant permission subject to conditions.
03.	21/00443/FULL - Change of use of land for the siting of 2 glamping tents and associated facilities at Land at NGR 303735 119592, The Deer Barn, Hockworthy. RECOMMENDATION Grant permission subject to conditions.
04.	21/00471/FULL - Erection of new reinstated stone wall and entrance gates and retention of part of rebuilt stone wall at The Deer Barn, Hockworthy, Devon. RECOMMENDATION Grant permission subject to conditions.
05.	21/00461/FULL - Erection of extensions to existing agricultural storage building 660sqm at Land at NGR 288288 107120, Redyeates Cross, Cheriton Fitzpaine. RECOMMENDATION Grant permission subject to conditions.
06.	21/00709/FULL - Change of use from public house (sui generis) to offices and canteen facility (sui generis) at Buccaneers Bar, 3 Cinema Buildings, East Street. RECOMMENDATION Grant permission subject to conditions.

Application No. 20/01631/FULL

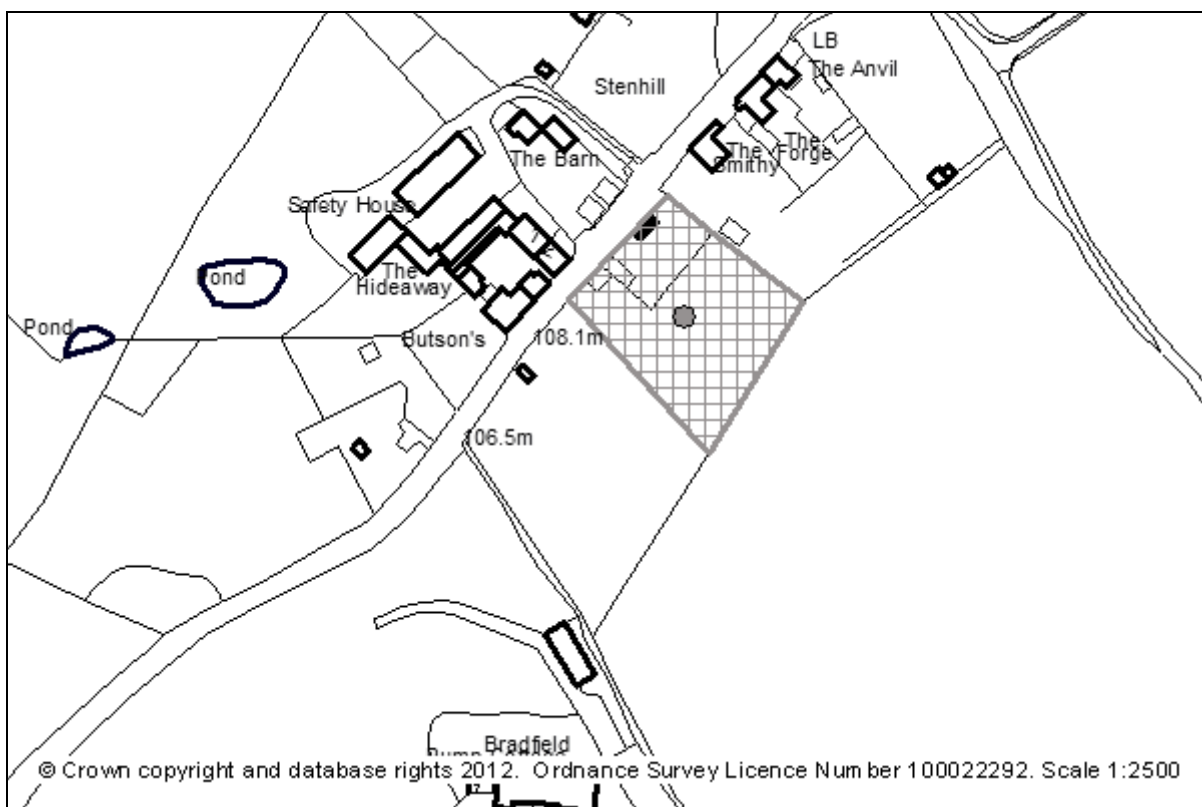
Grid Ref: 305668 : 110423

Applicant: Mr M Delamain

Location: Land and Building at NGR 305693 110454
(East Of Butsons Farm)
Stenhill
Uffculme

Proposal: Erection of a dwelling and construction of new vehicular access

Date Valid: 19th October 2020



RELEVANT PLANNING HISTORY

20/01631/FULL - PCO date Erection of a dwelling and construction of new vehicular access

DEVELOPMENT PLAN POLICIES

National Planning Policy Framework

Mid Devon Local Plan Review 2013 – 2033

Policies:

S1 – Sustainable Development Priorities

S3 – Meeting Housing Needs

S8 – Infrastructure

S9 – Environment

S14 – Countryside

DM1 – High Quality Design

DM6 – Rural Exception Sites

Mid Devon Design Guide Supplementary Planning Document

CONSULTATIONS

Highway Authority – 30th October 2020

Standing advice applies

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

UFFCULME PARISH COUNCIL – 20th November 2020

The Council opposes the application.

The application site is in open countryside and would see good agricultural land lost for housing.

The design of the house is very imposing in a prominent position and is not in keeping with other neighbouring properties or the general vernacular of the hamlet.

PUBLIC HEALTH - 21ST OCTOBER 2020

Contaminated Land: No objection to this proposal. (21.10.20).

Air Quality: No objection to this proposal. (21.10.20).

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

Drainage: No objection to this proposal. (21.10.20).

Noise & other nuisances: No work shall be carried out on the site on any Sunday, Christmas Day or Bank Holiday or other than between the hours of 08.00 and 1800 hours on Monday to Fridays and 08.00 and 1300 on Saturdays.

Reason: To ensure that the proposed development does not prejudice the amenities of neighbouring properties. (21.10.20).

Housing Standards: The stairs descend to the main living space which is a high risk area with no obvious safe route out of the property in the event of a fire. The bedrooms are inner rooms, although there may be secondary escape from the balcony in bedroom 1. (30.10.20).

Licensing: No comments. (21.10.20).

Food Hygiene: No comments. (21.10.20).

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

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

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

IF MAINS WATER IS TO BE USED, WOULD HAVE NO COMMENT. (21.10.20).

Health and Safety: No Comments. (21.10.20).

NATURAL ENGLAND – 10TH NOVEMBER 2020

Natural England has no comments to make on this application.

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

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

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

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

FORWARD PLANNING –20th November 2020

Note:

This Forward Planning response discusses the policy context around the principle of a self-build dwelling in this location. All other matters associated with the application have not been addressed but will be considered by the case officer in the process of determining the application.

Policy Context

National Planning Policy Framework

The NPPF defines self-build and custom-build housing as 'housing built by an individual, a group of individuals, or persons working with them or for them, to be occupied by that individual. Such housing can either be market or affordable housing. Paragraph 61 makes clear that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including but not limited to)...people wishing to commission or build their own homes.

Paragraph 77 states that Local Planning Authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs. Paragraph 79 stipulates that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- There is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
- The development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- The development would re-use redundant or disused buildings and enhance its immediate setting;
- The development would involve the subdivision of an existing residential dwelling; or
- The design is of exceptional quality, in that it:
 - Is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
 - Would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

The Adopted Local Plan 2013 - 2033

The Local Plan was adopted on 29 July 2020. Policy S14 stipulates that development outside of the settlements defined by Policies S10-S13 will be required to preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. With regards to housing, Clause a) permits affordable and low cost housing to meet local needs.

Policy DM6 'Rural Exception Sites' stipulates that the development of a site for predominately affordable or low-cost housing, including self-build housing, to meet proven local need in rural areas will be permitted where:

- a) There is up to date evidence of housing need secured through a housing need survey, or in the case of a self-build proposal, evidence of eligibility for shared ownership housing through 'Help to Buy' or an equivalent scheme;
- b) Each house will be occupied by at least one person with a strong local connection to the parish
- c) The site adjoins a settlement and is in a suitable location which takes account of the potential for any visual impact and other relevant planning issues;
- d) The type and scale of affordable or low-cost housing is appropriate to the proven need;

e) The affordable or low-cost housing will remain affordable for and available to local people in perpetuity, limited to no more than 80% of its market value upon resale.

Assessment

This application proposes the erection of one self-build dwelling east of Butsons Farm, Stenhill, Uffculme. Stenhill is not a defined settlement under Policy S13 of the Local Plan. It is therefore defined as 'countryside' under S14 where development is permitted subject to appropriate criteria, as applied through detailed development management policies. The appropriate criteria in this instance are defined within Policy DM6 'Rural Exception Sites' which includes specific considerations for low cost housing (including self-build housing) in the countryside.

Clause a) requires up-to-date evidence of housing need secured through a housing need survey, or in the case of a self-build proposal, evidence of eligibility for shared ownership through 'Help to Buy' or an equivalent scheme. The supporting text for Policy DM6 applies the following criteria:

- Cannot afford to purchase a home suitable for their housing needs within a reasonable travel distance of their work place and have a household income not exceeding £60,000;
- Have savings or sufficient funds to pay, if required, a deposit (which may be 5% or more of the purchase price), legal fees, stamp duty and other costs of moving;
- Can sustain home ownership in the longer term;
- Are not already a home owner or named on a home mortgage;
- Have a good credit history.

The Planning Statement accompanying the application demonstrates that the applicants meet the above eligibility criteria.

Clause b) requires that each house will be occupied by at least one person with a strong local connection to the parish. As both prospective occupiers are local residents, having lived and worked in the area for a number of years, the requirements of this clause have been met.

Clause c) requires that the site adjoins a settlement and is in a suitable location which takes account of the potential for any visual impact and other relevant planning issues. Stenhill does not have a defined settlement limit, although paragraph 4.22 of the supporting text makes clear where parishes do not contain a defined settlement but may have an affordable housing need, a broader interpretation of 'settlement' will be appropriate, as long as there would be reasonable access to local services and infrastructure. The case officer is best placed to determine whether this test has been met, having visited the site and surrounding locality.

Clause d) requires that the type and scale of affordable or low cost housing is appropriate to the proven need. Advice from the Council's Housing Department will confirm whether the proposal is appropriate to housing needs in Stenhill. It is acknowledged that this self build proposal will be tailored to the needs of the applicant, although it is still expected that the proposal is of a modest size that reflects the principles of affordability for those in housing need.

Finally, Clause e) requires that the affordable or low-cost housing will remain affordable for and available to local people in perpetuity, limited to no more than 80% of its market value upon resale. Paragraph 4.25 of the supporting text makes clear that whilst low-cost housing does not meet the definition of affordable housing in terms of tenure, the Council will require the same controls over the housing to ensure that it remains available for people with a local connection who cannot afford open market housing in their area.

Conclusion

The principle of whether a self-build dwelling would be appropriate in this location is contingent on demonstrating that the requirements of Policy DM6 have been met. Whilst it is considered that the eligibility and local connections criteria have been met, the case officer will need to establish whether the application complies with clauses c) and d). Should these requirements be met, there is a need to secure appropriate controls over the housing to ensure that it remains available for people with a local connection who cannot afford open market housing in their area.

Arron Beecham
Forward Planning Officer

REPRESENTATIONS

The application has been advertised by means of a site notice and a direct consultation to the nearest neighbouring properties in accordance with the Council's adopted Statement of Community Involvement and the legal requirements for publicity on planning applications, as set out in the Town and Country Planning (Development) (Development Management Procedure, Listed Buildings and Environmental Impact Assessment) (England) (Coronavirus) (Amendment) Regulations 2020.

The Council has received a number of representations in relation to the proposal. These are summarised below:

Comments in support:

- This is exactly the sort of small, scale, local, low impact dwelling that should be encouraged at every level.
- High degree of sustainability and will sit well in its environment
- Use of modern alternative technology for energy efficiency and environmentally friendly benefits.
- There is a housing need for the applicants who both have a strong local connection to the parish.

The objections raised concerns in regards to the following:

- Significant development in a rural setting which would be visually intrusive and detrimental to the character of the area.
- Development would comprise privacy.
- The existing properties are already capable of meeting the needs suggested by the applicant.
- Concerns that should this development be allowed, it may encourage other neighbours with pockets of land to re-submit their plans.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

Introduction

The proposal relates to a plot of land which is around 0.33ha in size and is currently being used for agricultural purposes. The application seeks planning permission for the erection of one dwelling and construction of a new vehicular access. The proposed self-build dwelling will be approximately 160 square metres and will have 2 bedrooms.

The main issues in the determination of this application are:

- **Principle of the development**
- **Design, impact of the development on the character and appearance of the area and impacts upon privacy and amenities of neighbouring properties**
- **Other issues**

Principle of the development

This application proposes the erection of one self-build dwelling east of Butsons Farm, Stenhill, Uffculme. Stenhill is not a defined settlement under Policy S13 of the Local Plan. It is therefore defined as 'countryside' under S14 where development is permitted subject to appropriate criteria, as applied through detailed development management policies. The appropriate criteria in this instance are defined within Policy DM6 'Rural Exception Sites' which includes specific considerations for low cost housing (including self-build housing) in the countryside.

Policy DM6 states that development of a site for predominately affordable or low cost housing that will meet local need will be permitted provided that the following are met:

1. There is up-to-date evidence of housing need secured through a housing survey or, in the case of a self-build proposal, evidence of eligibility for shared ownership through 'Help to Buy' or an equivalent scheme;
2. Each house will be occupied by at least one person with a strong local connection to the parish;
3. The site adjoins a settlement and is in a suitable location which takes account of the potential for any visual impact and other relevant planning issues;
4. The type and scale of affordable or low-cost housing is appropriate to the proven need;
5. The affordable or low-cost housing will remain affordable for and available to local people in perpetuity, limited to no more than 80% of its market value upon resale.

Each of these points are addressed below:

There is up-to-date evidence of housing need secured through a housing survey, or in the case of a self-build proposal, evidence of eligibility for shared ownership through 'Help to Buy' or an equivalent scheme.

Clause a) requires up-to-date evidence of housing need secured through a housing need survey, or in the case of a self-build proposal, evidence of eligibility for shared ownership through 'Help to Buy' or an equivalent scheme. The supporting text for Policy DM6 applies the following criteria:

- Cannot afford to purchase a home suitable for their housing needs within a reasonable travel distance of their work place and have a household income not exceeding £60,000;
- Have savings or sufficient funds to pay, if required, a deposit (which may be 5% or more of the purchase price), legal fees, stamp duty and other costs of moving;
- Can sustain home ownership in the longer term;
- Are not already a home owner or named on a home mortgage;
- Have a good credit history.

The Planning Policy Statement accompanying the application confirms that the applicants meet the above eligibility criteria.

Each house will be occupied by at least one person with a strong local connection to the parish.

As both prospective occupiers are local residents, having lived and worked in the area for a number of years, the requirements of this criterion have been met. However, this matter would also need to be controlled via the provision of a section 106 agreement to ensure that only individuals with a strong local connection will be able to purchase the home should it be marketed for sale.

The site adjoins a settlement and is in a suitable location which takes account of the potential for the visual impact and other relevant planning issues.

Stenhill does not have a defined settlement limit, although paragraph 4.22 of the supporting text makes clear where parishes do not contain a defined settlement but may have an affordable housing need, a broader interpretation of 'settlement' will be appropriate, as long as there would be reasonable access to local services and infrastructure. Stenhill is a small hamlet with no existing services or facilities. The nearest services are located at Uffculme which is located approximately two miles away and therefore it is likely that most trips will necessarily be conducted by private car. Accordingly, in this instance a broader interpretation of 'settlement' would not be appropriate as the proposed development would not have reasonable access to local services and infrastructure. The proposal would therefore conflict with criterion c) of Policy DM6.

The type and scale of affordable or low cost housing is appropriate for the proven need.

Current data from Devon Home Choice indicates that there is a demand for two bedroom dwellings in the parish. It is acknowledged that a self-build proposal will need to be tailored to the needs of the applicant, although it is still expected that the proposal is of a modest size that reflects the principles of affordability for those in housing need. The proposed development is for a straw bale eco home incorporating a repurposed grain silo, with two bedrooms measuring at 160 square metres, together with a separate garage space measuring at 45 square metres. The proposal significantly exceeds the average dwelling size for a two bedroom home and does not therefore reflect the principles of affordability for those in housing need in the local area.

The affordable or low cost housing will remain affordable for and available to local people in perpetuity, limited to no more than 80% of its market value upon resale.

The supporting text for Policy DM6 makes clear that whilst low-cost housing does not meet the definition of affordable housing in terms of tenure, the Council will require the same controls over the housing to ensure that it remains available for people with a local connection who cannot afford open market housing in their area. However, this matter could be dealt with via a section 106 agreement. The applicant has provided confirmation that they would be happy and willing to enter into a Section 106 agreement to this effect.

Design, impact of the development on the character and appearance of the area and impacts upon privacy and amenities of neighbouring properties

Policy S9 states that development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets and minimise the impact of the development on climate change through high quality sustainable design which reinforces the character and distinctiveness of Mid Devon's historic built environment, mitigates and adapts to climate change and creates attractive

places.

Policy DM1 requires designs to be of high quality based upon and demonstrating the following principles:

- a) *Clear understanding of the characteristics of the site, its wider context and the surrounding area;*
- b) *Efficient and effective use of the site, having regard to criterion (a);*
- c) *Positive contribution to local character including any heritage or biodiversity assets and the setting of heritage assets;*
- d) *Creation of safe and accessible places that also encourage and enable sustainable modes of travel such as walking and cycling;*
- e) *Visually attractive places that are well integrated with surrounding buildings, streets and landscapes, and do not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses, taking account of:*
 - i. *Architecture*
 - ii. *Siting, layout, scale and massing*
 - iii. *Orientation and fenestration*
 - iv. *Materials, landscaping and green infrastructure*
- f) *Appropriate drainage including sustainable drainage systems (SUDS), including arrangements for future maintenance, and connection of foul drainage to a mains sewer where available;*
- g) *Adequate levels of daylight, sunlight and privacy to private amenity spaces and principal windows;*
- h) *Suitably sized rooms and overall floorspace which allows for adequate storage and movement within the building together as set out in the Nationally Described Space Standard with external spaces for recycling, refuse and cycle storage; and*
- i) *On sites of 10 houses or more the provision of 20% of dwellings built to Level 2 Part M 'access to and use of dwellings'.*

The site falls within the 'Lower Culm' Settlement Character Area set out within the Mid Devon Design Guide Supplementary Planning Document which is characterised by generally linear settlements with long reaching views across lowlands, but therefore prominent within the wider landscape. Whilst Stenhill is not a designated settlement, the existing arrangement of residential properties in the hamlet does resemble a linear typology whereby the primary objective of design is to maintain the continuity of the built form along the main route. The layout and orientation of the dwelling as proposed sets back the dwelling from the main road with the principal elevation facing towards the north. The proposal also includes a detached garage which faces towards the main dwelling and is angled away from the main road, albeit screened by a new bank and hedge. The Design Guide also applies further guidance for developments in open countryside and makes clear that it is important to consider the orientation of buildings according to any roads or other buildings (buildings are generally parallel or perpendicular to roads and lanes to one another) and in response to climate conditions, creating or avoiding exposure and shelter as well as affecting the buildings performance e.g. optimising passive solar gain. Whilst it is recognised that the proposed dwelling is orientated to take advantage of natural solar gain, this is at the expense of the development's relationship with existing surrounding buildings. Having regard to the gentle sloping nature of the site to the south, together with the siting and layout of the proposal, it is also considered that the development would be a single, dominant feature in the wider landscape. It is therefore not considered that the development would be well integrated with surrounding buildings and is not based on a clear understanding of the characteristics of the site, its wider context and the surrounding area. It is therefore contrary to Policy DM1.

Concerns were also raised through representations that the proposed development would impact upon the privacy of nearby residential properties. Whilst there would inevitably be some overlooking onto and across the proposed development site from nearby residential properties, the existing treeline and hedging marking the northern boundary of the site and proposed new bank and hedging along the western boundary of the site would help screen the development and mitigate against loss of privacy. Therefore, it is considered that the proposed development would not have an unacceptable impact on the privacy of nearby residential properties.

Policy S9 sets out that development will minimise the impacts on climate change including through measures to reduce the risk of flooding and requiring sustainable drainage systems including arrangements for future maintenance. Policy DM1 reiterates the expectation that developments should include sustainable drainage systems. The Design and Access Statement states that the driveway and paths will be permeable, constructed from local stone, or ground protecting grid system to mitigate run off. Guttering on both buildings will collect rainwater which will be directed into a rain water harvesting system to reduce potential run-off. The hedges and planned landscaping will ensure no water run off from the site onto the main road. With regards to foul drainage, it is proposed that this would be disposed of through botanical cells with no effluent output to ground or water courses, which would require a permit from the Environment Agency although they have identified that they do not anticipate there would be an issue with obtaining a permit. Accordingly, these provisions are considered to be appropriate in accordance with Policy DM1.

Other Issues

Self-build

The National Planning Policy Framework is supportive of people wishing to commission or build their own home and the Council has a duty to grant suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding. Equally important is the requirement under S38(6) of the Planning and Compulsory Purchase Act 2004 which makes clear that if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. Therefore, whilst the provision of custom and self-build housing in Mid Devon does carry weight in the planning balance, it also remains the case that such self-build proposals need to be considered in accordance with the wider development strategy and associated development management policies of the Local Plan 2013 – 2033, as assessed within this report. On this basis, the principle of providing a self-build dwelling in this location would not outweigh the wider conflicts of the proposal as assessed against Policy DM6.

Low carbon design and construction

It is recognised that the proposed development would be low carbon and energy efficient in its design and construction. The Design and Access statement states that the development will be cement free, carbon neutral and near Passivhaus standard and the orientation of the house will reduce the need for a traditional heating system. In addition, large south facing windows will assist with passive solar gain, active ventilation will help regulate temperature, PV and solar thermal panels will provide electricity and hot water and rain water harvesting will provide water for toilet flushing and outside use. The building construction also seeks to utilise materials and labour sourced locally.

However, notwithstanding the environmental credentials of the development itself, it is important to recognise that development location is the single most important factor in determining potential emission arising from a new development. It is for this reason that the development strategy and

Policy S14 (and DM6) in particular of the Local Plan 2013 – 2033 is more restrictive over the provision of housing in rural areas. In the absence of public transport and local services and facilities, the development proposal will be highly reliant on use of the private car to access employment, education, health and recreational facilities which in turn, would result in considerable transport emissions arising from the development.

Ecology

The site lies within a Devon Great Crested Newt Consultation Zone although there are no waterbodies located within the site or within 250m of the site that could be identified as potential habitat sites. Having regard to the submitted wildlife trigger list and wildlife survey it is considered unlikely that the proposal will generate impacts beyond its site boundary but construction and use of the site may have some potential to disturb commuting bats as bat species are present within the local area. These matters could be addressed through suitable planning conditions which seek to manage safe and sensible working practices.

Public Sector Equality Duty

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.

REASONS FOR REFUSAL

- 1. The proposal does not adjoin a settlement and would have poor access to local services and infrastructure. Consequently, development of the site would be highly reliant on private car use to access local services and facilities. In addition, the dwelling as proposed, by virtue of its size would not be appropriate to the proven housing need of the area and does not reflect the principles of affordability for those in housing need. The proposal would therefore conflict with the requirements of Policy DM6 of the Mid Devon Local Plan 2013 – 2033.**
- 2. The provision of a dwelling in this location, by virtue of its scale, layout and orientation and its relationship with surrounding development would fail to provide a positive contribution to local character and would not be well integrated with surrounding buildings. On this basis, it is considered that the proposal would conflict with the requirements of Policy DM1 of the Mid Devon Local Plan 2013 – 2033.**

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

Application No. 21/00229/FULL

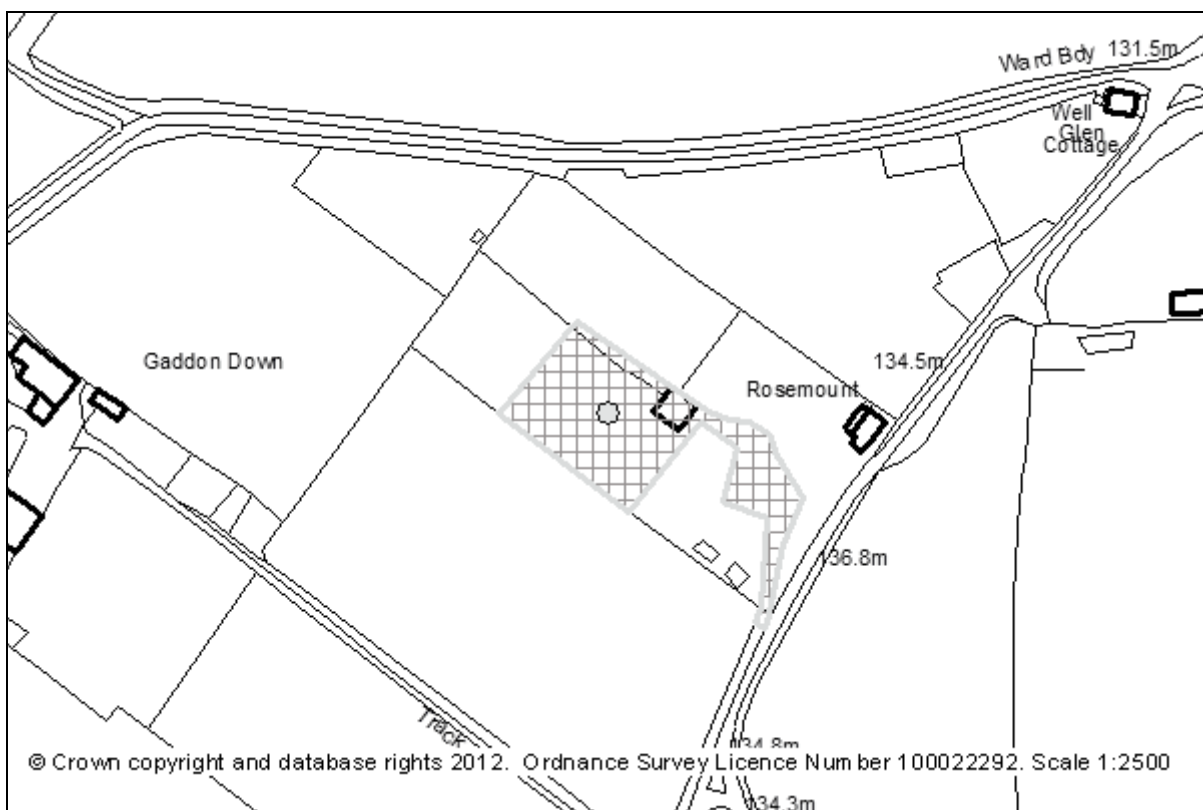
Grid Ref: 307576 : 111201

Applicant: Mr and Mrs Miller

Location: Rosemount
Kentisbeare
Cullompton
Devon

Proposal: Erection of a dwelling and demolition of existing agricultural building

Date Valid: 11th February 2021



APPLICATION NO: 21/00229/FULL

MEMBER CALL-IN

Councillor Simon Clist has called this planning application to Planning Committee so Members can consider:

- The principle of the development which would result in a new residential dwelling in the countryside
- The impact on the landscape from the new position of the dwelling in comparison to the existing building on site
- Whether the access for the development is adequate

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

The proposed development is for the erection of a dwelling and demolition of an existing agricultural building at Rosemount, Kentisbeare, Cullompton. The proposal comes following application reference 19/01497/PNCOU which was a Class Q conversion that was approved under delegated authority. Given the approval of the dwelling under Class Q, this application has been submitted on the basis of a fall-back position of a dwelling being established and the main issue in determining this application is whether the proposal demonstrates a clear planning betterment compared with what was approved under Class Q.

The site is in the open countryside approximately 1 kilometre west of the settlement of Ashill. It falls outside of any Conservation Areas and does not fall within the setting of any listed buildings. The site is in Flood Zone 1 which represents the lowest probability of flooding as classified by the Environment Agency.

The proposed dwelling itself is a single storey, two bedroom dwelling in a rectangular shape. It measures approximately 140 square metres internally and comprises a pitched roof design with a significant area of glazing on the gable ends and south-west elevation to allow natural light into the building. There is limited glazing on the north-east elevation which also consists of bat boxes whilst solar panels are proposed on the south-western roof.

A modest storage shed measuring approximately 4.4sqm is also proposed. It measures approximately 3.3 metres to the ridge and includes a bat entrance.

APPLICANT'S SUPPORTING INFORMATION

Design and Access statement, 3D imagery, photographs, site location plan, block plan and proposed plans.

RELEVANT PLANNING HISTORY

84/00740/FULL - PERMIT date 8th June 1984
Alterations and extension

13/01141/FULL - PERMIT date 3rd October 2013

Erection of 2 storey extension

19/01497/PNCOU - PDA date 25th October 2019

Prior notification for the change of use of an agricultural building to a dwelling under Class Q

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013 – 2033

S1 – Sustainable Development

S9 – Environment

S14 – Countryside

DM1 – High quality design

DM5 – Parking

National Planning Policy Framework

National Planning Practice Guidance

CONSULTATIONS

Highway Authority, 19th February 2021:

The County Highway Authority recommends that the Standing Advice issued to Mid Devon District Council is used to assess the highway impacts, on this application

Highway Authority 16th June 2021

The County Highway has no further comments to make

Public Health, 3rd March 2021:

Contaminated Land - No concerns 26.02.21

Air Quality - No concerns 26.02.21

Environmental Permitting - No objection to this proposal 16.02.21

Drainage - The applicant proposes a package treatment plant discharging to a soakaway drainage field which will meet the requirements of BS6277.2007. However they have not provided an explanation of why connection to the public sewer is not possible, or the required map showing the location of the nearest sewer. They have also replied yes to the question of whether this is part of a phased development. Percolation tests do not appear to have been carried out to date. We would request that the additional information is provided or the form amended so that it accurately reflects what is intended in order to prevent a future public health issue. 26.02.21

Noise & other nuisances - No concerns 26.02.21

Housing Standards - Recommend a door between the hallway and the open plan kitchen/living space to provide safe primary means of escape from the bedrooms in the event of a fire. 2/3/21

Licensing - No comments 16/02/21

Food Hygiene - No comments 16.02.21

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. 16.02.21

Health and Safety - No objection

Advisory note: Prior to any demolition, a work plan and risk assessment of all potentially hazardous materials should be completed. This activity is enforced by The Health & Safety Executive. 16.02.21

Uffculme Parish Council, 8th June 2021:

The Parish Council endorses its previous submission. The scale and design of the building is not in keeping with the local area. The Council opposes the application.

REPRESENTATIONS

A total of 13 letters of objection have been received at the time of writing this report. Some of the letters come from the same households but at different stages of the application process where revised plans were received. A summary of the concerns raised across the objection letters is set out below:

- Future loss of Ash would result in privacy concerns
- Future extensions to the dwelling
- View that the Class Q permission should not have been granted
- Loss of agricultural land and character
- Design and scale not in-keeping with area
- Concerns around safety of access
- Unsustainable location
- Noise pollution from air source heat pump
- Requirement and affordability of dwelling
- A precedent will be set
- Impact on AONB
- Disruption during construction phase
- Visual impacts
- Increased traffic and highways/access concerns
- It seems odd to reduce the number of bedrooms in this iteration, whilst seemingly arguing that more space is necessary, when the original class q applications had more bedrooms.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

- 1. Principle of development**
- 2. Impact upon the character and visual amenity of the area**
- 3. Impact on residential amenity**
- 4. Ecology and Biodiversity**

5. Drainage and Flood Risk
6. Highway Safety
7. Other Matters
8. Planning Balance

1. Principle of Development

The site is located in the countryside where policy S14 seeks to control development to enhance the character, appearance and biodiversity of the countryside whilst promoting sustainable diversification of the rural economy. In this case the application seeks to demolish an existing building and erect a single dwellinghouse in its place on the basis that the existing building could be converted via a Class Q conversion where permitted development rights are utilised. A Court of Appeal decision *Mansell v Tonbridge and Malling BC* concluded that a fall-back position could be considered whereby permitted development rights, in that case those under Class Q of part 3 of Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 (as amended), could be considered as a material consideration.

In considering this proposal, it is noted that recent case law and appeals establish that *permission for a residential conversion gained through Class Q can establish a fall-back position for a replacement dwelling in general terms*. The case law does not make it clear how much weight should be applied, as it is clearly a matter for the decision maker to interpret on a case-by-case basis. The case law merely establishes the general principle that such a fall-back position can be given weight.

Given that a Class Q proposal was approved under application reference 19/01497/PNCOU, there is the real prospect of a dwelling being brought forward on the site and a fall-back position can be given weight in the planning balance. It is noted that some of the letters of objection raise concern with regards to the original Class Q decision but given that this has since been approved, weight can be attributed to the fall-back position.

On this basis, consideration for this application will be given to the overall impact of the proposed development, with appropriate weight given to the fall-back position. Generally, it is expected that the proposed replacement development should represent a real and positive enhancement, or betterment, to the original scheme allowed under Class Q. As such, the principle of the development is considered to be broadly acceptable subject to consideration of the details in line with other relevant local and national policy.

2. Impact upon the character and visual amenity of the area

Policy DM1 of the Local Plan (2013-2033) seeks high quality design upon a number of principles including a clear understanding of the site, efficient use of the site, making a positive contribution to local character, and creating visually attractive places that are well integrated with surrounding buildings, streets and landscapes, taking account of factors including architecture, siting, layout, scale, massing, orientation, fenestration, materials and landscaping.

The Class Q scheme previously approved under reference 19/01497/PNCOU would result in a square, single storey building. Whilst it would blend into the landscape owing to its modest scale, the materials would be basic, not resulting in a particularly attractive dwelling. Similarly, it would provide little in the way of architectural interest and does not necessarily conform to the local vernacular despite it being a conversion.

Initially, the fall-back proposal sought to erect a large two storey dwelling which would have increased the visual impact of the development in the landscape and as such it was considered

that it would not have sat comfortably within the landscape. However, revised plans were received and the latest plans show a rectangular single storey building with the principal elevation facing to the north east. It comprises a pitched roof design measuring approximately 4.8m to its highest point and has an internal floor area of approximately 140 square metres. Whilst the proposal is approximately 1m taller than the previously approved conversion, owing to its single storey nature and revised siting, it is still considered to sit comfortably in the landscape. The proposed dwelling features glazing on the gable ends which, whilst modern, is considered to be an attractive feature and will allow for improved amenity for future occupiers by virtue of increased natural light. It is considered that the materials and design of the dwelling respond to the vernacular of the area and overall the design is considered acceptable in accordance with policy DM1.

It is noted that concerns have been raised with regards to the visual impacts given that Ash trees nearby may be removed in the future and due to the reduction in scale compared with the initial plans, concern has also been raised with regards to future extensions. In terms of the latter, if approved, it is recommended that a condition is imposed on the planning permission removing permitted development rights. The Council would therefore have control of any future extensions that may be proposed. In terms of the visual impacts, it is considered that the site is well contained and due to the modest height, the building would not be overly obtrusive for the countryside location. It is noted that trees may be removed in the future, however, it is not considered that this is something that constitutes a material planning consideration in this instance given that it does not fall within the constraints of this application.

On balance, the design of the dwelling is considered to be acceptable in accordance with policy DM1. It responds to local vernacular and to the rural location with modern additions that allow for greater amenity for future occupiers. This is considered to be an improvement on what could be achieved via Class Q. Additional improvements are also suggested in order to meet the threshold of a 'planning betterment' and these are discussed later in this report.

3. Impact on residential amenity

As set out above, the design of the proposed dwelling is considered to result in improved amenity for any future occupiers of the dwelling. In addition to the amenity of occupiers of the development, the impacts on the amenity of neighbours has also been considered in the assessment undertaken for this development.

It is considered that the site is well contained and the building will be reasonably well screened from public view. The building is to be single storey and therefore outlook from proposed windows will not result in significant overlooking. The proposed dwelling is to be sited approximately 60m from the nearest dwelling, Rosemount, but will be well screened by existing planting in the area. Rosemount itself is well contained by existing boundary treatments. The next nearest dwellings are Dad's View Farm / Gaddon Down to the west and Well Glen Cottage to the north east. These are both approximately 175m from the site. Given the separation distances between the proposal site and neighbouring dwellings, any amenity impacts are considered to be very limited. Additionally, it is not expected that there would be any increased impacts compared with what is already established via the Class Q scheme.

It is noted that noise impacts from the construction phase of a development on site and from the air source heat pump proposed have been raised as matters of objection and such impacts have been considered. In terms of the heat pump, owing to the separation distance set out above, this is considered to be a very minimal adverse impact. There may be some disruption caused from the building phase of the development, however, this may occur anyway by virtue of the Class Q scheme and in any event the erection of one dwelling represents a reasonably small development

so impacts are not considered to be substantial. Overall, any adverse amenity impacts are not considered to be significant enough to warrant refusal of the scheme.

4. Ecology and Biodiversity

Policies DM1, S1 and S9 seek to protect biodiversity and the environment. An ecology survey has been submitted with the application which did find some evidence of protected species, namely bats. The survey suggests mitigation to avoid harming protected species and a condition is suggested to ensure the development accords with the recommendations of the ecology survey.

The submitted plans show a number of bat boxes both on the proposed dwelling and on the associated storage building. It is considered that these measures in terms of ecology and biodiversity will be an improvement on what could be secured via the Class Q development and therefore contribute to the proposal being a betterment in planning terms. As such, it is also suggested that the bat boxes are secured by condition.

5. Drainage/Flood Risk

The site is within Flood Zone 1 which represents the lowest probability of flooding as per the Environment Agency. Given that the proposed building will replace the agricultural building already on site and they have similar roof areas, it is not expected that there will be a significant increase in surface water run-off. Water will be directed to a field soakaway which Public Health have acknowledged is likely to be compliant with legislation. However, Public Health do raise the matter that it is unclear whether mains drainage could be connected to and whilst they do not object to the scheme, they note that there may be future issues if this is not addressed. Therefore, a condition is suggested to secure a Surface Water and Foul Drainage strategy including percolation testing prior to development of the dwelling proceeding above damp course level.

6. Highway Safety

The local Highway Authority have not objected to the proposal and have issued standing advice. It is noted that the submitted plans show enough space for the parking and turning of two vehicles on the site which is in accordance with policy DM5 of the local plan. Similarly and in accordance with the Highway Authority's standing advice, vehicles can therefore enter the highway in forward gear.

The existing access point will be used and leads to the nearest highway which is an unclassified road. The visibility and safety is considered to be acceptable and this has previously been found to be the case under the Class Q application. It is not expected that the erection of one dwelling will significantly increase traffic movements in the area and overall the local highway network and highway safety is considered to be protected.

7. Other Matters

Other matters raised during the assessment of this application that have not already been addressed in this report are; loss of agricultural land, unsustainable location, affordability of the dwelling, precedent and potential impact on the AONB.

Firstly, in terms of the loss of agricultural land, whilst the surrounding area is typically agricultural in character, the amount of agricultural land to be lost as a result of the development is considered to be minor. The floor area of the dwelling is similar to the existing building on site and there are existing dwellings in the vicinity so the immediate area is already fairly domesticated. Overall, the

impacts of this is negligible and it is not considered appropriate or reasonable to refuse the scheme on this basis.

With regard to the location and affordability of the dwelling, the site is approximately 5 kilometres from Cullompton which has good access to the M5. It is also one of the 3 main towns of Mid Devon which represents employment and leisure opportunity. There are villages such as Ashill and Willand within closer proximity to the site with the latter providing a good range of services i.e. pub and shops. In any event, the principle of a dwelling on site has already been established via the previous Class Q proposal. Given the type of application where a fall-back position has already been established, the affordability is not considered to be a material planning consideration in this instance.

In terms of precedent, this has already been set by the case law discussed above and it is considered that the proposal complies not only with the case law but is comparable to other fall-back schemes recently approved in Mid Devon. It is not considered that this proposal sets a new form of precedent.

Finally, the AONB is some 1.6km from the site at its closest point and therefore will not be impacted upon as a result of the development.

8. Planning Balance

It has been established that there is a real possibility of a Class Q conversion scheme being brought forward on this site. The application scheme is for a new dwelling which will be built following removal of the existing agricultural building. The new dwelling is considered to have an improved design both in terms of visual amenity and in terms of the amenity of potential future occupiers. In addition, there will be ecological and environmental enhancements which otherwise would not have been brought forward by any Class Q proposal. The proposal complies with local policy in terms of design, neighbourhood amenity and highway safety. It is therefore considered, on balance, that the scheme demonstrates a planning betterment compared with what could be achieved via Class Q and permission should be granted.

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

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

CONDITIONS

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

3. Unless otherwise agreed in writing by the Local Planning Authority, the development hereby permitted shall be implemented strictly in accordance with the recommendations and requirements of the ecological survey report carried out by Western Ecology and dated May/June 2020.
4. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Classes A, AA, B, C and E of Part 1, or Class A of Part 2 of Schedule 2 relating to the enlargement, improvement or other alteration of a dwellinghouse, addition or alteration to the roof, provision within the curtilage of the dwellinghouse of any building or enclosure, swimming or other pool, container for domestic heating purposes for storage of oil or liquid petroleum gas or the erection of a gate, fence wall or other means of enclosure, shall be undertaken within the application site without the Local Planning Authority first granting planning permission.
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.
6. Prior to occupation of the development hereby approved, details of the bat boxes shown on the approved plans shall be submitted to and approved by the Local Planning Authority. Such bat boxes shall be implemented and so retained in accordance with the approved details.
7. No development above damp proof course shall take place until details of the proposed foul and surface water drainage strategy including percolation testing and any arrangements for future maintenance have been submitted to and approved in writing by the Local Planning Authority. The foul and surface water drainage systems approved shall be constructed in accordance with the approved details prior to first occupation of the dwellings hereby approved.

REASONS FOR CONDITIONS

1. In accordance with provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt in the interests of proper planning.
3. To safeguard statutorily protected species in accordance with the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010).
4. To safeguard the visual amenities of the area in accordance with policy DM1 of the Mid Devon Local Plan (2013-2033).
5. To ensure that the proposed development does not prejudice the amenities of neighbouring occupiers in accordance with policy DM1 of the Mid Devon Local Plan (2013-2033).
6. To ensure the scheme is a planning betterment in terms of ecological enhancements and to safeguard statutorily protected species in accordance with the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010).

7. To ensure a satisfactory and sustainable surface water drainage system is provided before habitation of the dwelling.

INFORMATIVES

1. Prior to any demolition, a work plan and risk assessment of all potentially hazardous materials should be completed. This activity is enforced by The Health & Safety Executive.
2. 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.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The proposed development for the erection of a dwelling and demolition of an existing agricultural building at Rosemount, Kentisbeare, Cullompton is considered acceptable. The proposed development by virtue of its high quality design and ecological enhancement measures is considered to be a planning betterment compared with what could be achieved via a permitted development, Class Q conversion. It is considered that it would cause no demonstrable harm to the character and appearance of the surrounding area and its rural context, would have no adverse impact on highway safety or increase the risk of flooding beyond the site. It is therefore considered appropriate to recommend approval with conditions necessary to ensure the success of the development in this location. As such, it is considered that the proposed development is in accordance with policies S1, S9, S14, DM1 and DM5 of the Mid Devon District Council Local Plan (2013-2033) and guidance in the National Planning Policy Framework.

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

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

Application No. 21/00443/FULL

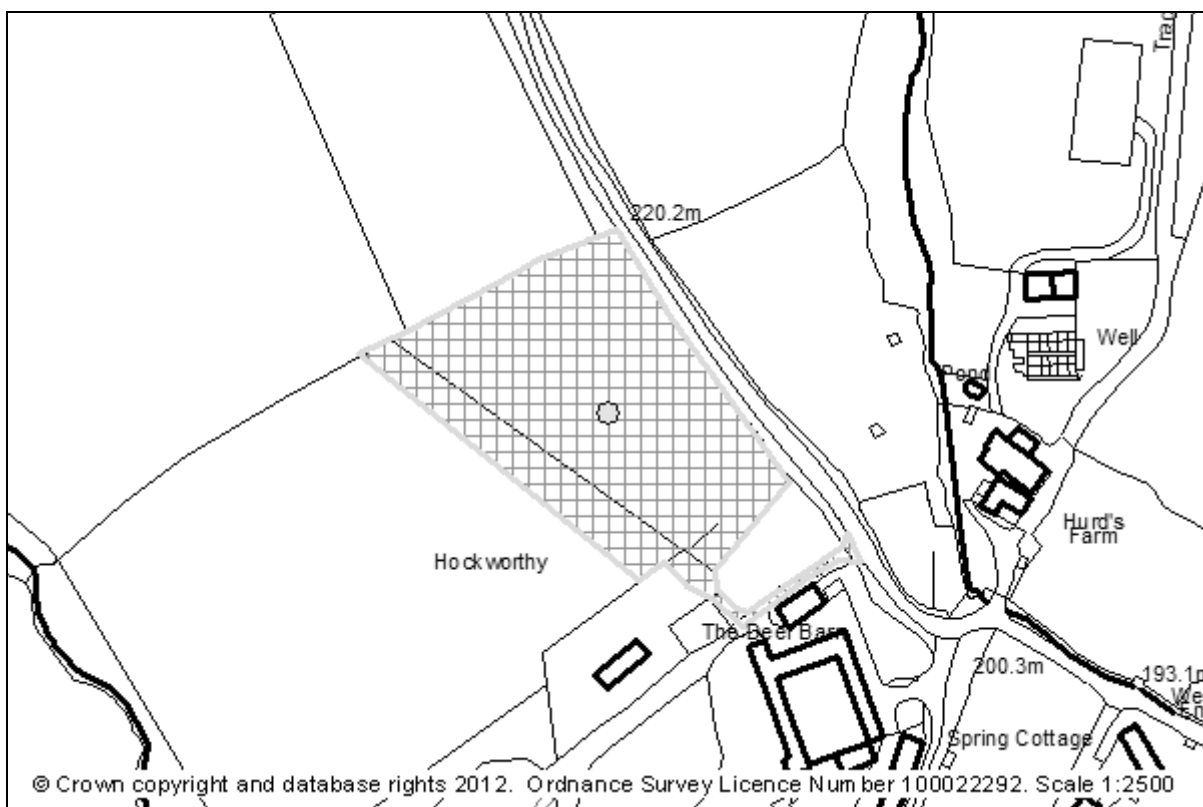
Grid Ref: 303735 : 119592

Applicant: Mr J Taylor

Location: Land at NGR 303735 119592
The Deer Barn
Hockworthy
Devon

Proposal: Change of use of land for the siting of 2 glamping tents and associated facilities

Date Valid: 1st April 2021



APPLICATION NO: 21/00443/FULL

MEMBER CALL-IN

This application has been called in by Cllr J Norton:

To consider the impact the proposed change of use of land to provide two Glamping tents and associated items will have on the character of the rural landscape, adjacent heritage assets along with the potential impact on highway safety and the enjoyment of the level of amenity by villagers due to potential noise and light pollution.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

The applicant seeks planning permission for the change of use of land for the siting of 2 glamping tents and associated facilities on land at NGR 303735 119592, The Deer Barn, Hockworthy

APPLICANT'S SUPPORTING INFORMATION

Ecological Appraisal
Supporting statement
Viability appraisal
Plans

RELEVANT PLANNING HISTORY

16/01931/PNCOU Prior Notification for the change of use of agricultural building to dwelling under Class Q – Approved
91/00934/FULL Conversion of barn to dwelling house - Permitted
91/00941/LBC Conversion of barn to dwelling house - Permitted

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013 – 2033

S9 - Environment
S14 - Countryside
DM1 - High quality design
DM2 - Renewable and low carbon energy
DM5 - Parking
DM18 - Rural employment development
DM22 - Tourism and leisure development
DM25 - Development affecting heritage assets

National Planning Policy Framework

CONSULTATIONS

NATURAL ENGLAND – 20.04.2021:

Natural England has no comments to make on this application.

PUBLIC HEALTH – 27.04.2021

Contaminated Land - No concerns 22.04.21

Air Quality - No concerns 22.04.21

Environmental Permitting - No objection to this proposal 07.04.21

Drainage - The applicant has submitted a foul drainage assessment form but it is incomplete because there is no explanation as to why the toilets and ablution facilities on the site will not be connected to the public sewer. Compost toilets are proposed and we would support these only in exceptional circumstances where they are to be used by the occupier only, because there is a likely hygiene risk, particularly when used by multiple users not familiar with the correct use of these systems, and to the staff required to empty them. This is of particular concern during the covid pandemic when very high standards of hygiene in leisure sites is so important. No details have been provided about the proposed system, where the solid matter will be disposed of, or how the separate liquid will be managed. These toilets only work if they are kept dry which is not easy for the general public to achieve. It is likely that some contaminated water will enter the drainage systems serving the washing up areas and showers and there is no clear information about how this will be managed. A better solution would be for campers to use facilities provided by the adjacent associated residence if connection to the mains is not shown to be feasible. We would be pleased to comment on updated information in due course. 22.04.21

Noise & other nuisances - No concerns 22.04.21

Housing Standards - No comment 19/4/21

Licensing - This will require a tent site licence ' Please contact the licensing team for further information licensing@middevon.gov.uk 06.04.21

Food Hygiene - No comments 07.04.21

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. 06.04.21

Health and Safety - No comments 07.04.21

Highway Authority - 08.04.2021

The County Highway Authority recommends that the Standing Advice issued to Mid Devon District Council is used to assess the highway impacts, on this application

REPRESENTATIONS

There have been 15 representations 9 of which are in support and 6 objecting to the proposal. Set out below is a résumé of the information submitted.

Support

- It will deliver valuable tourism and leisure benefits to a small rural community.
- Sustainable and low impact

- The limited number will protect nearby residents
- Staple cross inn within walking distance of the site.
- Impact on traffic will be minimal
- The site has operated informally for 2 years with no impacts on local properties.
- Any impacts can be controlled via legislation

Objections

- The site is adjacent to Burnt Lane, Public Footpath No. 2.
- Burnt Lane forms part of the boundary of Hockworthy Conservation Area.
- Glamping by its very nature gives rise to outdoor activity and noise, firepits, outside loos etc., and usually music.
- It would severely impact on the natural peace, beauty and character of this rural landscape adjoining a conservation area, and it will detract from Hockworthy's attributes to the detriment of future generations.
- The principle of this type of holiday accommodation and associated infrastructure within this isolated rural location is unacceptable due to the requirement to rely on the motor vehicle;
- The proposal would have an impact on the setting of adjacent heritage assets;
- It would encourage greater car use on this part of the highway network that would lead to an impact on highway and public safety;
- It would have an unacceptable impact on the level of amenity enjoyed by villagers through an increase in noise and light pollution;
- It would impact negatively on the biodiversity interests at the site and the adjoining conservation area;
- It provides no financial or employment or amenity gain for the locals;
- There is no waste management plan or fire safety plan;
- It is inaccessible for people with disabilities;
- Wildlife report required.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The application seeks planning permission for the change of use of agricultural land for the siting of 2 glamping tents and associated facilities for holiday use NGR 303735 119592

The Deer Barn, Hockworthy, Devon. The application site is located in open countryside to the North of Hockworthy and south of Staple Cross. The application site comprises part of a wooded field with the rest laid to open pasture with well-established boundaries of mature hedgerows containing some trees.

The application site is to be accessed from the south via the access track and public right of way with associated parking set within the site at the gate entrance.

The main issues in the determination of this application are:

- 1. Policy and procedure**
- 2. Need for the development**
- 3. Highway matters**
- 4. Design of holiday accommodation**
- 5. Impact on the character of the area**
- 6. Impact on amenity of occupiers of residential property**
- 7. Other planning matters**

1. Policy and procedure

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

Therefore in light of the above, the Local Authority needs to determine this proposal on the basis of a number of policies contained within the Local Plan 2013-2033. In this instance, the relevant policies are S9 (Environment), S14 (Countryside), DM1 (High quality design), DM2 (Renewable and low carbon energy), DM5 (Parking), DM18 (Rural employment development) DM22 (Tourism and leisure development) and DM25 (Development affecting heritage assets) of the Local Plan Review 2013 – 2033.

Policies S9 require development to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through high quality sustainable design which reinforces the character and legibility of Mid Devon's built environment and creates attractive places. Policies S14 seeks to control development outside defined settlement limits to appropriate rural uses. Within the NPPF, paragraph 83 with respect to supporting a prosperous rural economy outlines that:

‘Planning policies and decisions should enable:

- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
- b) the development and diversification of agricultural and other land-based rural businesses;
- c) sustainable rural tourism and leisure developments which respect the character of the countryside; and
- d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.’

It is considered that there is no objection in principle to the creation of a tourist facility in this location as outlined within the supporting documentation submitted subject to the scale and design of the development and the provision of a robust marketing strategy and business plan demonstrating the suitability of the location for the venture and demonstrating how the development will achieve a high quality tourism product that meets demand. These matters are considered below. The Local Authority has approved a number of planning applications for various types of holiday accommodation within the District. The forms of holiday accommodation have included numerous barn conversions, log cabins, shepherds huts, yurts, safari tents, to name but a few.

2. Need for the development

In rural areas of the district, the strategy as outlined within the Local Plan 2013-2033 is that whilst there is to be strict control over development, the emphasis will be on promoting environmental enhancement including landscape and biodiversity and encouraging appropriate economic diversification with eco-tourism highlighted. Therefore subject to the development being justified through a sound business case and any impact on the landscape kept to a minimum with appropriate mitigation provided where required; a case to support this proposal could be made.

As far as policies within the Local Plan 2013-2033 are concerned, Policy S14 states that ‘development outside the settlements defined by S10-S13 will preserve and where possible

enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. Criteria 'C' outlines that any development needs to be of an appropriate scale.

With regard to the Local Plan 2013-2033, Policy DM22 (Tourism and leisure development) states: Proposals for new or expanded tourism, visitor or leisure facilities will be supported within or adjacent to defined settlements. Elsewhere, the nature of the proposed development must justify a countryside location and minimise environmental impacts, avoiding an unacceptable traffic impact on the local road network. Development proposals must:

- a) Respect the character and appearance of the location;
- b) Where appropriate, involve conversion or replacement of existing buildings; and
- c) Demonstrate that the need is not met by existing provision within nearby settlements.

The supporting text to this policy outlines that the justification for the development will be provided through a marketing strategy and business plan to explain how the development will achieve a high quality tourism product that meets demand. Proposals must demonstrate that their benefits outweigh any harm and that they do not cause an unacceptable impact to traffic on the local road network. Tourism and leisure developments should benefit local businesses, the environment, communities and visitors in the long-term, so the Council will seek the right form of development in the right location, with evidence that the need is not already being met by existing provision. In demonstrating unmet need for tourism proposals outside of settlement limits, applicants should have regard to the Council's Tourism Study.

The business proposal for the 2 Glamping tents for holiday use has been provided.

Over the past two years, the applicants have tested the market and the viability of the business by utilising permitted development rights under Schedule 2, Part 4, Classes A and B of the General Permitted Development Order (2015) (as amended) for the temporary change of use of the land for 28 days (which was extended to 56 days in 2020) to trial the use of the land as a camping site which provided to be highly popular and successful.

Currently accredited as Airbnb 'Superhosts', and with their hospitality recognised and rated as being of an excellent standard, the applicants are well experienced in dealing with and hosting guests on site.

The ethos of the applicant's glamping site business and the crux of the business plan is for the glamping pitches to be off grid, low impact, and sustainable. The applicants seek to use local businesses as suppliers, and the selling point of the experiences will be for guests to enjoy peace and quiet, seclusion, the dark night skies and a unique stargazing opportunity amongst the idyllic Mid Devon countryside which will be marketed as a special feature of the site.

In order to remain off grid, low impact and sustainable the site will only use solar to generate power and minimal external lighting will be used. There will be a no amplified music policy on site, with minimal noise to ensure that there is no loss of residential amenity for the applicants and any neighbouring dwellings. The kitchen area for each bell tent will comprise of a sink, BBQ, and a gas stove.

The proposed use of the site for glamping will support local craftsmen, forestry workers, cleaners and general helpers. Local produce packs to be given to guests, and the applicants have links with local businesses who will be supported.

The applicant has continued to undertake market research to assess whether the additional proposed bell tents are suitable given the current business landscape, and the applicant's business plan demonstrates that the proposal is viable and will sustainably supplement their rural income over the coming years. As reiterated within the Local Plan and Tourism Study (2014)

undertaken by the LPA, tourism plays an important role in generating income for local residents, with Devon a very popular tourist destination. However, it is less developed than other parts of the country, and therefore rural tourism development should be welcomed to supplement rural incomes and support economic growth.

Extensive research has been carried out to assess the range of visitor accommodation types already available in the area locality. Whilst there are a few accommodation options available a few miles away in the form of B&B's, holiday cottages and a lodge, there are no glamping options available nearby in the area of Hockworthy and the immediate surrounding villages.

The applicants have devised a marketing strategy for the proposed bells tents which will aim to attract a diverse range of guests from all walks of life, from individuals, couples, small families and groups of friends who will all be welcome on site. The glamping pitches will be advertised and will be targeted at both the weekend short break market and week-long summer holiday market with all the key facilities and amenities to be provided on site to meet their requirements.

Marketing of the glamping site will predominately take place online and will be linked to the applicant's existing marketing platforms which are branded under name of 'The Deer Barn'. The applicants currently run social media pages on Facebook and Instagram for advertising and marketing purposes, utilising the paid 'boost' functions to encourage a wider additional reach to potential target markets. This was the main source of bookings for the applicants when the site was trialled as a camping site under the GDPO Permitted Development Rights for the temporary change of use of the land.

3. Highway matters

Due to the location of the development visitors will be predominantly reliant on the use of motor vehicles. No objections have been received from the Local Highway Authority noting standing advice should be used. The existing access has ample advance visibility and enables vehicles to sit clear of the highway. Within the site, manoeuvring and visitor parking will be provided adjacent the field entrance. Visitors will then be transferred with their luggage on arrival and departure to the tents. It is considered that the parking provision would be in accordance with Policy DM5 of the Local Plan 2013-2033.

Issues have been raised with regard to Transport and access to the site by objectors and the Ward member who has called the application in to committee. It is agreed there will be further traffic on the highways, however the number of trips are minimal and are unlikely to cause undue harm to the area or the highway network. The nature of rural activities such as these do necessitate the need for visitors to access them by way of the Motor vehicle it is a requirement where sites are away from any public transport, and a fact of rural living.

4. Design of holiday accommodation

In terms of this planning application, the proposal is for the creation of two units of holiday accommodation whereby the land use is supported by adopted policy and it would represent a small scale tourism proposal across the site. As referred to earlier, a number of different types of holiday accommodation have been approved within the district with safari/Glamping tents being one, although not at significant numbers.

In terms of character and appearance, the proposed tents will utilise the traditional, natural timber strut frame and canvas exterior walls. The tents follow a simple, utilitarian traditional style of design which is typical of other, existing, similar, glamping developments and minimises potential visual, landscape and environmental impact. The use of natural canvas to all exterior walls will

provide a muted tone and allow a natural weathering, ageing/silvering of external finishes, increasing the settled character of the new structures within the rural landscape.

The proposal would change the appearance of the field through the introduction of the glamping tents which are semi-permanent structures with permanent ancillary infrastructure. In terms of sustainability, the proposed tents position takes best advantage of natural solar gain to ensure natural daylight within the accommodation is maximised, reducing any demand on electricity for lighting. The addition of the timber decks and social area around each tent is considered to be acceptable and of minimal impact.

It is considered that a case can be made that the development would comply with policies DM1 (High quality design), and DM2 (Renewable and low carbon energy) of the Local Plan 2013-2033. The scale of development for a total of 2 holiday units is considered to be in accordance with Policies DM18 (Rural employment development) and DM22 (Tourism and leisure development) of the Local Plan 2013-2033.

5. Impact on the character of the area

In terms of the site area for the tents itself and the impact on the wider area, the existing field boundary hedges are to remain untouched with new specimen planting proposed. The applicant has explained that the location for the proposed tents has been selected so that any impact is kept to a minimum with the only vantage points where direct views of the proposed tents will be available are from the southern extremity of the site, adjacent the access, from a short section of the public right of way and the owners/applicants home.

A consideration of this development is in respect of the visibility of the development in the immediate locality. In the wider locality and based on the information provided when viewed in the context of these features the presence of the glamping tents is unlikely to result in significant adverse impacts to the wider landscape. Landscaping is proposed for the site with native species which is to be conditioned.

It is understood that a number of the ash trees in the location of the proposed site are suffering from ash die back and will need to be removed, they are not allowed to remain and will need to be burnt due to the nature of the disease. Alternative trees will be planted.

6. Impact on amenity of occupiers of residential property

Given the distances involved from the proposed holiday units to neighbouring residential properties, it is not considered that there would be a significant detrimental impact on the amenity of neighbouring residents. A condition is recommended for any low level lighting scheme to be submitted and approved. The Public Health Team has assessed the application and has raised no objections to the proposals but recommend that the composting wc's are replaced with facilities connected to the existing system or for the provision of a septic tank. Following discussions with the applicant the proposal now will connect to the existing system located close to the new dwelling near the access point to the field. A condition requiring the approval of a management plan for the development is to be included to ensure the operation of the site provides a degree of certainty for local residents.

7. Other planning matters

In terms of drainage, the roof of the proposed structures will be of canvas, accordingly the surface water run-off from same will be tempered compared to a hard, impervious roofing material. No guttering is possible and thus what rainwater does shed from the roof will shed naturally onto the

surrounding pasture in a dispersed and irregular pattern allowing natural greenfield percolation and run-off to be maintained.

The applicant has confirmed that all foul and grey water, will be dealt with by the existing on site systems, and it is noted that the site of the tents is located within flood zone 1 where this type of development is acceptable. The development therefore complies with Policy Policies S9 (Environment) and DM1 (High quality design) of the LP13-33.

An Ecological Appraisal Report by Richard Green Ecology has been submitted which outlines that no protected species would be impacted through the tents within the grassland habitat area. Although only a small area of Low ecological value habitat would be lost to the proposal, opportunities are identified as follows:

The planting of fruit trees within the grassland area. The trees chosen for planting should preferably be native fruit varieties of apple, plum, and pear and there should be two new trees for every ash die back tree removed.

The conclusion of the report is that enhancement measures which are proportional to the habitat being lost, and which are in keeping with the proposal, have been recommended. Where instigated these should ensure that the biodiversity value of the site is enhanced. A condition is recommended to ensure this happens.

The site also does not contain any protected or known features of archaeological interest.

Concern has been raised with regard to possible impact on the nearby heritage asset of the conservation area and the listed building at Court Hall and Home farm. The proposed units are located outside the conservation area and will have no negative impact on the special character of the conservation area. The listed buildings of Court Hall and Home Farm are some 200m and 220m from the proposed site with no direct line of vision from the properties to the site. Looking back from the site to the two listed buildings only the roofs are visible.

Section 66 General duty as respects listed buildings in exercise of planning functions:

- (1) In considering whether to grant planning permission or permission in principle for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- (2) Without prejudice to section 72, in the exercise of the powers of appropriation, disposal and development (including redevelopment) conferred by the provisions of sections 232, 233 and 235(1) of the principal Act, a local authority shall have regard to the desirability of preserving features of special architectural or historic interest, and in particular, listed buildings.

It is considered that the proposed will not have a detrimental impact on the setting of the listed buildings and as such the setting of the listed buildings will be preserved.

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

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. (i) The holiday accommodation units (safari tents) shall be occupied for holiday purposes only.
(ii) The holiday accommodation units (safari/glamping tents) shall not be occupied as a person's sole, or main, place of residence.
(iii) The owners/operators shall maintain an up-to-date register of the names of all occupiers of the holiday accommodation units on the site and of their main home addresses and the period(s) of their occupation of the unit for such purposes (i.e. the dates of commencement and the end of each period of occupation), and shall make this information available at all reasonable times to the Local Planning Authority.
4. The development for the 2 glamping tents hereby approved shall only be occupied for holiday purposes only, limited to 2 units of holiday accommodation on site with any further Glamping tents requiring subsequent planning approval. On the holiday units becoming redundant for such purposes, they shall be demolished and all resultant materials removed from the site within 3 months of them becoming redundant for their approved use.
5. The development of the 2 holiday units hereby approved shall not be occupied until such time as the parking and turning area indicated on the approved site layout plan have been provided on site and made available for use by holiday visitors. Following their provision, these facilities shall be so retained.
6. Prior to the first occupation of the holiday accommodation hereby approved, details of any external lighting within the application site shall be submitted to and agreed in writing by the Local Planning Authority. Any external lighting installed shall be in accordance with the agreed details.
7. The holiday accommodation hereby approved shall be operated in adherence with the approved Noise Management Plan (Deer Barn - Noise Management Plan received on the 10th June 2021), at all times, unless otherwise agreed in writing by the Local Planning Authority.
8. All planting, seeding, turfing or earth reprofiling comprised in the approved details of landscaping shall be carried out within 9 months of the substantial completion of the development or within the first planting season following completion (whichever is sooner) and any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species. Once provided, the landscaping scheme shall be so retained.
9. The development hereby approved shall be carried out in accordance with the recommendations outlined within the Ecological Appraisal Report dated March 2021 and prepared by Richard Green Ecology covering avoidance of harm to protected species and nesting birds, mitigation, compensation and enhancement, unless otherwise approved in writing by the Local Planning Authority.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt in the interests of proper planning.
3. The use of the holiday let accommodation as a separate dwelling would require planning permission whereby the location, relationship to surrounding dwellings, parking facilities and areas of amenity would need to be considered further. However the application for holiday let accommodation is considered to be in accordance with DM22 of the Local Plan 2013 – 2033.
4. To ensure removal of the holiday units if no longer required for holiday occupation in order to protect the character, appearance and general amenity of the area of countryside in accordance with Policy S14 of the Local Plan 2013 – 2033.
5. In the interest of highway safety and to ensure that adequate on-site facilities are available for traffic attracted to the site in accordance with DM5 (Parking) of the Local Plan 2013 – 2033.
6. In the interests of preserving the character and visual amenity of the rural area in accordance with policy DM1 of Local Plan 2013 – 2033.
7. In the interests of residential amenity and to safeguard the amenities and character of the area, in accordance with policies S9, S14, DM1, DM2, DM5, DM18, DM22 of Local Plan 2013 – 2033, and the aims and objectives of the National Planning Policy Framework.
8. To ensure that the development makes a positive contribution to the character and amenity of the area and to protect the setting of the listed building in accordance with policy DM1 of the Local Plan 2013 – 2033.
9. To ensure the protection of endangered species, under the European Habitats Directive and the Conservation of Natural Habitats and of Wild Fauna and Flora [Council Directive 92/43/EEC] which is implemented in the UK by the Conservation [Natural Habitats & Conservation] Regulations 1994 [Statutory Instrument No 2716] amended in 2007 and in accordance with policy DM2 of Mid Devon Local Plan Part 3 [Development Management Policies].

INFORMATIVES

1. This development may require a tent site licence. Please contact the licensing Team for more information licensing@middevon.gov.uk
2. If food or drink is provided, stored, processed this is considered a food business. All new food businesses are required to register with their Local Authority 28 days prior to opening. The appropriate form can be found in this link.
<https://www.middevon.gov.uk/media/114739/foodregistrationform.pdf>
Free advice on requirements can be given by Environmental Health. For structural requirements this is ideally sought before works start. The Food Standards Agency's website is also a useful source of information <https://www.food.gov.uk/>.
3. 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.

REASON FOR APPROVAL OF PERMISSION

The proposals for the change of use to allow for the siting of two glamping tents for holiday let accommodation is considered to be acceptable with the tourism use being acceptable not resulting in a detrimental impact to the rural character of the area. It is not considered that the proposal would have an unacceptable impact on the environment or nearby heritage assets and the proposal is considered to be suitably designed and any impact on amenity of neighbouring occupiers is not considered significant given the existing boundary treatment, proposed planting and degree of separation involved. The development complies with the requirements of relevant Mid Devon Local Plan 2013 – 2033 Policies S9, S14, DM1, DM2, DM5, DM18, DM22 DM25 and the National Planning Policy Framework.

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

Application No. 21/00471/FULL

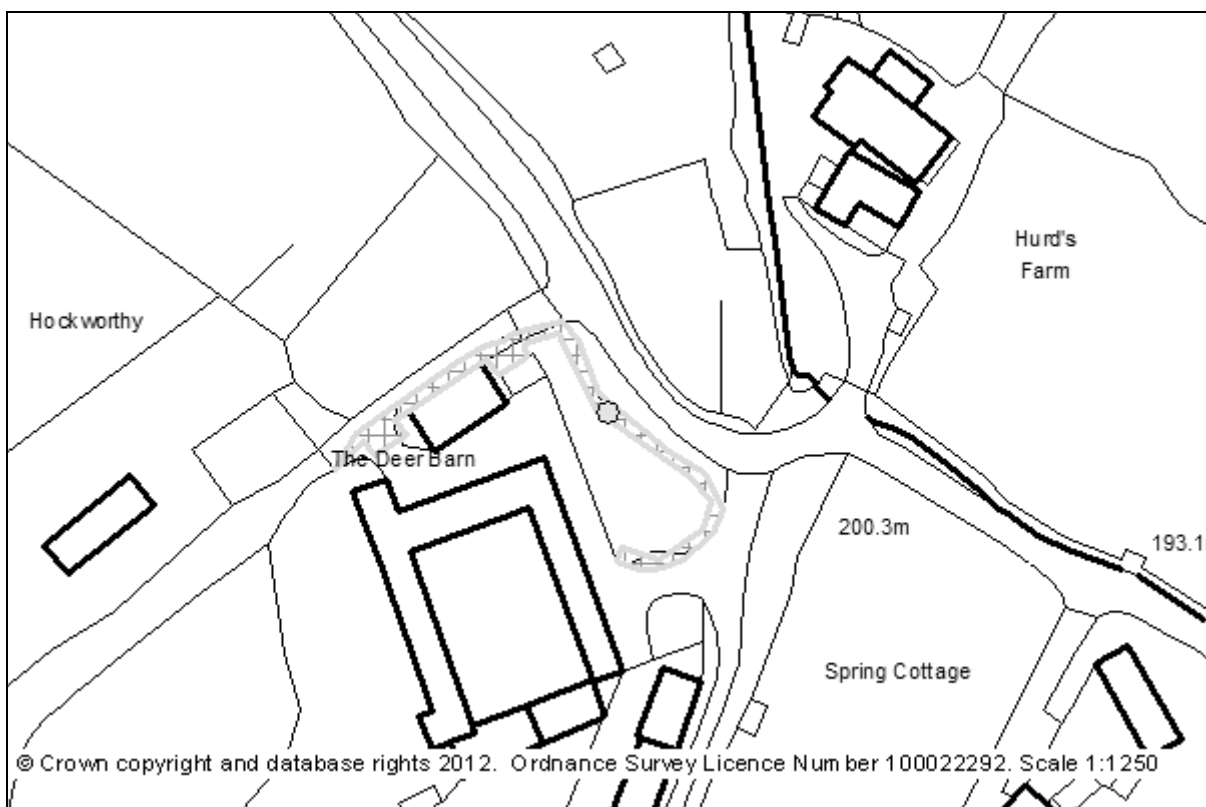
Grid Ref: 303785 : 119518

Applicant: Mr J Taylor

Location: The Deer Barn
Hockworthy
Devon
TA21 0NW

Proposal: Erection of new reinstated stone wall and entrance gates and retention of part of rebuilt stone wall

Date Valid: 5th March 2021



APPLICATION NO: 21/00471/FULL

MEMBER CALL-IN

This application has been called in by Cllr J Norton:

To consider the impact the removal of the hedge has with its replacement wall along with the loss of biodiversity in this area.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

The applicant seeks planning permission for the erection of new reinstated stone wall and entrance gates and retention of part of rebuilt stone wall at The Deer Barn, Hockworthy

APPLICANT'S SUPPORTING INFORMATION

Plans
Information with regard to previous wall.

RELEVANT PLANNING HISTORY

91/00934/FULL - PERMIT date 21st January 1992
Conversion of barn to dwelling house

91/00941/FULL - PERMIT date 21st January 1992
Listed Building Consent for the conversion of part of barn complex to dwelling.

19/01246/CAT - NOBJ date 29th August 2019
Notification of intention to fell 4 Ash trees within the Conservation Area

19/01255/5DAY - CLOSED date 26th July 2019
Five Day Notification to fell 3 Ash trees within the Conservation Area

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013 – 2033

S9 - Environment
S14 - Countryside
DM1 - High quality design
DM25 - Development affecting heritage assets

CONSULTATIONS

Natural England – 19.04.2021
Natural England has no comments to make on this application.

Highway Authority – 16.03.2021

The County Highway Authority recommends that the Standing Advice issued to Mid Devon District Council is used to assess the highway impacts, on this application

Conservation Officer – 01.06.21

You will be aware that the site is in Hockworthy conservation area. The site is also close to three listed buildings: The grade 2* Court Hall Farmhouse, the grade 2 ice house and the barn approx. 3 metres to the north east of Court Hall Farm House. Other historic buildings within the curtilage will also be protected. On the basis of the information we have it remains unclear if there was a wall on this site historically or not, but Streetview shows bushes and undergrowth (laurel) before the wall which we see now.

Hockworthy conservation area is a centred on a small hamlet centred on the Church. What is notable is the amount of stone walls to adjacent to the road in the local stone.

As you are aware we have special duty to have regard to preserve or enhance the conservation area and to have special regard to the setting of listed buildings.

Having walked through the settlement and seen the wall I am of the view that, in this context, the wall which is of local stone and well built to match the traditional style of coursing, is not harmful to the conservation area or to the setting of any of the listed buildings.

Hockworthy Parish Council - No response from Hockworthy Parish Council was received

Rights of Way officer - No response from the Rights of Way officer was received

REPRESENTATIONS

One representation of objection which is set out below.

- Inappropriate development within the conservation area
- Removal of trees and bank without consent
- Unacceptable impact on biodiversity
- Impact on the setting of heritage assets.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The application seeks planning permission for the construction of new walls, gates and retention of a section of wall erected to the side of the road, to create a retaining wall, within the conservation area of Hockworthy and forming part of the access to the grade 2* listed building. The site is located at Deer Barn Hockworthy Devon. The application site is located on the edge of the village of Hockworthy within its conservation area.

The main issues in the determination of this application are:

- 1. Policy and procedure**
- 2. Highway matters**
- 3. Impact on the character of the Grade II* House and the Conservation area**
- 4. Impact on amenity of occupiers of residential property**
- 5. The loss of biodiversity in this area**
- 6. Other planning matters**

1. Policy and procedure

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

Section 66 General duty as respects listed buildings in exercise of planning functions:

- (1) In considering whether to grant planning permission or permission in principle for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- (2) Without prejudice to section 72, in the exercise of the powers of appropriation, disposal and development (including redevelopment) conferred by the provisions of sections 232, 233 and 235(1) of the principal Act, a local authority shall have regard to the desirability of preserving features of special architectural or historic interest, and in particular, listed buildings.

Therefore in light of the above, the Local Authority needs to determine this proposal on the basis of a number of policies contained within the Local Plan 2013-2033. In this instance, the relevant policies are S9 (Environment), S14 (Countryside), DM1 (High quality design) and DM25 (Development affecting heritage assets) of the Local Plan Review 2013 – 2033.

Policies S9 require development to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through high quality sustainable design which reinforces the character and legibility of Mid Devon's built environment and creates attractive places. Policies S14 seeks to control development outside defined settlement limits to appropriate rural uses.

In addition to the main policies within the Local Plan consideration needs to be made to section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Listed Buildings Act). This will be considered later in the report.

The application is best split into two sections the proposed new wall to be located to the north of the site along with the provision of the two farm style five bar gates and the retention of the built retaining wall set adjacent to the highway.

- A. The proposed new walls and gates are typical of the area and sufficient local stone is available for the provision of the boundary treatment to the wall. The two double gates are timber and a typical rural style normally found in the area. The proposal will provide suitable enclosure to the property and subject to a suitable condition is unlikely to cause any harm to the conservation area or the nearby listed buildings.
- B. The retention of the section of wall which runs along the side of the road needs to be also considered as to what impacts it may have on the setting of the listed building and the conservation area, however this aspect will be considered later. The undertaking of work which required planning permission is able to be submitted to the Authority after the event. This is the case with this part of the application.

An objection has been submitted concerning the wall along with a supportive comment and additional information. The applicants maintain that the wall is the re-instatement of a previous wall along the line of the highway and indeed the previous owner of the property has indicated that this may have been the case, the objectors claim otherwise and that a hedge and bank has been removed to provide the wall. It is unclear from google maps and anecdotal evidence if there was a wall previously along this stretch of the road which may have formed part of a building. The hedge

that has existed along this stretch of the highway is understood to have been of mainly laurel and brambles with some other self-seeded trees and shrubs. The google map submitted shows a wall to the entrance of the Grade II* listed property and the applicant has continued this wall to the access further up the road, where previously conservation area consent was granted for the removal of ash trees suffering from Ash Die Back.

The google map does indicate that the majority of the hedging is indeed mainly consisting of Laurel a non-typical Devon hedge species although providing some nesting and wildlife benefits, it would not be a style of hedge encouraged for this part of the Conservation area. With this in mind it is considered that had permission been sought prior to works then it is likely that consent would have been forthcoming as the proposal would remove the non-native hedging and provided a suitable means of enclosure which respects other parts of the village and the immediate area. As such in policy terms it is considered that the proposed wall is acceptable.

2. Highways Matters

The existing access has ample advance visibility and enables vehicles to sit clear of the highway. Within the site, manoeuvring. The provision of the walls will not impede visibility onto the highway and the introduction of gates onto a private lane and right of way will not have any adverse impacts on the safety of this lane.

The present access is already in operation and there will be no changes to this aspect. The wall is set back from the highway and does not restrict the carriage way. The Highways Authority have raised no concerns.

3. Impact on the character of the Grade II* House and the Conservation area

When considering applications that impact on the setting of not only designated heritage assets but also non designated heritage assets consideration is to be taken with regard to a number of policies and government guidance and policy, these are set out below.

Policy DM25

Development affecting heritage assets

Heritage assets and their settings are an irreplaceable resource. Accordingly the Council will:

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

Planning (Listed Building and Conservation Areas) Act 1990

16 & 66 General duty as respects listed buildings in exercise of planning functions.

(1) In considering whether to grant planning permission or permission in principle for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

(2) Without prejudice to section 72, in the exercise of the powers of appropriation, disposal and development (including redevelopment) conferred by the provisions of sections 232, 233 and 235(1) of the principal Act, a local authority shall have regard to the desirability of preserving features of special architectural or historic interest, and in particular, listed buildings.

National Planning Policy Framework 2019

193. 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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

194. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification

196. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use

The NPPF (para 192) also requires that in determining applications, local planning authorities should take account of:

- a) The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) The desirability of new development making a positive contribution to local character and distinctiveness.

The site is in Hockworthy Conservation Area. The site is also close to three listed buildings: The grade II* Court Hall Farmhouse, the grade 2 ice house and the barn approx. 3 metres to the north east of Court Hall Farm House. Other historic buildings within the curtilage will also be protected.

On the basis of the information we have it remains unclear if there was a wall on this site historically or not, but Street view shows bushes and undergrowth (laurel) with an element of wall forming part of the access to Court Hall Farmhouse and Deer barn before the wall which we see now.

Hockworthy conservation area is a small hamlet centred on the Church. What is notable is the amount of stone walls adjacent to the road in the local stone.

We have special duty to have regard to preserve or enhance the conservation area and to have special regard to the setting of listed buildings.

The Conservation Officer has walked through the settlement and seen the wall he is of the view that, in this context, the wall which is of local stone and well-built to match the traditional style of coursing, is not harmful to the conservation area or to the setting of any of the listed buildings.

It is therefore considered that taking into account the design and appearance of the wall there is no adverse impact on the setting of the listed buildings or that of the Conservation area, the scheme is considered to be acceptable and compliant with the above policies set out in this section of the report in all respects.

4. Impact on amenity of occupiers of residential property

The new wall and gates will have no significant adverse impacts on the neighbouring properties.

5. The loss of biodiversity on the area.

The majority of the hedge was made up of Laurel although unclear which Laurel it was other than Bay Laurel, Laurel is poisonous to Humans, Horses, dogs, sheep and other household pets. Laurel needs to be located in areas where they can be safely controlled and as such this site is not an ideal location for this type of hedge. Although providing some cover for animals a more native species would normally be recommended.

Although the loss of certain biodiversity has been undertaken the introduction of the stone wall provides its own biodiversity, hosting many insects and animal life along its length and in time the establishment of plants within the crevices of the stone.

To say there is a loss of biodiversity is incorrect the different materials provide for a different biodiversity to that previously, there are still an abundance of foliage along this section of road, and an opportunity to be able to plant more appropriate local species for the area.

6 Other planning matters

The objector's agent has raised an issue with regard to site boundaries and the need to sign section B of the application form if any part of the site falls within another's ownership. It is understood initially an incorrect site plan was submitted however this has now been rectified and the correct plan is now lodge with the Authority, and the Authority have been informed that no part of the development is within somebody else's ownership, and as such certificate A has been correctly signed.

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. The proposed new walls will be constructed with stone to match that of the existing wall facing the highway the partial subject of this application. The stones are to be laid on their natural beds and be so retained.
4. The two sets of double gates are to be of un-painted timber five bar gates as indicated in the approved plans.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. To ensure the design of the walls are in keeping with the area and are compliant with Policy DM1 and DM25 of the Local Plan 2013-2033.
4. To ensure the design of the gates are in keeping with the area and are compliant with Policy DM1 and DM25 of the Local Plan 2013-2033.

REASON FOR APPROVAL OF PERMISSION

The proposal for the retention and creation of a new boundary wall and associated gates is considered to be acceptable not resulting in a detrimental impact to the rural character of the area. It is not considered that the proposal would have an unacceptable impact on the environment or nearby heritage assets and the proposal is considered to be suitably designed given the existing boundary treatments in the area. The development complies with the requirements of relevant Mid Devon Local Plan 2013 – 2033 Policies S9, S14, DM1, DM25 and the National Planning Policy Framework.

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

Application No. 21/00461/FULL

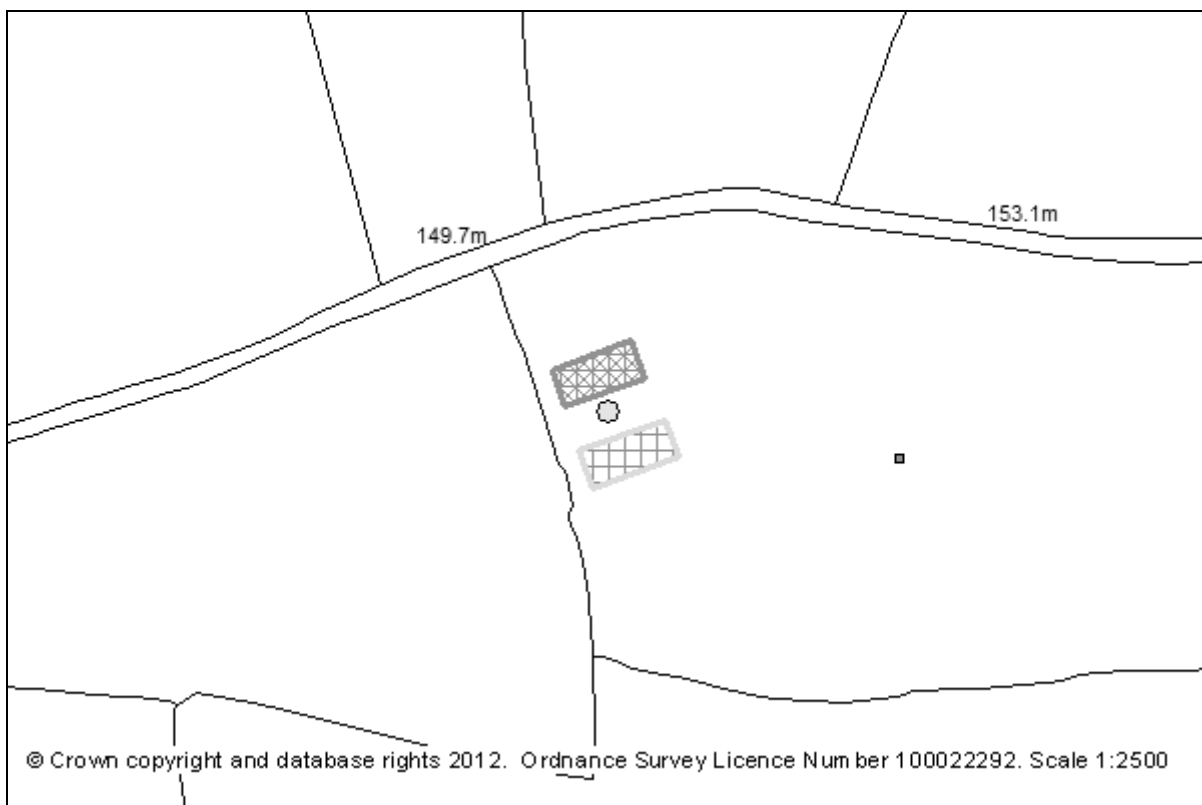
Grid Ref: 288383 : 107104

Applicant: Mr and Mrs Thorne

Location: Land at NGR 288288 107120
Redyeates Cross
Cheriton Fitzpaine
Devon

Proposal: Erection of extensions to existing agricultural storage building 660sqm

Date Valid: 1st March 2021



APPLICATION NO: 21/00461/FULL

MEMBER CALL-IN

Councillor Polly Colthorpe has called this planning application to Planning Committee in order for Members to consider whether the proposed works are suitably scaled, designed and justified and whether there would be any impact on the wider landscape or amenity of neighbouring properties.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

The applicant seeks planning permission for the erection of extensions to existing agricultural storage building 660sqm on land at NGR 288288 107120, Redyeates Cross, Cheriton Fitzpaine. The proposed extensions would provide livestock housing.

The applicant is a mixed arable and livestock farmer, currently growing fruit, vegetables and cereals, rearing sheep and cattle and operating from Thornes Farm. Planning permission for the erection of an agricultural workers dwelling has recently been approved under 20/01991/FULL in order to a farm worker/manager to oversee the livestock farming element of the agricultural enterprise.

APPLICANT'S SUPPORTING INFORMATION

Completed application form, plans,

RELEVANT PLANNING HISTORY

18/01450/FULL - PERMIT date 13th December 2018

Retention of engineering works for improved site access; construction of access track and hard surfaced yard

18/01530/FULL - PERMIT date 13th December 2018

Erection of an agricultural storage building

20/01991/FULL - PERCON date 28th May 2021

Erection of an agricultural workers dwelling

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan Review 2013 – 2033

Policy S1 - Sustainable development priorities

Policy S8 – Infrastructure

Policy S9 – Environment

Policy S14 – Countryside

Policy DM1 - High quality design

Policy DM3 - Transport and air quality

Policy DM18 - Rural employment development
Policy DM20 - Agricultural development

National Planning Policy Framework

National Planning Practice Guidance

CONSULTATIONS

Cheriton Fitzpaine Parish Council – No response.

Highway Authority – 16th March 2021

The County Highway Authority recommends that the Standing Advice issued to Mid Devon District Council is used to assess the highway impacts, on this application

Public Health – 11th May 2021

I have now had a look at this application and the additional information now provided. I have also considered the various concerns raised by people living in the area. My comments on this application are as follows:

I have considered the application for large extensions to an existing storage barn. There is very little information provided with the application, no planning statement for example, and therefore it was not initially clear what the extensions would be used for. However the additional information suggests that it will be used for housing of livestock on straw (so cattle), and this is most likely in the winter. The applicant has not provided detail about where the resultant farm yard manure will be stored prior to spreading, or how long the cattle will be housed. It is common for fym to build up over several months in situ, or to be periodically removed to an off-site storage area. The agent suggests it will be spread locally but this cannot happen throughout the year. The CSF document suggests that part of the application is to provide a covered fym store, which is beneficial, but this is not detailed in the application. Therefore the applicant should provide full details of their intended use and how it will be managed, including responding to the points raised above.

There is available land adjacent to take run off water from the building and also to take liquid waste from the housing, but no details have been provided about how this will be managed in order to ensure that run-off cannot affect the adjacent roadway. We would expect to see details of a proposed field drainage system with a catch pit or similar associated with the livestock or fym storage areas.

If the building is intended to house young stock then it is likely that heat lamps will be needed during the night at certain times of the year and residents are correct to suggest that this could be noticeable from some distance away and therefore impact on the dark sky environment. The applicant should confirm what the building is intended to be used for and if night lighting is intended then they should advise how light pollution will be avoided (for example by installing the wooden slats in a louvre style).

We will be pleased to comment again once this further information has been provided in sufficient detail that the intended uses and management of the building are clearer.

Public Health – 11th June 2021 (Following receipt of further information from applicant)

Yes that makes it clearer and yes it addresses the matters I raised so we have no further concerns.

Environment Agency - Operational development less than 1 ha within Flood Zone 1 - no EA consultation required - see surface water management good practice advice - see standard comment

REPRESENTATIONS

This planning application has been advertised by means of a site notice, by notifying immediately adjoining neighbours in writing and by advertising in a local newspaper in accordance with the Council's Adopted Statement of Community Involvement (October 2016) and the legal requirements for publicity on planning applications, as set out in The Town and Country Planning (Development) Management Procedure) (England) Order 2015, as amended by The Town and Country Planning (Development Management Procedure, Listed Buildings and Environmental Impact Assessment) (England) (Coronavirus) (Amendment) Regulations 2020.

10 letters of representation have been received at the time of writing the report, with the objections summarised as follows:

- This development does not comply with Policies S14 and DM20 which states that agricultural development must be sensitively located, appropriately scaled and designed and not have an impact on neighbours.
- There is no waste disposal plan has required by policy DM20.
- In Section 15 of the application form, the applicant has answered 'No' to the question 'Does the proposal involve the need to dispose of trade effluence or trade waste' Also in Section 20 of the application form the applicant has again answered 'No' to the question 'Does this proposal involve the carrying out of industrial or commercial activities and processes?'
- Does animal waste not constitute trade effluent or waste? Is this not a commercial activity?
- The original barn application, 18/01530/FULL, was approved on 13/12/2018, with the justification that it was for machinery and crop storage.
- The existing barn is on a hilltop and to significantly enlarge it will create an eyesore in an area of great natural beauty.
- At an increase of 250%, the scale of the proposed building is not appropriate for the area and will be a blot on the landscape.
- I suspect this application is aimed to support the application for a farm workers house as previously there were no facilities for animal breeding.
- There are queries about the amount of breeding that will occur on this site and whether the Stockleigh Pomeroy part of the business would be a more appropriate site.
- There is already a substantial barn at the applicant's Stockleigh Pomeroy site. Why can't this be pressed into service for livestock?
- This application has no justification and should be refused.
- A building of this size will most likely require substantial illumination since the livestock may well need supervision 24 hours a day. This will not only affect the neighbouring properties, but this will also cause major light pollution to an already diminishing dark sky.
- In rural areas like this one, there is a great sensitivity to light pollution for residents as well as for the insects (bees and aphid predators) which are essential for the apple orchards and vines (at neighbouring farms) to thrive in EX17.
- There is no pollution impact assessment as required by DM4.
- In the drawing there are feed barriers along all sides of the barn and to me these look like self locking yokes. These feeding stalls are known to be extremely noisy throughout the day and night:

- The cows put their heads down to feed and the barrier moves across with a bang. The impact of potential noise should be thoroughly investigated.
- Sound travels in these valleys and hills, and the negative impact of continuous banging from this barn on local residents could be considerable, especially those living at Hayne and at the outlying farms of Hayne.
- The Surface Water Drainage Strategy is inadequate. Since the building of the new barn on this site in 2019, the road just to the north of this building is often flooded in the winter months.
- With the extension, which will create a building which is 250% of the original barn size, and with livestock, the risk of flooding on this road is even greater.
- Only 57 acres in this holding is actually in the applicant's ownership; the rest is leased, largely seasonally, and most is in use for vegetable crops. This does not therefore constitute a permanent holding for which there might be some argument for such a massive new building.
- The plans submitted also show the barn floor all on one level. This then is one continuous level surface of around 39 metres by 27 metres. However this is not a level site and no reference appears to have been made to the necessary landscaping to achieve this.
- When this 57 acre land plot was purchased by the applicants around 2017 it was all laid to permanent grassland as was all the other land sold at the break up of Great Hayne Farm. Since that time the greater proportion of this land has been converted from animal pasture to vegetable growing. The evidence then is that the land was not primarily purchased or intended for sheep or cattle pasture but was in fact intended and has been predominately used for vegetable growing.
- No Business Plan has been submitted to justify this barn extension. In a separate application 20/01991/FULL an accompanying Agricultural Appraisal document in which the applicant clearly demonstrates that over 90% of farm activity is non animal related.
- In planning application 20/01991/FULL the same applicant has detailed that 220 sheep and cattle will be housed in this barn extension and on only 33 acres of this site, the remaining 20 acres of the site being drip-fed vegetables.
- The animal breakdown is given as 60 sheep, 60 breeding shorthorn beef cows and 100 young follower cows.
- It is entirely inappropriate to consider housing this number of animals on such a small parcel of land without a considered and published Waste Management Plan or a Pollution Impact Assessment by a 'suitable qualified person'.
- I believe it is appropriate to refer this application back to the Environment Agency for further comment.
- With respect to the comment made about funding from Natural England relating to use of undercover banded dung store, this claim should be explored further. Natural England do not provide funds for this type of project.
- It is possible that the funds referred to are from the Rural Payments Agency under a Countryside Stewardship agreement. This is a system that is administered by Natural England but funded by the Rural Payments Agency. However, in order to secure these funds a number of criteria have to be met including the following.
 - 1) The site has to be in a High Priority Area for water and air quality - the Redyeates Cross site does satisfy this requirement.
 - 2) The project has to be supported by and have the approval of the Catchment Sensitive Farming Officer (CSFO) for the area.
 - 3) The project should have prior planning approval.
 - 4) The project is based on existing animal numbers and not some future planned expansion.
- The submitted proposed plan drawing shows no animal access doorways on either extension. Therefore, how are the animals to access the 'livestock' areas if not through the existing barn entrance and hence through the existing barn.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

- 1. Relevant Policies**
- 2. Policy in context**
- 3. Design, Landscape and Visual Impact**
- 4. Impact on amenity of local residents (traffic, noise, odour)**
- 5. Environmental Impact**
- 6. Highways**

1. Relevant Policies

The key policy used to determine the application is policy DM20 (Agricultural development) of the Mid Devon Local Plan 2013-2033. This states that agricultural development will be permitted where:

- a) The development is reasonably necessary to support farming activity on that farm or in the immediate agricultural community;
- b) The development is sensitively located to limit any adverse effects on the living conditions of local residents and is well-designed, respecting the character and appearance of the area;
- c) The development will not have an unacceptable adverse impact on the environment; and
- d) The development will not have an unacceptable traffic impact on the local road network.

Relevant assessment of the policy is given under Sections 2, 3, 4 and 5 of this report.

Policy DM18 (Rural employment development) is also relevant. This states that in countryside locations, planning permission will be granted for new build employment development or expansion of existing businesses, provided that the development is of an appropriate use and scale for its location. Proposals must demonstrate that:

- a) The development would not lead to an unacceptable impact on the local road network;
- b) There would not be an unacceptable adverse impact to the character and appearance of the countryside; and
- c) There are insufficient suitable sites or premises in the immediate area to meet the needs of the proposal.

The assessment of this policy is made under Sections 2, 3, 4 and 5 of the report.

Policy S9 (Environment) of the Mid Devon Local Plan 2013-2033 requires development proposals to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through high quality design and preservation of the distinctive qualities of the natural landscape. This policy also seeks measures to minimise the impact of development on climate change in order to contribute towards national and regional targets for the reduction of greenhouse gas emissions. Design is also measured under policy DM1 of the Mid Devon Local Plan 2013-2033.

Policy S8 (Infrastructure) and Policy DM3 (Transport and air quality) seek to manage travel demand from development and reduce air pollution whilst enhancing road safety. Significant development must be accompanied by Transport plans. Policy S14 (Countryside) seeks to control development outside of settlement limits in order to protect the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy but is permissive of agricultural buildings in principle.

Reference has been made by objectors to Policy DM4 (Pollution) which states that 'Applications for development that risks negatively impacting on the quality of the environment through noise, odour, light, air, water, land and other forms of pollution must be accompanied by a pollution impact assessment and mitigation scheme where necessary. Development will be permitted where the direct, indirect and cumulative effects of pollution will not have an unacceptable negative impact on health, the natural environment and general amenity.' This matter which be discussed later within this report as the Public Team were consulted on the proposals and made requests for further information which was provided by the applicant.

2. Policy in context

The National Planning Policy Framework (NPPF) affirms three objectives to the principle of sustainable development: economic, social and environmental. The Framework seeks to support a prosperous rural economy through the expansion and diversification of all types of rural business and the NPPF applies a presumption in favour of rural development subject to compliance with local planning policies.

The proposed development is said to be reasonably necessary as it has been outlined that with regard to the current farming enterprise, this extends in total to approximately 250 acres, upon which there can be up to 100 animals (shorthorn beef, calves, ewes and lambs) at any one time. There are proposals to increase the livestock element of the agricultural enterprise and the extensions proposed are to house livestock. As such the extensions to the building are therefore considered reasonably necessary to support the agricultural activity on the holding.

The proposal would allow for the expansion of the farming activity at Thorne Farm and the livestock element on this site. The proposed development is considered to comply with part a) of DM20 and the generation of employment on the site would receive policy support under DM18 of the Mid Devon Local Plan 2013-2033.

3. Design, Landscape and Visual Impact

The development site comprises an agricultural field used for grazing and the growing of crops with an existing agricultural storage building on site which is to be extended. There is an existing access and the applicant owns the adjoining fields. The development site lies outside of any statutory or non-statutory/local landscape designations.

The materials proposed are for metal profile walls and corrugated sheet roof in keeping with the existing building. Whilst the design of the structure is utilitarian, it is considered to be appropriate for the intended use of livestock housing. The extension is proposed at the north and south side of the existing agricultural building on site and would provide an additional 660 sqm of floor area. The extensions do not exceed either the eaves or ridge height of the existing building, instead providing a smaller continuation to either side. As such the extensions would be viewed in this context which is considered to represent a form and a scale which would be acceptable not having an unacceptable impact upon the character and appearance of the area. Having regard to the siting of the works in relation to neighbouring properties it is not considered that the proposal would result in any significant adverse effects to the amenities of neighbouring occupiers due to the distances involved. The development of the site is considered to comply with S9, S14, DM1 and DM20 of the Mid Devon Local Plan 2013-2033.

4. Impact on amenity of local residents (traffic, noise, odour, light pollution)

In terms of the impact on the amenity of occupiers of neighbouring property, the proposed extensions to the existing agricultural building would be located over 200m away from the nearest residential property. Therefore it is not considered that there would be any significant detrimental impact on amenity of neighbouring occupiers in terms of overbearing impact/overlooking.

Objections have been received on the grounds that there will be a detrimental impact on the amenity of neighbouring properties through noise and light pollution. The Local Planning Authority has consulted Public Health in the determination of the application and whilst they have raised no objection on the grounds of noise disturbance they did question the issue of light as if the building is intended to house young stock then it is likely that heat lamps will be needed during the night at certain times of the year and as such residents would be correct to suggest that this could be noticeable from some distance away and therefore impact on the dark sky environment.

As a result of this, the Public Health Team advised that the applicant should confirm what the building is intended to be used for and if night lighting is intended then they should advise how light pollution will be avoided (for example by installing the wooden slats in a louvre style). The applicant responded to outline that there will be no heat lamps used, they are not required for calving cows. The building would be lit intermittently during the calving period but the outside of the building they have either vent air steel cladding or Yorkshire boarding and therefore little or no light would escape. The Public Health Team are happy with this explanation and raised no objections on the grounds of light pollution.

5. Environmental Impact

The site is located in the countryside, within Flood Zone 1 and the topography is such that certain views to the proposals will be screened. Objections have been received on the grounds of drainage and pollution to the environment from the proposed livestock use of the building.

The applicant has outlined that there will be no slurry waste. Instead the straw based dung from the livestock building is a valuable commodity and will be ploughed into land used for growing vegetables to improve soil structure, increase organic matter and provide valuable nutrients. There will be no slurry from this straw based system. There was also reference made to Natural England providing some funding to one of the proposed extension "lean to" that is to be used as an undercover banded dung store (for this straw based system).

The Public Health Team noted that the information provided was that the extensions would be used for housing of livestock on straw (so cattle), and this is most likely in the winter. However the applicant had not initially provided detail about where the resultant farm yard manure will be stored prior to spreading, or how long the cattle will be housed. The Public Health Officer advised that it is common for fym to build up over several months in situ, or to be periodically removed to an off-site storage area.

As a result, the applicant has provided further information informing that the extension on the South side of existing building will be used for housing cattle on straw bedding from November till the end of March, during the spring and summer months it will be used for general storage, fym will be removed if necessary during the winter and stored in the banded fym store which forms the extension on the North side of the existing building. The banded fym store is a water tight area used to store excess fym during the winter months until it will be spread on to the arable land at the site prior to ploughing. The Public Health Officer has confirmed that this would be acceptable.

The Public Health Officer commented that there is available land adjacent to take run off water from the building and also to take liquid waste from the housing, but the initial submission contained no details as to how this will be managed in order to ensure that run-off cannot affect the adjacent roadway. A revised plan has been shown showing the drainage arrangement to a soakaway and the applicant outlines that the rainwater from the building will be put into a soakaway on the south side of the building, the bunded dung store ensures that no liquid waste can escape from the farm as no rain will be passing through it, covered straw yards produce little or no liquid.

In light of the above, the Public Health Team have raised no objection to the scheme and overall it is considered acceptable in terms of the likely environmental impacts, being in accordance with Policies DM4 and DM20 of the Mid Devon Local Plan 2013-2033.

6. Highways

The erection of extensions to an existing agricultural building, on land which is already used for grazing of livestock (or adjoining to land being grazed) is not expected to result in a significant increase in traffic movements. The Highway Authority have not objected to the scheme and as such the likely impact to the local highway network is considered to be acceptable.

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

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

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. No external lighting shall be provided unless an application in that regard is first submitted to and approved by the Local Planning Authority.

REASONS FOR CONDITIONS

1. In accordance with provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt in the interests of proper planning.
3. Having regard to the countryside setting and to safeguard the visual amenities of the area in accordance with Policies S9 and DM1 of the Mid Devon Local Plan 2013-2033.

REASON FOR/ APPROVAL OF PERMISSION/GRANT OF CONSENT

The application scheme for the erection of extensions to existing agricultural storage building (660sqm) is considered to be supportable in policy terms. The extensions are considered reasonably necessary for the purposes of agriculture. There will be no significant adverse impacts on the character and appearance of the area, the amenity of residents of nearby properties, the environment or the local road network. As such, the proposal complies with policies S1, S9, S14, DM1 and DM20 of the Mid Devon Local Plan (2013-2033) and the National Planning Policy Framework

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

In accordance with Paragraph 38 of the National Planning Policy Framework, the Local Planning Authority has worked proactively and positively with the applicant. This has included the submission of additional information from the applicant. 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. 21/00709/FULL

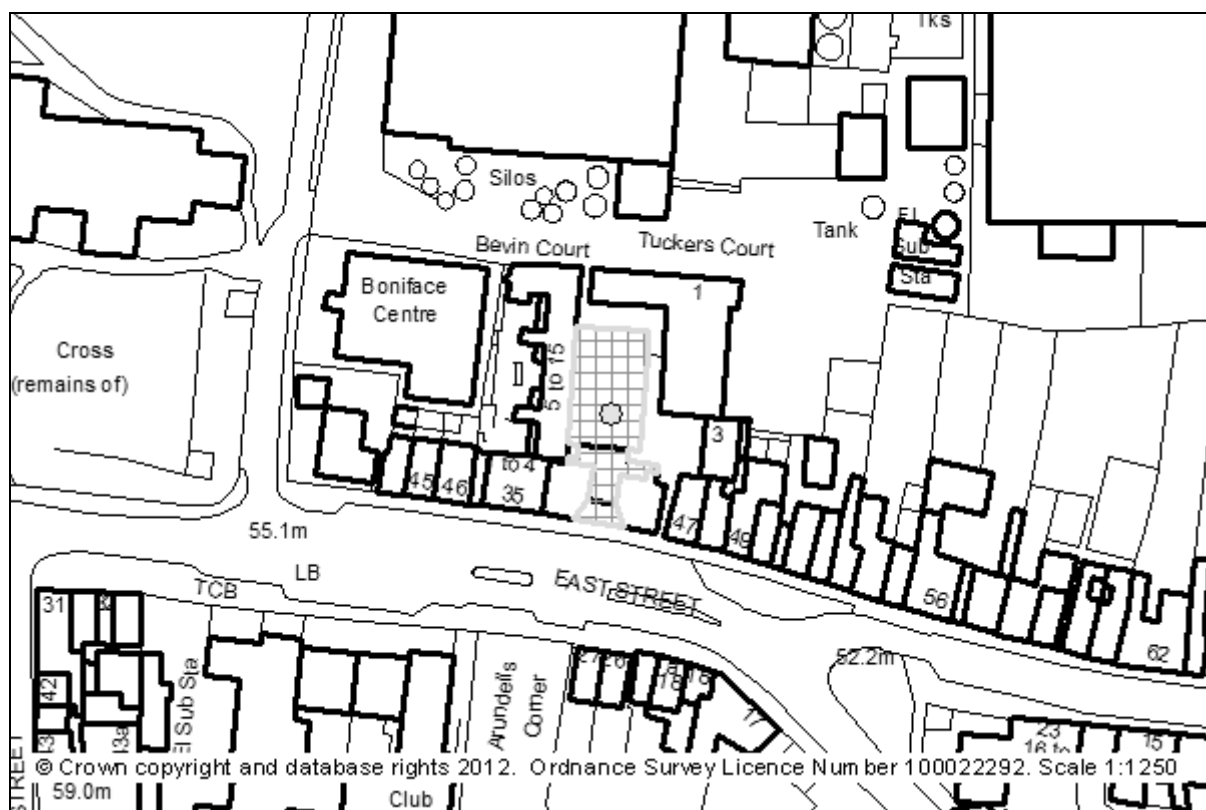
Grid Ref: 283735 : 100150

Applicant: Mr Andy Palmer

Location: Buccaneers Bar
3 Cinema Buildings
East Street
Crediton

Proposal: Change of use from Public house (Sui generis) to offices and canteen facility (Use Class E)

Date Valid: 20th April 2021



APPLICATION NO: 21/00709/FULL

MEMBER CALL-IN

Cllr Cairney has called this application in to consider the loss of a dedicated music and community facility.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

Change of use from public house (sui generis) to offices and canteen facility (sui generis) at Buccaneers Bar, 3 Cinema Buildings, East Street, Crediton.

This site is located on East Street in Crediton and at the rear adjoins the existing Crediton Dairy site. The building was historically a cinema and more recently has been used as a bar and music venue.

It is proposed to change the use of the existing building to provide offices and a canteen. The two residential flats at first floor level are not part of the proposed site.

At this stage permission is sought of the change of use only. The application also indicates that the existing canteen building on the dairy site would be demolished and the area made available to provide 15 parking spaces.

NB: the description of development was amended on 22nd June to reflect the current version of the Town and Country Planning (Use Classes) Order 1987 (as amended). This was re-advertised for 14 days and any additional representations received in light of this will be reported to committee as an update.

APPLICANT'S SUPPORTING INFORMATION

Application form

Site location plan

Floor plans

Planning statement

Email from application – confirmation that the application relates only to the change of use and no physical alterations to the building.

RELEVANT PLANNING HISTORY

84/00224/FULL - REFUSE date 13th June 1984 Conversion from cinema to night club

84/01359/FULL - PERMIT date 28th November 1984 Change of use to provide snooker room

85/01756/ADVERT - WD date 8th January 1986 Consent to display a flat sign against existing front wall

86/00875/FULL - PERMIT date 22nd July 1986 Relaxation of condition (c) 4.18.84.1359 i.e. hours of opening between 10 a.m. to 11 p.m. each day

87/00048/FULL - PERMIT date 19th March 1987 Continuation of use without complying with condition (a) of previous planning permission 4.18.86.875 restricting hours of operation

88/00758/FULL - PERMIT date 23rd June 1988 Continuation of use without complying with condition (a) of previous planning permission 4.18.87.48 restricting hours of operation

90/01762/OTHER - DELETE date 17th November 2004 Outline for the erection of first floor for indoor bowls/function room and Managers flat in association with existing Snooker hall
 96/01830/FULL - PERMIT date 17th February 1997 Change of use from a snooker club to a sports and social club
 05/01881/DET - CLOSED date 14th March 2016 Licensing application
 21/00709/FULL - PCO date Change of use from Use Class C4 to offices and canteen facility (Use Class E)

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013- 2033
 Policy S1 -Sustainable development priorities
 Policy S6 – Employment
 Policy S9 – Environment
 Policy S12 – Crediton
 Policy DM1 -High quality design
 Policy DM3 - Transport and air quality
 Policy DM5 – Parking
 Policy DM15 - Development outside town centres
 Policy DM23 - Community facilities
 Policy DM25 - Development affecting heritage assets

National Planning Policy Framework

National Planning Practice Guidance

CONSULTATIONS

CREDITON TOWN COUNCIL- 4th June- It was resolved to recommend that should the case officer be minded to approve the change of use, Cllr Downes be asked to call in the application to be heard by the MDDC Planning Committee. Cllr Brookes-Hocking explained that if this is the case, members of the public will also be able to speak about the application.

PUBLIC HEALTH- 6th May-

Contaminated Land: No concerns. (30.04.21).

Air Quality: No concerns. (30.04.21).

Environmental Permitting: No objection to this proposal. (26.04.21).

Drainage: No concerns. (30.04.21).

Noise & other nuisances: No concerns. (30.04.21).

Housing Standards: No comment. (05.05.21).

Licensing: The premises licence should be surrendered if no longer required for licensable activities. (26.04.21).

Food Hygiene: No comments. (26.04.21).

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. (28.04.21).

Health and Safety: No comments. (26.04.21).

HIGHWAY AUTHORITY- 6th May-

The site is accessed off the A377 County Primary Route which is restricted to 30 MPH.

This application proposes to change the use from a bar to offices and canteen, and part of this proposal it states there will be an increase of 25 employees in the Application Form. Which will be an increase of 21 employees at this location. There is no proposal for additional parking for these employees or visitors numbers this proposal could create.

There is no public communal parking in this area and parking is a premium in East Street and the adjacent streets. Therefore the County Highway Authority cannot put forward a recommendation until the further information has been received and assessed.

19th May

The Applicant has submitted a Planning Statement which indicates that once the canteen has been moved into the new proposed location, the old canteen will be removed and parking will be provided for 15 additional vehicles.

In principle there is no objection to this but would like to see a condition issued to ensure this car parking area comes forward within a reasonable timescale, as this not part of the application.

Recommendation:

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

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

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

(n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

MDDC ECONOMIC DEVELOPMENT OFFICER- 15th June
Economic Development is supportive of this proposal.

Crediton Dairy has been present on its current site in the town since the 1940s. It is a strategically significant employer for Crediton with well over 100 employees working at its premises. The business has grown significantly over the past decade and supports over 70 local farms, while providing 1% of the entire UK milk supply.

Crediton Dairy has had to be creative and flexible in order to grow within the constraints of its town centre site. The Economic Development team have struggled to find alternative suitable sites that could provide a longer term base of operation for the Dairy within a sensible distance of its current location. This situation makes the change of use application significant, as approval would enable the Dairy to expand their activities, increase their workforce, and improve the longer term viability of their current location.

The owners of the Buccaneers Bar are on record as stating that the business has not been profitable for the past 4 years. This suggests that the viability of the site as a bar or music venue is relatively low, and that this is not simply due to the pandemic in which we currently find ourselves. This is not surprising given that the bar is located outside of the main high street, has relatively poor vehicle access and has significant competition from other pubs and bars in the area.

It is unfortunate that the application would result in the loss of a music venue, and the Economic Development team would be keen to work with concerned members of the Crediton community to help identify opportunities to enhance the visitor offer within the town.

We understand from recent Crediton Town Council meetings that there has been discussion about submitting an application for the building to be designated as an Asset of Community Value. However, at the time of writing this report, no application has been made.

REPRESENTATIONS

At the time of writing this report 34 letters of representation have been received of which there are 32 objections and 2 letters of support. The key points are summarised below;

1. It is an excellent music venue and Crediton has nowhere else of a suitable size and atmosphere for these types of events
2. The venue is highly valued and jazz events have been popular
3. It is a historic venue, as an old cinema, and should be preserved as an entertainments venue for the benefit of the town
4. It is the only venue of this type in the town
5. Offices or a canteen for private use would not be a benefit to others in Crediton
6. Unlike other venues in Crediton where music is performed, Buccaneers already has disabled access through the main door
7. Buccaneers could be made available to other choirs and musicians
8. The present location of the dairy is unpopular, is an eye sore and causes problems with traffic, air pollution,
9. The dairy should relocate

10. More employees would mean more traffic and more problems with parking
11. Buccaneers has been severely underused
12. Venues such as this are needed for recovery and social inclusion after the pandemic
13. Buccaneers is irreplaceable
14. Buccaneers is perfectly set up as a music venue with a stage, seating on two levels, a bar and exceptional acoustics
15. The building has significant heritage value and has potential for varied community use for the performing arts, cinema or community leisure and recreation.

In support;

1. If Buccaneers can't make it a viable business then lets support Crediton Dairy who employ a lot of people and will employ more when this application is agreed
2. Crediton Dairy is a big asset to Crediton

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

- 1. Policy and principle of development**
- 2. Highway and parking**
- 3. Impact on the amenity of neighbouring occupiers**
- 4. Other**

1. Policy and principle of development

Crediton Dairy has been established at the Church Lane site since 1947. It currently employs 160 people. The company is seeking to relocate its administration and head office functions onto the main site. The proposal would enable the dairy site to be expanded onto this adjacent site to expand their activities, increase employment and improve the long term viability of this site.

Policy S12 sets out that Crediton will continue to develop its role as a small and vibrant market town, serving a rural hinterland in the western part of the district. It supports proposals which support the economic regeneration of the town centre including the provision of commercial development.

Policy DM15 allows for office uses in edge of town centre locations where they are well related to the town centre and accessible by public transport, walking or cycling. In this case the location for the proposed office/canteen use is considered to be sustainable, accessible to/from the town centre and driven by its siting immediately adjacent to the dairy site which it is proposed to form part of.

Policy DM23 relates to community facilities and states that *Proposals involving the loss of community facilities such as local shops, public houses, allotments, cultural and recreational facilities and other important local services will not be permitted where this would damage the settlement's ability to meet its day to day needs or result in the total loss of such services to the community.*

The representations that have been received have raised concerns with the loss of Buccaneers Bar particularly in relation to the loss of a venue for music events. Whilst it is unfortunate that the proposal would result in the loss of this venue it is noted that there are other public house facilities

within the town, including one of which advertises as holding regular live music events. The Crediton Arts Centre also offer hire for music gigs. Whilst it is appreciated that these venues may provide a slightly different offering, from a planning perspective the existence of other public houses with music events are considered to provide a comparable offering such that it is not considered that the proposal would result in the total loss of this facility within Crediton. The Council's Economic Development Officer has also queried the viability of the bar particularly given the site location outside of the main high street, poor vehicular access and competition from other pubs and bars in the area.

Crediton Dairy currently operates within the adjacent site and any expansion is constrained by its location. It is noted that the Council's Economic Development Team has sought to work with Crediton Dairy to find alternative suitable sites to provide a longer term base of operation for the Dairy business but as yet this has been unsuccessful. Therefore, the Economic Development Officer is supportive of the proposal which would provide the business with a unique opportunity to expand their activities, increase workforce and improve the longer term viability of the current location. On this basis it is considered that the proposed change of use is supportable in principle in accordance with the aims of S6 and DM15 which are generally supportive of opportunities for employment development in sustainable locations such as this.

2. Highway and parking

It is proposed that access would be provided directly from the main dairy site and the main entrance from East Street would be retained as a fire exit only. The relocation of the office facilities into this building would enable the existing single storey office buildings on the dairy site to be removed and subsequently allow for an additional 15 parking spaces. The proposal would result in an increase in 21 office staff at the site. Whilst it is recognised that the parking is a premium in this area (both on site and off site) the Highway Authority are satisfied, subject to the additional 15 spaces being secured, that they would have no objections to the proposal. The additional parking provision is considered to be sufficient to serve an office space of this size in accordance with policy DM5, particularly having regard to the location of the site and accessibility to public transport provision.

Following further discussions with the Highway Authority they have advised that the suggested construction management plan condition is not likely to be required. As the application is for the change of use only, in this case it is not considered that it is necessary or reasonable to require a construction management plan and therefore this suggested condition is not included.

3. Impact on the amenity of neighbouring occupiers

The site is surrounded by a number of properties containing residential, commercial and community uses. Having regard to the siting and design of the building and its relationship with the adjoining properties, it is considered unlikely that there would be any significant loss of privacy or overlooking to neighbouring occupiers. Having regard to the existing use it is considered unlikely that the proposal would result in any significant impacts in terms of noise. The Council's Public Health Team have not raised any objections to the proposal. Overall it is considered that the proposed change of use is not likely to result in any significant adverse impacts to the amenities of neighbouring occupiers.

4. Character and appearance of the Crediton Conservation Area

The site is located in the conservation area. The application does not propose any physical alterations to the building and relates to the change of use only.

Section 72 of this Act requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of a conservation area.

Policy DM25 states that heritage assets and their settings are an irreplaceable resource. Accordingly the Council will:

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

Having regard to the proposed change of use and as no physical alterations are proposed to the building at this time, it is considered that the proposal would preserve the character and appearance of the conservation area in accordance with policy DM25.

5. Other

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

CONDITIONS

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

3. Within 3 months of the first use of the office and canteen hereby approved, the existing office and canteen building shall be demolished and replaced with additional parking spaces in accordance with the details as shown on drawing reference 'Parking "Proposed" 45 Spaces'.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. To ensure the provision of appropriate parking provision in accordance with policy DM5 of the Mid Devon Local Plan 2013- 2033.

SUMMARY- REASON FOR APPROVAL

The application for the change of use from public house (sui generis) to offices and canteen facility (sui generis) is considered to be supportable in policy terms. Having regard to the other available facilities within Crediton, the loss of this community facility is not considered to damage the settlement's ability to meet day to day needs or to result in the total loss of such services to the community. The proposal would enable the existing established dairy business to enhance existing office and canteen space as well as providing additional office space and would therefore expand employment opportunities in this sustainable location. It is considered that the proposal is unlikely to result in any adverse impacts to the local highway network and additional parking provision can be provided on site through removal of the existing office buildings. It is considered that the proposal would not result in any significant adverse impacts to the amenities of neighbouring occupiers. Overall it is considered that the proposal for the change of use to facilitate the enhancement and expansion of the existing business facilities on the adjacent site is supportable in accordance with policies S1, S6, S12, DM5, DM15, DM23 and DM25 and government advice in the NPPF.

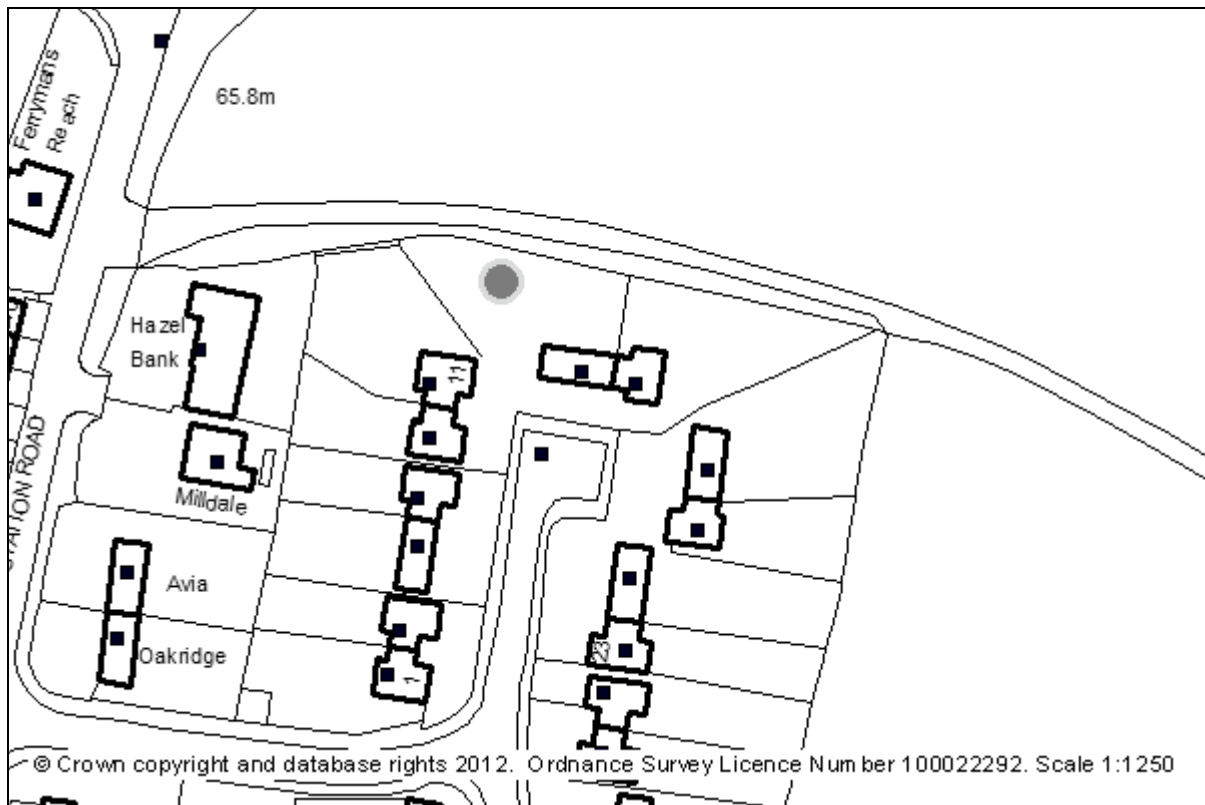
The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. This report has been prepared in light of the Council's obligations under the Act with regard to decisions to be informed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

Tree Preservation Order: 21/00002/TPO

Grid Ref: 278375 : 98704

Location: 13 The Oaks
Yeoford
Credon
Devon

Proposal: Tree Preservation Order for a multi-stemmed Willow



TREE PRESERVATION ORDER: 21/00002/TPO

REPORT OF THE HEAD OF PLANNING AND REGENERATION

Reason for Report:

To consider whether the Tree Preservation Order should be confirmed in light of the representation that has been received.

RECOMMENDATION

That the Tree Preservation Order 21/00002/TPO is confirmed.

Relationship to Corporate Plan:

The proposal impacts upon the Corporate aim of 'Protecting the natural environment'

Financial Implications:

None

Legal Implications:

Tree Preservation Orders are made under the Town and Country Planning Act 1990 as amended by the Town and Country Planning (Tree Preservation) (England) Regulations 2012. Local Planning Authorities can make a Tree Preservation Order if it appears to them to be expedient in the interests of amenity to make provision for the preservation of trees or woodland in their area.

Risk Assessment:

None

Consultation carried out with:

1. The landowners have been notified of the imposition of the Tree Preservation Order and provided with the opportunity to object to its confirmation.

PROPOSAL:

Tree Preservation Order for a multi-stemmed Willow

RELEVANT SITE HISTORY/DESCRIPTION:

85/00400/FULL - PERMIT date 8th July 1986
Construction of roads and sewers for 38 dwellings

86/00719/FULL - PERMIT date 23rd July 1986
Detailed drawings for the erection of 30 houses with integral garages, construction of roads and landscaping

AMENITY EVALUATION:

The tree is easily visible within the public realm and considered to provide a positive contribution to local amenity. An amenity evaluation undertaken by the Tree Consultant for the Council gave the tree a score of 17. The tree is not located in a conservation area and therefore following this amenity evaluation of the Willow tree it was deemed necessary to place protection on it in the form of a Tree Preservation Order.

REPRESENTATIONS:

At the time of writing this report one letter of representation has been received from the owner of the property and includes a letter from a tree surgeon on their behalf (no confirmation is provided of the professional qualifications of the tree surgeon). The key points made are that;

1. Willows are well documented to have invasive root systems and cause structural damage to buildings and underground services
2. We would like to remove or pollard close to ground level to restrict long term growth and continue a planting scheme along the boundary line with native hedge species.

MAIN ISSUES:

Assessment by Council's Tree Consultant

1. The site visit was conducted without access to the property itself – the tree could be easily seen from the terminus of The Oaks, also from Station Road to the west and from the track immediately to the north of the property.
2. The subject tree appears to be a mature multi stemmed goat willow or similar willow species growing in the garden of the property, it is an estimated 12m from the north west corner of the house, it appears to be on or adjacent to the boundary with the neighbouring property on the west side.
3. The tree is an estimated 12m in height with an approximate radial crown spread of 6m. It is a multi-stemmed specimen with ivy growing into the mid crown, because of this the stem diameters could not be easily estimated, they would normally be used to calculate the root protection area (RPA), according to BS 5837, however an estimated single stemmed equivalent would be approximately 60cm, giving a radial RPA distance of 7.2m or 163 square meters.
4. The tree is easily visible from the public realm and is considered to contribute positively to local amenity, as a native species it also supports biodiversity and is beneficial to local wildlife.
5. From what could be seen this tree appears to be in normal health and condition and to have a reasonable life expectancy, it contributes significantly to public amenity and as such would be considered as a potential constraint to any planning application to develop the site. It is likely that the tree may dominate the garden of any new dwelling, resulting in pressure for it to be cut back or felled.
6. It may be expedient to make the tree subject to a TPO.

The amenity evaluation rating was 17 informing that it should be protected.

Consideration of objection

The concerns that have been raised are made in respect of Willow trees in general. Although the letter indicates that the author has visited the site, no indication is provided that the tree is causing any disturbance to underground services or structural damage to the dwelling at this point in time, or that there is any indication that this is likely to happen in the future. Furthermore it is not considered that the imposition of the Tree Preservation Order would

prevent further native hedgerow planting being undertaken along the boundary as intended. The representation does not seek to make the case that the tree is not worthy of protection by a preservation order.

The imposition of the Tree Preservation Order would not prevent applications being submitted for works to the tree in the future, and would be considered on its merits at that time and subject to appropriate justification being provided.

SUMMARY:

A structured and consistent evaluation method was originally carried out by MDDC. The objection letter received highlights some general concerns in respect of willow species but does not assert or provide any evidence that the subject tree is causing any concerns in respect of structural damage and does not seek to make the case that the tree does not merit protection. It is considered that the objection that is raised should not overtly detract from the tree being afforded a tree protection order where in the view of the current tree consultant advice that it would merit protection. The amenity evaluation undertaken by the Tree Consultant would inform that the tree would merit a tree preservation order and therefore it is recommended that the order is confirmed.

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.

Agenda Item No. 1

Application No. 19/01679/FULL

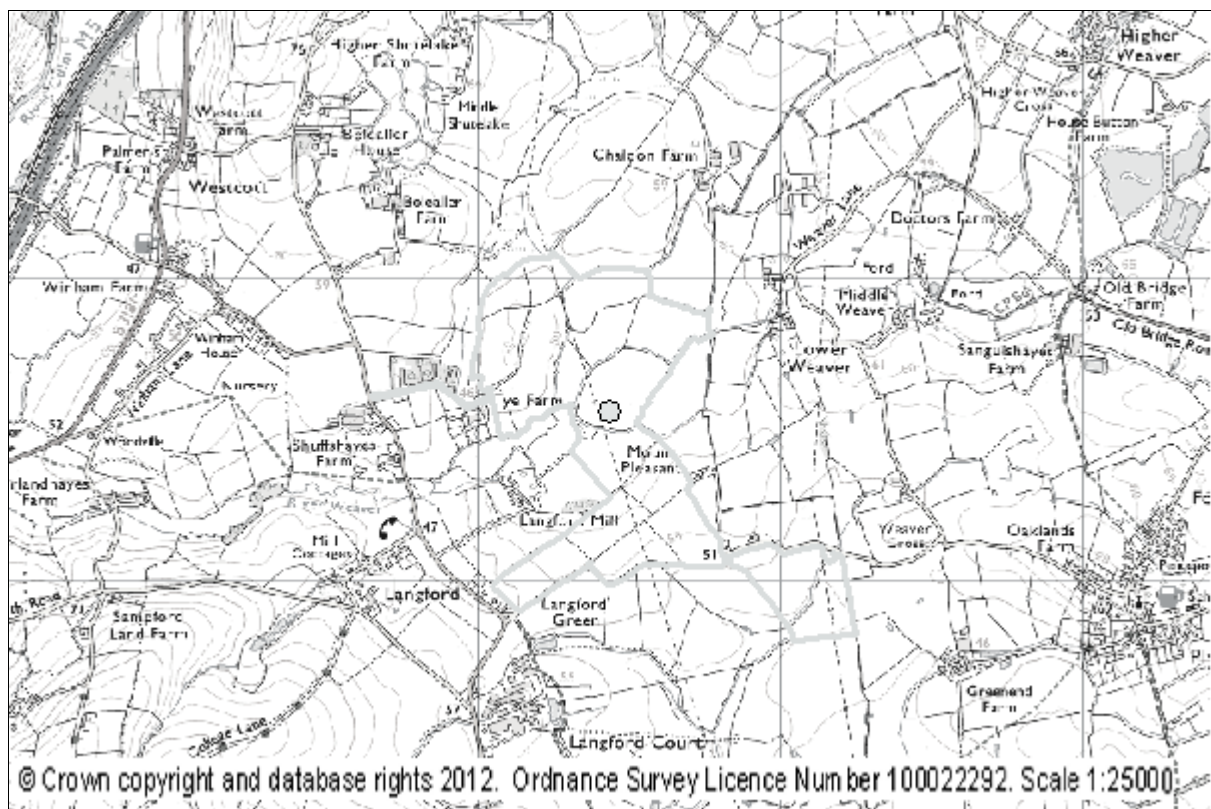
Grid Ref: 303437 : 103555

Applicant: Mr McAllister, JBM Solar Projects 2 Ltd.

Location: Land at NGR 303437 103555
East of Langford Mill and Tye Farm
Langford
Devon

Proposal: Construction of ground-mounted solar PV panels to generate up to 49.9MW (Site Area 60.78ha) and battery storage facility together with all associated works, equipment and necessary infrastructure.

Date Valid: 9th October, 2019



APPLICATION NO: 19/01679/FULL

RECOMMENDATION

PROPOSED DEVELOPMENT

This planning application proposes the installation of a 49.9MW solar farm comprising ground-mounted solar PV panels, battery storage facility, and associated plant, infrastructure, and other works.

The site is approximately 61ha in area and comprises farmland located in open countryside. The site is located to the north east of the village of Langford, north west of Plymtree and north of Clyst Hydon. The landscape of the site is undulating to the flood plain, though there are some steep slopes within the site, (approximately 11%).

An unnamed road runs in a north – south direction in close proximity to the western boundary of the site. Three access points are proposed into the site from the public highway. Two will be to the south of the site and one to the north west of the site. The construction access will be from Tye Farm at the north-west part of the site. The site is bisected by an unnamed road.

The River Weaver flows through the site in an east west direction. Parts of the site are located in Flood Zones 2 and 3, including the floodplain.

The proposed solar panels (PV) will be laid out in rows on an east –west axis, facing south with a 15 degree orientation from the horizontal to maximise efficiency. The maximum height of the panels will not exceed 3m. Plant with other equipment and access tracks will be located around the site. This supporting equipment will include 15 inverter cabins, including one with switch gear.

The battery storage facility will be located in the south eastern corner of the site. There will be battery units in containers, a storage container and an inverter cabin. This area will also house the 132 kv electricity substation for the site. There will be underground cabling to link the development to the substation.

REASON FOR REFERRAL

At Planning Committee on 31st March 2020 members RESOLVED that the application be deferred for a Full Committee site visit to be undertaken and returned to committee accordingly with further information to come forward within a report to include the environmental impact of the application (question 2), details of the biodiversity plan (Questions 16-18), land management (question 9), mitigation of flood risk (questions 6, 7) and the shielding of the site (question 9). Members were also requested to inform the Development Management Manager of any further information they would like included in the additional report by Friday 9th April 2021.

The additional information was tabulated as a set of 20 questions or clarifications which encompass all the known outstanding matters and will be referred to as

questions for ease of reference. Whilst some of these fall within the above categories, other questions fell under the generic headings Access and Highways (questions 4 and 5), Heritage and Visual Impact (questions 11,13-15), Planning Obligations (question 10) and Planning Balance (question 8). The remaining questions relating to the enforcement, wording and monitoring of conditions (question 1 and 19), and measurement of solar farm outputs (question 3) In addition were non-specific questions related to an updated relevant condition (question and clarification of representations set out above (question 20).

For the purposes of the report. I will attempt to deal with all salient points set out in this table of additional questions/request for information.

SUPPORTING INFORMATION

As set out above, in response to the questions arising at Planning Committee on 31st March 2021 these were tabulated and responses from the applicant and officers was added. This report is appended as a related documentation to this deferral report.

Please be advised that the original report is also appended to this report.

ORIGINAL OFFICER RECOMMENDATIONS

Grant planning permission, subject to the conditions detailed below.

RECOMMENDATION:

- 1) That Members approve the application subject to conditions.

Financial Implications: At this time there are no financial implications to the Council. Should Members decide to refuse the application, the applicant may lodge an appeal against the Council's decision. In addition the applicant may make an application for costs on any appeal against the Council and such costs claims are made by demonstrating that there has been unreasonable behaviour. That being the case, Members must be able to clearly justify each and every reason for refusal in line with the development plan and all other material considerations. If the Inspector found that the Council had behaved unreasonably in refusing the application, the Council would be required to pay the applicants appeal costs.

Legal Implications: The report identifies the views of the highway authority as statutory consultee in the planning process. If members resolve to refuse the application on highway (or other) grounds they must be able to clearly justify each reason for refusal. There would be no support at the appeal from the Highway Authority.

Risk Assessment: If Committee decide to refuse the application for reasons that cannot be sustained at appeal there is a risk of a successful appeal costs claim against the Council for reasons of unreasonable behaviour. Those costs could be significant in the event of the appeal being heard by public inquiry.

Equality Impact Assessment: Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons with protected characteristics have been identified in the determination of this application.

Relationship to Corporate Plan:

Environment

Encourage "green" sources of energy, supply new policies and develop plans to decarbonise energy consumption in Mid Devon

Impact on Climate Change:

Section 70 (2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that in determining a planning application, the determination must be made in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework represents up-to-date government planning policy and is a material consideration that must be taken into account where it is relevant to a planning application or appeal. This includes the presumption in favour of development found at paragraph 11 of the Framework. The climate emergency shall be considered through existing planning policies and any subsequent development plans.

Representations

Members sought clarifications and summary of objections. In addition by way of update this section provides consequent receipt of consultation responses since the Planning Committee was held on 31st March 2021.

The Committee report for 31st March noted 136 representations have been received from the general public. At the time of writing 150 objections had been received with 12 general/neutral submissions of 6 in support of the proposal.

Since the 31st March Committee 6 third party representations have been received; 4 objecting, one supporting and one neutral

The latest objections to the proposed development is that it would destroy the green countryside and harm wildlife, as well as its location on a greenfield rather than brownfield site. The neutral representation thought that the site location high grade farmland, growing food should be priority and view of residents are important consideration and loss of property values the additional representation in support gave no reasons.

The CPRE objected on two grounds as the material used to make the solar panels are sourced from the extreme west of China and are suspected of using forced labour and permission should be refused unless a condition is imposed that states that the solar panels will not be sourced from a manufacturer which involves use of forced labour in its supply chain.

The second of the CPRE objections is the lack of information on installed power capacity of the batteries or what are the benefits or storage. That the access to the battery storage area is only prevented by a deer fence which is inadequate for such a 'potentially dangerous facility'. The risks from battery storage facilities is battery overheating resulting from many issues, including mechanical damage or electrical surges or potentially fires and/or explosions.

With regard to the source of materials and the practices employed in their extrapolation, officers can advise that this is not a planning matter and accordingly, limiting conditions in relation to this cannot be attached to any recommendation for planning permission.

With regard to storage and potential fire hazards, the applicants have responded to the above concerns and suggest the following:

Any system that will be installed be strenuously tested during the factory and pre-commissioning testing regime before given the final sign-off to energise. With regards to Li Ion, it is an already established technology, which has been used in mobile phones/laptops/electric vehicles and bikes (and pretty much everywhere around us) for decades. Manufacturers use that established technology and scale it up to utility scale for our purposes. Li Ion Batteries are housed in a purpose-built container, which will include an extremely efficient and intelligent management system as well as state-of-the-art cooling and fire suppression systems.

Those systems can and will detect the off-gases that predate any unlikely thermal runaway event and shut down the malfunctioning cell/rack safely. Worth noting that the sensors for this are incredibly sensitive, down to 1ppm (parts per million).

With regards to Lithium Ion Phosphate – the technology has a higher thermal runaway temperature threshold and as a result improved battery safety.

With regards to Flow technology - the electrolyte used is aqueous and inherently safe/non-flammable. Flow Batteries are similarly housed in purpose made containers with slightly different management and support systems but nevertheless they would ultimately function the same as the Li Ion batteries.

Regardless of the technology to be used, once commissioned, the whole installation will continuously report and be monitored by a central manned hub (Operations and Maintenance centre) where engineers and technology experts will ensure that the installation is operating optimally/safely. One last thing worth mentioning here is that the energised installation will be contracting with National Grid and help to support the UK grid. Because of that, there will be quite strict requirements with regards to safety, availability of the installation and response times.

Officers are satisfied that the above explanation which can be and managed outside of the planning process.

Since the 31st March meeting, a further update from the County Archaeologist confirmed no objections subject to a standard pre-commencement condition which is

acceptable to the applicants and is included as revised condition 11 set out later in this report.

It is considered that the bullet points listed with regard to the third party representations set out in the report to Committee on 31st March 2021 is sufficiently comprehensive in terms of covering the representations of third party consultees.

Environment Impact of Application

One of the reasons for deferral related to the environmental impact of the appraisal with particular regard to question 2 on the table relating to noise impact of the development

Noise Impact/Amenity

Question 2 of the appended table asked why there had been no noise impact assessment with regard to the impacts on the solar panels of rain, wind and electrical generated noise when they are in operation.

The officer's report advised that 'the solar panels in themselves do not generate noise' and that 'Public Health has not raised an objection on the basis of noise.' In addition, a noise assessment was not required for this application, but on the specific technical matters, the applicants advised that their acoustics consultants provide the following information:

(a) They are unaware of any proposal where the noise impact of rain has been considered or deemed to be a material planning consideration. The note that the angled panels would, in any case, lessen the impact of precipitation in the immediate vicinity.

(b) As noted by the planning officer, there is no hum from the panels. The only source of noise is the inverters, principally associated with the fans and usually only within 25 metres. The level of noise at the site boundary would be low, and the equipment does not operate during hours of darkness. Due to the separation distances the noise levels will be below a level which would represent the lowest observed adverse effects level, thus ensuring that the operation did not result in unacceptable levels of noise and thus ensuring full compliance with the requirements of the NPPF.

(c) They are unaware of any case where this has been considered or deemed to be a material planning consideration. Given the scale, height and angled position of the panels it is considered that any audible sound of wind through them would be negligible.

Given the above, it is noted that the applicant is happy to accept a condition that limits noise output to British standard. However given the scale of the site and the variation in noise impact depending on wind direction and other atmospheric conditions throughout the year and the widely variable area of impact as a consequence that such a condition would not be proportionate, reasonable or enforceable.

It is however, noted that condition 15 covers largely the Public Health Comments under Noise & other nuisances where it specifically mentions the screening mitigation detailed in the Glint and Glare Assessment. Officers consider that condition 15 in its present form ensures suitable mitigation with regard to this matter.

Biodiversity Update

Referring to the initial response from the Devon Wildlife Trust relating to comments that planning decisions need to be made with confidence about biodiversity mitigation and enhancement measures proposed and that the documents submitted with the above planning application do not give the required confidence that the habitat mitigation proposed will actually be effectively implemented. Members question the weight such comments and concerns should carry little or no weight in members considerations. Officers advise that this was the initial response from Devon Wildlife Trust on 21st November 2019 prior to further information which officers considered and took to Planning Committee on 31st March 2021.

Further information/clarification was requested with regard to the Future Ecological Enhancement and Management Plan and Revised Biodiversity Management Plan with regard to details of funding and provision of future management of such a plan for the next 40 years and how it or will it be enforced.

To recap, the applicant has since submitted a revised biodiversity management plan and one of the positive steps of this plan is to appoint an Ecological Clerk of Works to advise on and supervise ecological mitigation and enhancement works during construction and operation as required and a licensed dormouse ecologist will be present to supervise hedgerow removal works where undertaken. Initially site visits will be undertaken on a monthly basis during the last week of each month that the site is under construction.

This submitted plan as well describing the mitigation measures similar to the previous document, also provides ecological enhancement measures. The design and long-term management of the land seeks to maintain and improve functionality through protecting and enhancing potentially important wildlife corridors i.e. through creation and maintenance of native species hedgerows within and around the site. New hedgerow planting proposed as part of the development as shown on the Site Layout and Planting Proposals Plan includes approximately 600m of new mixed native species hedgerow creation and strengthening infill, providing well-structured hedgerows of value for wildlife around the Site. Protection of hedgerows and mature trees on Site or along access routes and adjacent land will safeguard potential roost sites and maintain foraging and commuting opportunities for bats.

Other enhancement measures include the planting of a native species woodland copse area on the eastern boundary, which will provide an effective boundary to the adjoining residential. As the solar panels are raised from the ground a diverse grassland habitat can be created, using a variety of native species, which will change the site to meadow grassland. This allows for sheep grazing between and under the solar panels.

Examples of fauna enhancement include 10 bird boxes and 10 bat boxes to be installed in tree locations around the site. In addition 10 dormice boxes will be placed in hedgerows. The security fencing will be lifted in various locations to allow the badgers movement in and around the site. The development of the biodiversity interest of the site will be monitored over time by a suitably experienced ecologist. A walkover monitoring survey will be undertaken in years 2, 3, 4, 5, 10 and 15 after construction. This will involve an inspection of the hedgerows, trees, grassland and any other ecological features to ensure that they are being managed in a manner suitable for the enhancement of wildlife interest. Bird and bat boxes will also be checked. The results of these monitoring surveys will be used to inform future changes in management and the need or otherwise to replace missing bat/bird boxes.

The management plan will be amended if necessary based on the monitoring recommendations. It is considered that the revised biodiversity management plan addresses many of the concerns about the habitat and the biodiversity of the site. Overall it is concluded that the proposal would not result in unacceptable harm to protected species or biodiversity in general subject to the use of mitigation and enhancement measures. In addition this development will not harm the character or the appearance of the Blackdown Hills AONB.

An attempt by officers to gain a response to the updated information submitted since then unfortunately has not resulted in a response beyond that of 5th April 2021 advising that due to reduced resources the provision of planning advice was limited and referring officers to standing advice.

Officers consider that this matter was well covered by the 31st March 2021 Committee report but after liaising with the applicants would advise that condition 12 can be updated to take into account of the updated submissions from the applicant. It is considered that the proposed updated condition is enforceable and in accordance with the other 5 tests for the imposition of planning conditions.

Flood Risk

Questions and comments from members in relation to the Devon LLFA included the following:

- The filter dale and swale and where could these be seen.
- That as well as the technical note dated 2nd February 2021 and the Approved Flood Risk Assessment (V5) set out on 30th November 2020 and therefore what is it that members should approve.

The last clarification related to a document referred to be the Environment Agency dated 2 December 2019. However this is updated by a revised comment dated 21st December 2020 where their objection is removed on receipt of the revised Flood Risk Assessment with certain recommendations including a condition to ensure mitigation measures proposed are implemented.

The revised Flood Risk Assessment referred to above, dated 30th November 2020 (received on 18th December 2020) on planning webpage details general mitigation

measures (see Section 7.2) and Floodplain mitigation measures (see Section 7.3). In summary these measures include:

- Inverter/DNO/substation equipment located in Flood Zone 1 areas
- Raised Battery Storage Area
- Raised panels in Flood Zone 2/3 areas
- Access roads will use permeable crushed stone surface
- Compensatory storage to be provided adjacent to watercourse i.e. attenuation pond/scrape
- Additional large “no build” areas within the functional floodplain which will be turned into a wetland scrapes area for wildlife/birds.
- Swales will be added on site (see extract / drawings below and plan in Appendix I of the Flood Risk Report)

With regard to Vulnerability Classification, chapter 5 Development Vulnerability and Flood Zone Classification of the revised Flood Risk Assessment details the vulnerability classification and confirms the solar farm is classed as “Essential Infrastructure”. The Environment Agency agree with this interpretation as noted in their letter dated 12th November 2020 (DC/2020/121714/01-L01) which states:

“Based on the characteristics of the development and conversations our National Office are having with MHCLG, we consider that it should be considered in the same light as wind turbines, i.e. essential infrastructure.”

With regard to the Sequential Test, details of the sequential test are summarised in the Committee Report 31.03.21. The reasons can be summarised as follows;

- Ability to achieve a viable connection to the Electricity Network;
- the land being available (i.e. a willing landowner(s));
- Avoids statutory environmental designations;
- Avoids best and most versatile agricultural land

Given the above, the relevant condition 17 will be amended to provide more details in relation to the updated Flood Risk Assessment.

Land Management/Shielding of Site

More information was requested with regard to the Conditioned Landscape and Environmental Management Plan

Within the Environment Agency response includes the advice that ‘*any mitigation and enhancement measures are secured through a conditioned Landscape and Environmental Management Plan (LEMP)*. The applicants have advised that that they consider the use of a LEMP to be good practise on its sites, and would be content with a pre-commencement condition requiring submission of, and the LPA’s written approval for, a LEMP. Accordingly, officers have added a LEMP as an additional condition (no. 22) as set out below.

ADDITIONAL INFORMATION RAISED BY TABLE OF QUESTIONS

Access and Highways

Members noted a discrepancy between the County Highway Authority response and condition with regard to the length of highway to be drainage, maintained, surfaced etc. The applicant have indicated that they would have no objections to the relevant Condition 6 can be amended to include this and remove the discrepancy. Officers have therefore amended condition 6 accordingly.

The second member query is that the B3181 has a speed limit of 60mph but at Westcott it is 40mph and whether the officer had been to the site. The previous case officer has confirmed she did visit the site and driven around the lanes. In addition, the applicant advises that the rural lanes around the site would not serve construction traffic which would stop at the north end of the site with equipment then distributed by smaller vehicles

Heritage and Visual Impacts

Members noted Historic England's response which in reference to Langdon Court that they were not entirely in agreement with the heritage statement. However the final paragraph of Heritage England's response states that:

"We are satisfied that your own specialists can take an informed view of the level of harm that might occur to the setting of Langford Court once a site visit has been made, and it is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. If you would like detailed advice from us, please contact us to explain your request"

Members note that the Conservation Officer in his consultation response suggests that the report lacks detail and does not justify the proposal in the context of the building and brings into question the assessment and points out that no assessment has been made of views to the East. The last paragraph of his response in summary suggests that the proposal would result in registerable harm to the significance and setting of the grade II* listed Langford Court which must be given considerable weight and the apparent contradiction with the Committee report stating the overall impact would be less than substantial harm.

To recap, the Committee report noted that there are no designated heritage assets within the site; however Langford Court, a Grade II* building is a heritage asset outside but in close proximity to the development site. This heritage asset requires the Local Planning Authority to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. The importance of considering the impact of new development on the significance of designated heritage assets is dealt with in section 16 of the NPPF.

This section of the NPPF advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm requires clear and convincing justification. However the NPPF does explain that the setting is not fixed and may change as the asset and its surrounding evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

Langford Court is a Grade II* house, which was originally the centre of a 465 acre estate which over time the grounds have been divided to accommodate an intensive agricultural regime as well as now being used as two separate dwellings,

The Committee Report dated 31st March 2021 explains:

“consideration of harm to the setting of Langford Court by the solar farm, must be seen within the context of the setting of the Court which has been altered by the agricultural buildings. It is clear from the submitted Heritage Assessment that the overall views of the solar panel array from Langford Court itself would not cause harm to the setting of the house. Both Historic England and the Council’s Conservation officer state that the issue is the impact of the location of the solar panel array in the south eastern part of the application site upon the setting of Langford Court.

It has already been recognised through the LVIA discussion that the view from the west towards Langford Court (to the east) will change from the house with a rural landscape to the house with a back drop of the solar panel array. This view has been designated as a major adverse view upon the landscape. In contrast the view from the edge of Plymtree looking east towards Langford Court and over the array has a moderate impact on the landscape.

There is no doubt that the introduction of the solar farm in this location will have an impact upon the setting of Langford Court, in particular when looking from the west to the east. Having reviewed the setting and taking account of the consultations it is considered because of the distance, the visual impact of the panels would be limited and would be a small part of the wide countryside setting of Langford Court, the overall impact would be less than substantial harm”.

With regard to weighing the balance the Committee Report goes on to explain that:

“Paragraph 196 of the NPPF states that ‘where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use’. This is reiterated by Local Plan policy DM25 (d). In terms of the public benefit the solar farm of this size will generate a significant amount of electricity from renewable sources. In context the proposed solar farm can meet the energy needs of approximately 10,077 homes in the Mid Devon District. This would be a substantial benefit to Mid Devon and would mean that Mid Devon would be contributing to the aims of Devon Climate Emergency Response Group by reducing carbon emissions. It should also be noted that the scheme would represent a substantial investment of £40,000,000. The development will also support between 70 and 80 direct and indirect jobs during the construction phase and a smaller number of jobs when the solar farm is operational. Taking account of the public benefit of the scheme in the production of renewable energy balanced with the less than substantial harm impact of the solar farm on the setting of Langford Court, it is considered that the proposal on balance accords with Local Plan policies DM2 and DM25 and the provisions of the NPPF”.

It is considered that the heritage and visual impact matters have been satisfactorily addressed and that the officer had come to the view of harm being less than substantial in weighing up the overall impact of the solar harm on Heritage assets. In applying the balance with regard to less than substantial harm against the public benefits of the proposal, it is considered that this was argued clearly both in this section and in the Planning Balance section at the end of the Committee report of March 31st. Accordingly, officers consider that there is nothing substantive further to add.

Planning Obligations

Members note Natural England's consultation response that they state that there may also be potential for the development to have a wider positive impact financially contributing to local environmental/social initiatives in the Parishes affected to help connect people and wildlife and whether any such.

The applicants advise that they are committed to ensuring local communities become active stakeholders in our solar schemes. In line with planning guidance, they therefore welcome the opportunity to engage with parish councils to discuss potential Community Benefit projects. Our standard offering across all our projects is to fund rooftop solar installations on community buildings, of up to 50kWp (£50,000) across one or multiple community buildings e.g. schools, churches, parish halls or other community buildings. They continue that:

"This may not be possible or relevant in all instances and we therefore welcome alternative suggestions from parish councils that may be more appropriate for each community's circumstances."

The community benefit offering falls outside the planning process and therefore should not be tied to the planning permission by way of a S106 agreement. We will engage directly with the parish council(s) and sign our standard "Deed of Gift" Agreement which details the legal obligation for JBM to provide a £50,000 gift to the relevant Parish Council(s) to be used towards rooftop solar P.V. or other sustainable initiatives in the community. All funds will be administered by the relevant Parish Council(s) and not the Local Planning Authority".

Officers would advise that the imposition of Planning Obligations should only be considered if they assist in mitigating the impact on unacceptable development to make it acceptable in planning terms. The tests are that the obligations are:

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

Officers agree that the matter falls outside the scope of this planning permission and was not discussed as part of the previous discussion at Planning Committee. As

such they are of the view that the matter cannot be explored further within the limitations of this report.

Planning Balance

Members note the large scale nature of this scheme as defined in the MDDC Solar PV developments Supplementary Planning Document (SPD). This raises the question of how to employ the planning balance for such a scheme in this location.

The previous report noted that the scheme is acceptable in principle in the context of local and national planning policy guidance.

With regard to weighing up the merits of the proposed development, officers note the following

Social and Economic Benefits

- The social and economic benefit of providing for the average electrical needs of 10,077 homes in the Mid Devon area.
- The proposal would support economic growth in this part of Mid Devon area by providing an additional source of income and so increasing the financial security of farming enterprises.
- The proposed development would represent farm diversification which is supported by the NPPF. The agricultural function of the land would also continue by means of sheep grazing and the site would be used effectively for agriculture as well as for electricity production.
- There would be a financial investment in the local economy with employment opportunities.

Environmental benefits

- The environmental benefit of providing a valuable contribution to cutting greenhouse gas emissions and this is a material consideration which warrants considerable weight. The proposal would support the Government's targets in terms of renewable energy provision to meet international commitments. Furthermore it would allow Mid Devon to address the Climate Emergency in conjunction with Devon County Council.
- The ecological enhancement of the application site with species diverse meadows and additional and improved habitats such as new hedgerows and belts of rough grassland. This would accord with national guidance that biodiversity improvements are to be encouraged around arrays.

Environmental- Neutral

- The application has been found to be acceptable with regards to impact on trees/hedgerow, residential amenity, heritage, archaeology, highways and not resulting in any increased flood risk.

Social- Neutral

The presence of a solar farm is considered neutral in social terms

Disbenefits

Some adverse impacts are identified in terms of impacts with regard to Highways and access and Heritage and Visual impacts. However it is clear from the previous report that any such disbenefits can be satisfactorily mitigated through the imposition of planning conditions.

Overall, the proposed solar farm would result in a substantial benefit in terms of energy production and officers are satisfied that no significant adverse impacts have been identified which would outweigh this benefit. The proposed development is acceptable and would represent sustainable development in accordance with Mid Devon Local Plan 2013 – 2033 and the national guidance.

Other Matters

The remaining questions and clarifications consist of the enforcement and monitoring of conditions. Officers advise that they will only attach conditions which are necessary to make the development acceptable and pass the six tests as set out in national Planning Policy Guidance. One of the six tests are that they are enforceable. Accordingly, should permission be granted and any breach of conditions attached occur, officer are confident that they would be able to enforce the said breach should it be expedient to do so.

A question with regard to out of date policies DM27 LP3, officer can confirm that the policy is updated within the new Local Plan as Policy DM25.

The other outstanding question related to how is the eventual output of the solar farm measured and what would the Local Planning Authority action be if it were exceeded. The applicant's agents advise that the maximum potential output of the solar farm will be limited by two factors;

1. The installed inverter capacity on site
2. The size of our contracted export grid connection

The number and capacity of the solar farm and inverters is detailed in the planning application. A post construction compliance cert can be provided to the LPA as required.

Aside from the inverters the District Network Operator (DNO) requires a mandatory circuit breaker / safety mechanism which will switch the solar farm off automatically if it were to export excess electricity above our agreed export connection. It is not possible to export beyond that and there would be a further backstop of the DNO's equipment, who require a mandatory circuit breaker. Essentially, this is a safety mechanism that automatically switches off the solar farm in the event that an operator (hypothetically) tried to export in excess of the agreed export limit.

Officers consider that the explanation provided above is sufficient to allay any concerns but also that a planning condition requiring submission of a post construction certificate would not be appropriate or proportionate, not least that the

appropriate control rests with the District Network Operator, that is outside of the planning process.

Suggested Amended and New Conditions

As a consequence of the above, it is considered that the list of attached conditions are amended with an addition of a condition requiring submission pre-commencement of a LEMP.

A condition list is tabled below indicating where amendments and additions occur

Condition Numbers	Unchanged	Amended	New
	1-5		
		6	
	7-10		
		11	
		12	
	13-14		
		15	
	16		
		17	
	18-20		
		21	
			22

CONDITIONS

It is confirmed that conditions 1-5, 7-10, 13-14, 1 and 18-20 inclusive are un-amended from the report to the 31st March 2021 Planning Committee.

SUGGESTED AMENDED CONDITIONS

The amended conditions and new condition are set out in detail below:

Taking account of update sheet to 31st March 2021 planning Committee:

Condition 10 to read

No development shall take place until off site highway condition surveys have been undertaken and the details submitted to and approved in writing by the Local Planning Authority in liaison with the Local Highway Authority.

Condition 21 – To read

Prior to the commencement of development a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. In respect to the protection of residential amenity and the local environment, the CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site. It shall include details of the hours of operation and measures to be employed to prevent the

egress of mud, water and other detritus onto the public and any non-adopted highways. The following specific details should also be included in respect to highway safety:

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

Other Amended Conditions

Condition 6

The site access roads should be in a sound bound material for the first 20.00m and drained to prevent no surface water onto the public highway. The site access roads shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority.

Condition 11

No part of the development hereby permitted shall be commenced until:

EITHER

(i) A programme of archaeological work has been carried out in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority.

OR

(ii) A construction methodology for the development that avoids any below-ground impact within the area of archaeological sensitivity in the vicinity of the 7/8th century

iron furnace identified has been submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out in accordance with the approved scheme (under either part i or part ii), or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Condition 12

No development shall take place until a detailed scheme of ecological mitigation and enhancement measures, in accordance with the recommendations of the following submitted documentation:

(a) The Biodiversity Management Plan by avian ecology v4 (Dated 20/07/2020) has been submitted to and approved in writing by the Local Planning Authority.

(b) The Biodiversity Enhancement Note and Addendum Note, (Dated 03/12/2020)

(c) The update Site Layout Plan

Notwithstanding the details included in the above documentations, the details shall include The details to be submitted shall include planting plans, including specifications of species, sizes, planting centres, number and percentage mix, and details of seeding or turfing. The development shall not be carried out other than in accordance with the approved details.

Condition 17

The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment report prepared by Calibro, and issued on 30th November 2020 including the level for floodplain level floodplain compensation outlined in paragraph 7.6.6 of the FRA the mitigation measures shall be fully implemented in accordance with the timing/phasing arrangements detailed within the Flood Risk Assessment. The approved measures shall thereafter be retained for the life of the development.

SUGGESTED NEW PLANNING CONDITION

Condition 22

No development shall take place until a Landscape and Ecological Management Plan. is submitted to and approved in writing by the Local Planning Authority. This plan shall have provide details of the following:

(a) Retained Ecological and Landscape Features

(b) Proposed Habitats, Ecological and Landscape Features

(c) Habitat and landscape Management Measures

(d) Monitoring and Review of Plan

The development shall not be carried out other than in accordance with the approved details.

Reasons for Planning Conditions

Reason for Condition 4

For the avoidance of doubt and to establish the duration of the planning permission and in the interests of the visual appearance of the landscape once the plant is redundant in accordance with policy DM2 of the Mid Devon Local Plan 2013 – 2033.

Reason for condition 10

To minimise the impact of the development on the highway network in accordance with the NPPF.

Reason for condition 21

To minimise the impact upon the highway network and the neighbouring residential properties during the construction period.

Other Amended Conditions

Reason for condition 6

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

Reason for condition 11

To ensure that either: (i) in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework (2019), that an appropriate record is made of archaeological evidence that may be affected by the development, or (ii) in accordance with Policy DM27, the preservation in situ of heritage assets.

Reason for Condition 12

In the interests of local character, and in accordance with Policies DM2 and S9 of the Mid Devon Local Plan 2013-33.

Reason for Condition 17

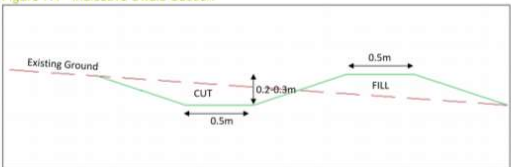
To prevent the increased risk of flooding by ensuring the satisfactory means of surface water disposal is incorporated into the design and build and that the principles of sustainable drainage are incorporated into this proposal and maintained for the life of the development in accordance with policy DM2 of the Mid Devon Local Plan 2013- 2033.

Reasons for condition 22

In the interests of the visual amenity of the area and in accordance with Policies DM2 and S9 of the Mid Devon Local Plan 2013 – 2033.

	Question	Response	Complete
1	How will we monitor / enforce so many potential conditions effectively, should the application be approved	To answer within update to report	Yes
2	<p>Why has there been no noise assessment for the following potential areas;</p> <p>(a) Noise of the rain on the panels (raised by Cllr C .Daw at the meeting) .</p> <p>(b) Electrical hum from the panels and equipment.</p> <p>(c) Wind noise through the panels and equipment.</p>	<p>The officer's report advised that 'the solar panels in themselves do not generate noise' and that 'Public Health has not raised an objection on the basis of noise.'</p> <p>The applicants advise that a noise assessment was not required for this application, but on the specific technical matters. The applicant our acoustics consultants advise as follows:</p> <p>(a) They are unaware of any proposal where the noise impact of rain has been considered or deemed to be a material planning consideration. The angled panels would, in any case, lessen the impact of precipitation in the immediate vicinity.</p> <p>(b) As noted by the planning officer, there is no hum from the panels. The only source of noise is the inverters, principally associated with the fans and usually only within 25 metres. The level of noise at the site boundary would be low, and the equipment does not operate during hours of darkness. Due to the separation distances the noise levels will be below a level which would represent the lowest observed adverse effects level, thus ensuring that the operation did not result in unacceptable levels of noise and thus ensuring full compliance with the requirements of the NPPF.</p> <p>(c) They are unaware of any case where this has been considered or deemed to be a material planning consideration. Given the scale, height and angled position of the panels it is considered that any audible sound of wind through them would be negligible.</p> <p>Officer are satisfied that an additional condition would not be reasonable and that condition 15 in tis reference to the Glint and Glare study sufficiently covers this matter.</p>	Yes
3	How is the eventual output of the solar farm measured and what would the Local Planning Authority action be if it were exceeded?	<p>The applicants the applicant has advised that the maximum potential output of the solar farm will be limited by two factors;</p> <ol style="list-style-type: none"> 1. The installed inverter capacity on site 2. The size of our contracted export grid connection 	Yes

		<p>The number and capacity of the solar farm and inverters is detailed in the planning application. A post construction compliance cert can be provided to the LPA as required. Aside from the inverters the District Network Operator (DNO) requires a mandatory circuit breaker / safety mechanism which will switch the solar farm off automatically if we were to export excess electricity above our agreed export connection.</p> <p>Officers are satisfied that the technology does not allow the export to be exceeded and that this is not a matter for planning control and this is included in the updated report.</p>	
4	<i>The access should be in a sound bound material for the first 20.00m and drained to prevent no surface water onto the public highway."</i> Where is this covered in a plan to be approved and/or a condition please?	Officers advise that the discrepancy has been noted and the suggested revised condition acceptable to the applicant This is include in the revised report	Yes
5	Has the officer actually been to the site and driven around these narrow country lanes which will serve the site?	<p>The applicant confirms that the rural lanes around the site would not serve construction traffic – this would stop at the north end of the site with equipment then distributed by smaller vehicles (no different to farm tractors on the road). These details can be required in the CMTP condition.</p> <p>The case officer confirms she has been to site and driven the lanes around the site.</p>	Yes
6	<p>(a)Where are members able to see the detail of these proposals/structures - filter drains and swales so that they can be aware of what they are approving?</p> <p>(b) The last note from Devon Lead Flood Authority is dated 4.02.2021 and refers to a</p>	<p>The applicants advise that the <i>Flood Risk Assessment dated 30th November 2020</i> on planning webpage details general mitigation measures (see Section 7.2) and Floodplain mitigation measures (see Section 7.3). In summary these measures include:</p> <ul style="list-style-type: none"> • Inverter/DNO/substation equipment located in Flood Zone 1 areas • Raised Battery Storage Area • Raised panels in Flood Zone 2/3 areas • Access roads will use permeable crushed stone surface • Compensatory storage to be provided adjacent to watercourse i.e. attenuation pond/scrape 	Yes

	<p>Technical Note in response to a DCC objection dated 2 February 2021. Condition 17 refers to an Approved Flood Risk Assessment Report V5 issued on 30 November 2020. Is there a conflict? What are members being asked to approve?</p>	<ul style="list-style-type: none"> • Additional large “no build” areas within the functional floodplain which will be turned into a wetland scrapes area for wildlife/birds. • Swales will be added on site (see extract / drawings below and plan in Appendix I of the Flood Risk Report) <p>7.9.3 It is proposed that swales 0.2-0.3m deep are created in one of the fields that sits outside the floodplain as shown in the Flood Compensation and Enhancements Drawing in Appendix I. These features will be created by excavating ground and compacting on the downslope side of the excavation. The swales are broadly on contour, so will store a significant amount of water, capture suspended sediment, and promote infiltration yielding a positive impact on runoff volumes, rates and water quality. An illustrative section is presented in Figure 7.4</p> <p>Figure 7.4 - Indicative Swale Section</p>  <p>Officers are satisfied that the revised submissions have covered member concerns and led to the withdrawal of the Environmental Agency’s initial objection subject to condition. Accordingly, the 1relevant condition 17 will be amended to refer to the updated iteration of the report</p>	
7	<p>Queries relating to Environment Agency – Question 4 a) It further states that “Before determining the application your Authority will need to: - at the top of page 47 are two bullet points. Where is this information available to members before determining the application?</p> <p>b) Under Advice – Vulnerability Classification – it states “Your view on this will be important...” Who has formed a view and what is it please?</p>	<p>JBM advise as follows:</p> <p><u>Vulnerability Classification</u></p> <p><i>Chapter 5 Development Vulnerability and Flood Zone Classification of the Flood Risk Assessment 30th November 2020</i> details the vulnerability classification and confirms the solar farm is classed as “Essential Infrastructure”. The Environment Agency agree with this interpretation as noted in their letter dated 12th November 2020 (DC/2020/121714/01-L01) which states:</p> <p><i>“Based on the characteristics of the development and conversations our National Office are having with MHCLG, we consider that it should be considered in the same light as wind turbines, i.e. essential infrastructure.”.</i></p> <p><u>Sequential Test</u></p> <p>Details of the sequential test are summarised in the Committee Report 31.03.21 on P26. The reasons can be summarised as follows;</p>	Yes

		<ul style="list-style-type: none"> • Ability to achieve a viable connection to the Electricity Network; • the land being available (i.e. a willing landowner(s)); • Avoids statutory environmental designations; • Avoids best and most versatile agricultural land <p>This additional information has been include in the updated Committee Report and officers are satisfied that the matter has bene adequately addressed.</p>	
8	This is a very large scheme as defined in the MDDC Solar PV developments. How are members being advised to balance the conflict with a site that is over four times larger than what is considered to be a sensitive scheme?	The Planning Balance section of the report has been updated to assist members in appreciating how the case officer recommended subject to conditions that planning permission be granted.	Yes
9	Conditioned <i>Landscape and Environmental Management Plan</i> . Where is it please and should members be approving it as part of the application	<p>Environment Agency response includes the advice that ‘any mitigation and enhancement measures are secured through a conditioned Landscape and Environmental Management Plan (LEMP). The applicant consider that the use of the LEMP to be good practise on its sites, and would be content with a pre-commencement condition requiring submission of, and the LPA’s written approval for, a LEMP.</p> <p>Officers agree and recommend the attachment of an additional condition no. 22 to be part of the amended report. The applicants have indicated no objections to the proposed condition.</p>	Yes
10	<i>‘There may also be potential for the development to have a wider positive impact financially contributing to local environmental/social initiatives in the Parishes affected to help connect people and wildlife.’</i> Have any such contributions been offered or discussed?	<p>The applicants advise that they are committed to ensuring local communities become active stakeholders in our solar schemes. In line with planning guidance, we therefore welcome the opportunity to engage with parish councils to discuss potential Community Benefit projects. Our standard offering across all our projects is to fund rooftop solar installations on community buildings, of up to 50kWp (£50,000) across one or multiple community buildings e.g. schools, churches, parish halls or other community buildings.</p> <p>However any such contribution is not justified in planning terms as set out in the amended report and as such officers can assist no further with this question.</p>	Yes

11	<p>Historic England comment – ‘We would not entirely agree with the author of this report etc.’ Has this comment been raised with the applicant’s consultant and been challenged or asked for comment?</p>	<p>It is noted that Heritage England in their consultation response request that the Council's heritage specialist makes an independent assessment of the setting of Langford Court, to judge the level of potential harm that might be caused to its setting and whether that harm could be avoided or minimised to an acceptable level.</p> <p>The applicants are satisfied that such an assessment has been undertaken by the LPA, and notes that there has been no request for material additional to the submitted Heritage Statement and LVIA. They have provided an assessment of the potential harm to Langford Court in the documents already submitted to the Council including Viewpoint 7 of the LVIA, which is confirmed by the Council’s Conservation Officer as set out below.</p> <p>The Conservation Officer stated in their consultation comments;</p> <p>The Heritage statement identifies the effect on views from the Langford Court to the east to be negligible. Negligible is not none. It may be too small or too slight to be considered of importance to the author of the report but it should be noted that it is registerable. I can see no such assessment of the views from the east towards Langford Court in the Heritage Statement.</p> <p>This view is considered in the LVIA as viewpoint 7 and 7A. Their Landscape Architect considers the value of the view, which includes the highlighted Langford Court, to be medium with Medium Sensitivity. It states “The proposed solar farm battery storage and substation would be distinguishable in the mid-ground” and goes on to assess the impact to be minor to moderate.</p> <p>In my view, with regard to the experience of the heritage asset, there will be a noticeable localised Moderate harmful change in the view to Langford Court from the road at Plymtree identified as view point 7. This will result in a slight to moderate negative impact on the experience of this Grade II* listed building by the introduction of a new and prominent element into the view, which will draw the eye and compete with the heritage asset, and the loss of a typical rurality of agricultural and other features that are expected in the countryside.</p> <p>It is the applicants informed view that Officers have taken this level of harm identified by the Council’s Conservation Officer on board in their overall assessment of the application. Heritage Englands last paragraphs states:</p> <p><i>“we are satisfied that your own specialists can take an informed view of the level of harm that might occur to the setting of Langford Court once a site visit has been made, and it is not necessary for us to be consulted on this application again, unless there are material changes to the proposals.</i></p> <p>Officers consider that the heritage and visual impact matters have been satisfactorily addressed and that the officer had come to the view of harm being less than substantial in weighing up the</p>	Yes
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		overall impact of the solar harm on Heritage assets. In applying the balance with regard to less than substantial harm against the public benefits of the proposal, it is considered that this was argued clearly both in this section and in the Planning Balance section at the end of the Committee report of March 31st. Accordingly, officers consider that there is nothing substantive further to add	
12	DM27 LP3. Although this is now out of date is the same reinforcement provided by the new Local Plan?	Officers can advise that this is the case with Policy DM25 which is part of the report and the updated in report.	Yes
13	See question 7b of Cllrs questions	<p>The Conservation Officer (p18 of the report) states that 'I can see no such assessment of the views from the east towards Langford Court in the Heritage Statement'. The officer's report however acknowledges that the introduction of the solar farm in this location will have an impact upon the setting of Langford Court, in particular when looking from the west to the east. Having reviewed the setting and taking account of the consultations it is considered because of the distance, the visual impact of the panels would be limited and would be a small part of the wide countryside setting of Langford Court, the overall impact would be less than substantial harm.</p> <p>It is considered that the case officer's judgement when viewings the proposal as a whole against the local and national planning policy and guidance was sound and the balance between less than substantial harm and the public benefit was undertaken with due diligence. The public benefit outweighing the less than substantial harm is an appropriate judgement</p>	Yes
14	See question 7c of Cllrs Questions in relation page 53 of the report	The box above also covers this limb of question 7	Yes
15	<i>The overall impact would be less than substantial harm.</i> This appears to be in direct conflict with the comments of English Heritage and the MDDC Conservation Officer. What other guidance is available to members to assist their decision? Q 7d of member's question	The box above also covers this limb of question 7	Yes
16	See Cllr question 8 – Devon Wildlife Trust	Officers note that this referral by members to the Devon Wildlife Trust's consultation response was for a submission from them on 23 rd November 2021. A consultation with Devon Wildlife Trust	Yes

		<p>received a reply explaining they are reducing their consultations on planning matters and did not provide an updated response.</p> <p>It is considered that the due weight was given to the trusts concerns but that updated ecological information was submitted and has been taken into account in the officer report and also in the updated report. This has also led to the amendment to suggested condition 12 in the updated report.</p>	
17	Future Ecological Enhancement and Management Plan - What are the details of funding and provision of future management of such a plan for the next 40 years? Will it, and how will it be enforced?	As above officers advise that the purpose of the revised condition 12 requires details to be approved by the LPA. Issues of investment and future management will be dealt with through that process.	Yes
18	Revised biodiversity management plan	Officers advise that the applicants have submitted an updated Biodiversity Management Plan by avian ecology v4 (Dated 20/07/2020) updated to also reflect Biodiversity Enhancement Note and Addendum Note, December 2020 which includes the large wetland scrapes biodiversity enhancement area. The same features are already picked up in the updated Site Layout Plan. Consequently condition 12 was been amended to reflect these updates and is set out in the updated report.	Yes
19	Wording of Conditions – details to be approved by the LPA	Officers advise that planning conditions are only attached to make a development proposal acceptable, however such conditions must pass the six tests as set out in National Planning Policy Guidance. It is considered that the suggested conditions, some subject to alteration and including an additional conditional are necessary and sufficient to mitigate any adverse impacts of the proposed development in a reasonable, proportionate, relevant and enforceable manner and this is contained within the updated report	Yes
20	Representations	Officers have checked this along with adding a summary of any representations received after the 31 st March 2021 Planning Committee and these updates are contained within the updated report.	Yes

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PLANNING COMMITTEE AGENDA - 31st March 2021

Applications of a non-delegated nature

UPDATES

1.	<p>19/01679/MFUL - Construction of ground-mounted solar PV panels to generate up to 49.9MW (Site Area 60.78ha) and battery storage facility together with all associated works, equipment and necessary infrastructure - Land at NGR 303437 103555 East of Langford Mill & Tye Farm Langford.</p> <p>The first comment from Cullompton Town Council is dated 25th October 2019</p> <p>Amendments to Conditions</p> <p>Condition 4 – First line to read</p> <p>Within 3 months of the solar array permanently ceasing to be used</p> <p>Condition 10 to read</p> <p>No development shall take place until off site highway condition surveys have been undertaken and the details submitted to and approved in writing by the Local Planning Authority in liaison with the Local Highway Authority.</p> <p>Condition 20 – First line to read</p> <p>Prior to the commencement of development a Construction Environmental Plan</p>
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AGENDA ITEM

APPLICATION NO. 19/01679/MFUL

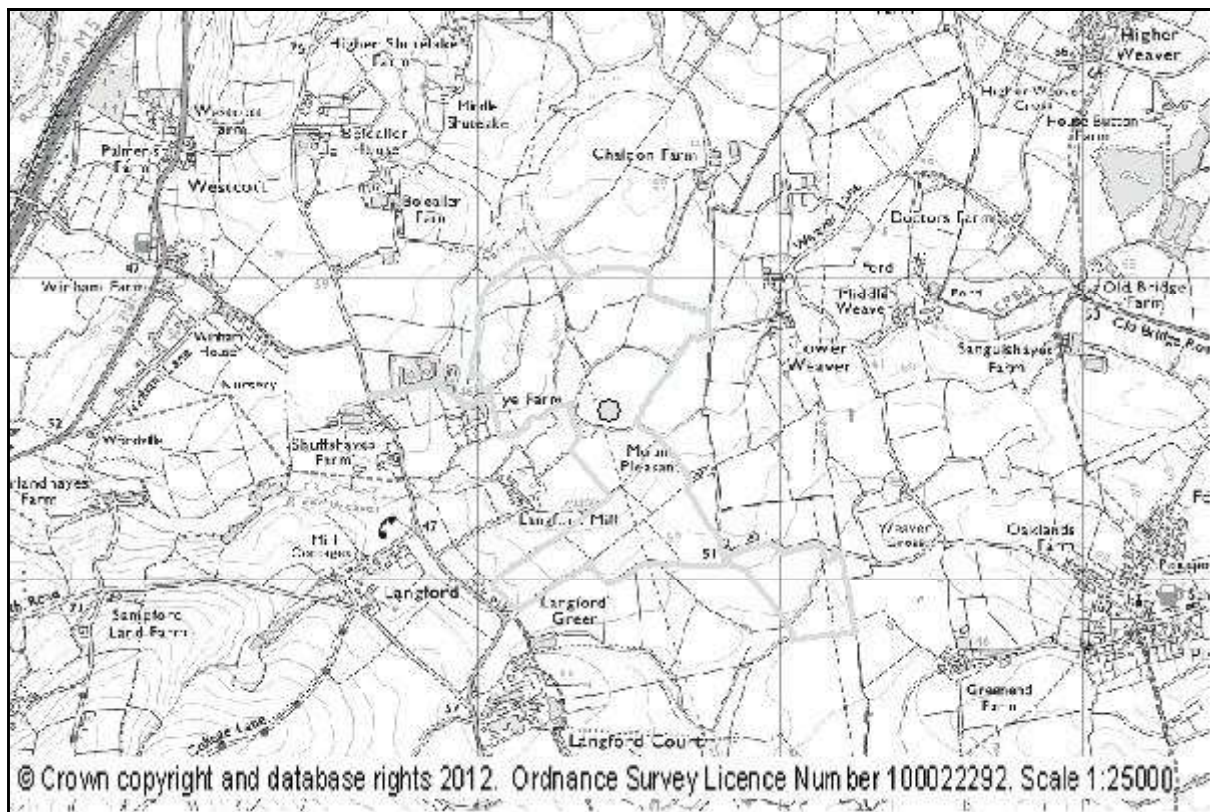
Grid Ref: 103644 : 303174

Applicant: Mr McAllister, JBM
Solar Projects 2 Ltd

Location: land at NGR 303437 103555 East of Langford Mill and Tye Farm
Langford, Devon

Proposal: Construction of ground-mounted solar PV panels to generate up to 49.9MW
(Site Area 60.78ha) and battery storage facility together with all associated
works, equipment and necessary infrastructure

Date Valid: 9th October 2019



PLANNING COMMITTEE
10TH MARCH 2021

Construction of Ground Construction of ground-mounted solar PV panels to generate up to 49.9MW (Site Area 60.78ha) and battery storage facility together with all associated works, equipment and necessary infrastructure at Land at NGR 303437 103555 East of Langford Mill and Tye Farm Langford

Cabinet Member(s): Cllr Richard Chesterton
Responsible Officer: Eileen Paterson Development Management Manager

Reason for Report: The application is for determination by the Planning Committee. The report contains the details of the application and the assessment of the application against local and national policy

RECOMMENDATION:

- 1) That Members approve the application subject to conditions.

Financial Implications: At this time there are no financial implications to the Council. Should Members decide to refuse the application, the applicant may lodge an appeal against the Council's decision. In addition the applicant may make an application for costs on any appeal against the Council and such costs claims are made by demonstrating that there has been unreasonable behaviour. That being the case, Members must be able to clearly justify each and every reason for refusal in line with the development plan and all other material considerations. If the Inspector found that the Council had behaved unreasonably in refusing the application, the Council would be required to pay the applicants appeal costs.

Legal Implications: The report identifies the views of the highway authority as statutory consultee in the planning process. If members resolve to refuse the application on highway (or other) grounds they must be able to clearly justify each reason for refusal. There would be no support at the appeal from the Highway Authority.

Risk Assessment: If Committee decide to refuse the application for reasons that cannot be sustained at appeal there is a risk of a successful appeal costs claim against the Council for reasons of unreasonable behaviour. Those costs could be significant in the event of the appeal being heard by public inquiry.

Equality Impact Assessment: Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons with protected characteristics have been identified in the determination of this application.

Relationship to Corporate Plan:

Environment

- Encourage "green" sources of energy, supply new policies and develop plans to decarbonise energy consumption in Mid Devon

Impact on Climate Change: Section 70 (2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that in

determining a planning application, the determination must be made in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework represents up-to-date government planning policy and is a material consideration that must be taken into account where it is relevant to a planning application or appeal. This includes the presumption in favour of development found at paragraph 14 of the Framework. The climate emergency shall be considered through existing planning policies and any subsequent development plans.

PROPOSED DEVELOPMENT

This planning application proposes the installation of a 49.9MW solar farm comprising ground-mounted solar PV panels, battery storage facility, and associated plant, infrastructure, and other works.

The site is approximately 61ha in area and comprises farmland located in open countryside. The site is located to the north east of the village of Langford, north west of Plymtree and north of Clyst Hydon. The landscape of the site is undulating to the flood plain, though there are some steep slopes within the site, (approximately 11%).

An unnamed road runs in a north – south direction in close proximity to the western boundary of the site. Three access points are proposed into the site from the public highway. Two will be to the south of the site and one to the north west of the site. The construction access will be from Tye Farm at the north west part of the site. The site is bisected by an unnamed road.

The River Weaver flows through the site in an east west direction. Parts of the site are located in Flood Zones 2 and 3, including the floodplain.

The proposed solar photovoltaic panels (PV) will be laid out in rows on an east –west axis, facing south with a 15 degree orientation from the horizontal to maximise efficiency. The maximum height of the panels will not exceed 3m. Plant with other equipment and access tracks will be located around the site. This supporting equipment will include 15 inverter cabins, including one with switch gear.

The battery storage facility will be located in the south eastern corner of the site. There will be battery units in containers, a storage container and an inverter cabin. This area will also house the 132 kv electricity substation for the site. There will be underground cabling to link the development to the substation.

APPLICANT'S SUPPORTING INFORMATION

Application form, plans, supporting information.

RELEVANT PLANNING HISTORY

There are some previous planning decisions at the site reflecting its status as agricultural land. Of most relevance to the application under consideration is the following:

18/01950/SCR - Request for Screening Opinion in respect of a proposed solar farm and battery storage facility – EIA not required.

DEVELOPMENT PLAN POLICIES

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

Mid Devon Local Plan 2013 – 2033

Policy S1 Sustainable development priorities
Policy S9 Environment
Policy S14 Countryside
Policy DM1 High Quality Design
Policy DM2 Renewable and low carbon energy
Policy DM18 Rural Employment development
Policy DM 25 Development Affecting heritage assets.

Cullompton Neighbourhood Plan

The National Planning Policy Framework 2019("the NPPF")
Planning Practice Guidance: Renewable and Low Carbon Energy 2015
The Mid Devon Landscape Sensitivity Assessment

CONSULTATIONS

Bradninch Parish Council

No objections. Grazing should be allowed to continue beneath the proposed panels.

Bradninch Parish Council 30th July 2020

Following receipt of new information regarding the likely detrimental impacts of the proposed development on a local business (Yarak Birds of Prey), Bradninch Town Council have reconsidered their comments and, based on the new information received, now object to this application.

(Officer comment - Yarak Birds of Prey have withdrawn the representation objecting to the application)

Clyst Hydon Parish Council

Physical size/scale - We do not believe that the site can possibly warrant such a big solar farm. Surely greenfield land available to produce food for our growing population would be more sustainable and if you allow this, what is to suggest that in future all the land surrounding won't be sold for more panels construction. This country is a small island, so surely we need all the land we can without giving the latest generations of farmers a chance to profit from previous generations hard work with sustainability. Trees should be being planted not cut down.

12 Months of chaos on unsuitable roads - It is felt that a construction of this size will bring utter chaos to the local community, not to mention unpassable roads once building commences. Our roads are unsuitable for a large increase of construction traffic. We are sure that any local Council / Highways cannot afford the resurfacing of roads as it is, let alone once this Company come through.

Proximity to highways and dwellings and solar glare - People live in these areas! The glare caused by the Solar Farm installation along the M5 causes enough issues when driving along the top road from Fagin's to Langford, so what will this bring. Also the people along Langford road/Yarak will probably no longer be able to look out onto their back gardens without a glare and heat that will be produced from this proposed installation.

Flooding - We already have issues of flooding in this area, therefore surely with the amount of panels proposed it would cause an amazing amount of run-off, not to mention everything else that will leach from the fields.

Impact to the environment - Birds already have confusion with regards to these panels elsewhere, this size will cause utter confusion. Within the plan is a skylark habitat, this should not be disturbed on any count and should be protected.

In conclusion, as a Parish Council and Community, we feel that this planning permission should be refused categorically.

Cullompton Town Council

Recommend approval subject to:

- (i) It being ensured that the land underneath the solar panels can be used for grazing.
- (ii) Having due regard for the proposed garden village and
- (iii) Being provided with details of the lifespan of the panels and what happens to them at the end of their useful life.

Cullompton Town Council 17th July 2020

RESOLVED that planning application 19/01679/MFUL) is OPPOSED in the most rigorous terms in that the proposal:

- a. is clearly unsuitable for the land on which it is to be built.
- b. is not essential infrastructure.
- c. will not generate anything like the claimed electricity.
- d. will destroy well established businesses in the immediate vicinity.

Kentisbeare Parish Council

Concerned about the scale of this proposal, which will have a detrimental visual impact on the surrounding area. The proposal will be visible from many areas due to the proposed size.

The land is prime agricultural land, and it is considered that panels are best placed on agricultural buildings where possible.

Plymtree Parish Council

- 1. Permission should only be granted for the stipulated duration, i.e. 40 years and only for the express purpose stated, in the application.
- 2. No permanent change of use should be considered. At the end of the stated period the land should automatically revert to its current status of agricultural land and all equipment suitably removed without detriment the land.
- 3. No additional land owned by either the current applicants or other landowners be considered for future development with respect to ground-mounted solar pv panels or similar technologies.
- 4. That wildlife is considered and prioritised when deciding whether to grant or deny the applicant permission.
- 5. This application does not set a precedent for future, similar developments.

Willand Parish Council

No observations to make.

Public Health

Contaminated Land:	No objection to this proposal. (10.10.19).
Air Quality:	No objection to this proposal. (10.10.19).
Environmental Permitting:	No objection to this proposal. (10.10.19).
Drainage:	No objection to this proposal. (10.10.19).

Noise & other nuisances: The screening mitigation detailed in the Glint and Glare assessment section 8.5 needs to be in place and at the designated height of 3m before the development can take place.

The height of the proposed screening for dwelling 50 has not been detailed in the assessment. This needs to be confirmed before a final recommendation can be made. (10.10.19).

Housing Standards: No objection to this proposal. (10.10.19).

Licensing: No comments. (10.10.19).

Food Hygiene: Not applicable. (10.10.19).

Private Water Supplies: Not applicable. (10.09.19).

Health and Safety: No objection to this proposal enforced by HSE. (10.10.19).

County Highway Authority

I have visited the site and would have no objections in principle to the proposal. The construction management plan submitted with the application is generally acceptable to the highway Authority however the highway Authority would seek access improvements as follows.

Primary access is acceptable however the visibility splay to the south should be 2.4m back along the centre line of the drive and extending to a point 43m to the centre line of the public highway to the south. In addition swept path or articulated lorries into this access should be provided and radii should be amended accordingly, the access should be in a sound bound material for the first 20.00m and drained to prevent no surface water onto the public highway.

Secondary access to A should be hard surfaced in a bound material for the first 6.0m and visibility splays of 2.4m by 33m to the nearside kerb to the west and 33.m to centre line to the east should be provided to reflect the observed speed of 25-30 mph, these splays should also apply to the new proposed access to area B and to Area C. Should the existing access at B be utilised a similar visibility is required. All accesses should be hard surfaced in a bound material for the first 6.m or greater and drained to prevent surface water entering the public highway. The Highway Authority welcomes the provision of wheel washing and road sweeping, in dry weather dust suppression should also be provided. The Highway Authority also accepts the pre, during and post construction surveys and invites the applicant to contact the highway Authority to arrange the inspections and recording of any defects.

The Highway Authority would seek traffic management to warn drivers of the increase in slow moving vehicles exiting from and entering B3181 at the Merry Harriers. Therefore should consent be granted the following conditions should be imposed and the plans, construction management plan should be conditional of any consent.

Recommendation:

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

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

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

2. Visibility splays shall be provided, laid out and maintained for that purpose at the Primary site access where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.60 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway shall be 2.40 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 43.0 metres in a southern direction and as identified on the access plan in the other direction.

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

3. Visibility splays shall be provided, laid out and maintained for that purpose at the other site accesses in accordance where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 0.60 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.40 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 33.00 metres in on coming direction and 33.00 metres to the centre line in the offside direction.

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

4. No other part of the development hereby approved shall be commenced until the until the access, parking facilities, commercial vehicle loading/unloading area, visibility splays, turning area and access drainage have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times

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

5. Off-Site Highway Works No development shall take place on site until the off-site highway condition surveys have been undertaken and approved in writing by the Highway Authority.

REASON: To minimise the impact of the development on the highway network in accordance with National Planning policy Framework.

Devon County Historic Environment Team

A programme of archaeological work, consisting of geophysical survey and field evaluation has been undertaken on this site. These investigations have demonstrated that the site is largely of low archaeological potential. However, a single - as yet undated - iron furnace was exposed within one of the evaluation trenches. This indicates the presence of previously unrecorded iron working in this area. There was an iron extraction industry operating across the Blackdown Hills to the east from the early Roman through to the medieval periods. A sample has been submitted for radiocarbon dating and the applicant will be undertaking appropriate assessment and analysis of palaeo-environmental and metallurgical samples.

In the light of this new information the Historic Environment Team are able to withdraw its previous objection and would recommend that the impact of development upon the archaeological resource associated with the area where iron working has been identified here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of

archaeological work to be undertaken in mitigation for the loss of heritage assets and archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2019) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013), that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

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

Reason

To ensure, in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework (2019), that an appropriate record is made of archaeological evidence that may be affected by the development.'

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

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

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

<https://new.devon.gov.uk/historicenvironment/development-management/>

Revised Comments – 18th February 2021

A programme of archaeological work, consisting of geophysical survey and field evaluation has been undertaken on this site. These investigations have demonstrated that the site is largely of low archaeological potential. However, a single - as yet undated - iron furnace was exposed within one of the evaluation trenches. This indicates the presence of previously unrecorded iron working in this area. There was an iron extraction industry operating across the Blackdown Hills to the east from the early Roman through to the medieval periods. A sample has been submitted for radiocarbon dating and the applicant will be undertaking appropriate assessment and analysis of palaeoenvironmental and metallurgical samples.

In the light of this new information the Historic Environment Team are able to withdraw its previous objection and would recommend that the impact of development upon the archaeological resource associated with the area where iron working has been identified here should be mitigated by a programme of archaeological work that should investigate,

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

Reason

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

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

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

<https://new.devon.gov.uk/historicenvironment/development-management/>.

Devon County Lead Flood Authority

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

Observations:

The applicant has not provided any information in relation to the disposal of surface water from the site (specifically the 590m² of impermeable area from the substation, DNO equipment and central inverters) to enable me to make observations on the proposal. Due to the size of the impermeable area the surrounding grassed area will not be an adequate means of surface water drainage. The applicant must therefore submit a surface water drainage management plan which demonstrates how surface water from this area will be disposed of in a manner that does not increase flood risk elsewhere, in accordance with the principles of Sustainable Drainage Systems. The applicant is therefore advised to refer to Devon County Council's draft Sustainable Drainage Design Guidance, which can be found at the following address:

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

It is understood that the site will be grassed, we would suggest a hardy/ tussock species of grass for the strips on the down side of all the solar panels to reduce the potential for erosion. The applicant should also consider planting around the watercourses to provide a further filter for sediment should erosion occur.

29.01.21

Following my previous consultation response FRM/MD/01679/2019, dated 30/10/2020, the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

Flood Risk Assessment Langford Solar Farm, Devon, Job Ref BR-629-004, Rev 5

We are pleased to see that a french drain and swale is being proposed to manage the runoff from the impermeable area in the south west of the site. However the calculations indicate that a value of 20% was used for climate change rather than 40%.

Due to the length of the proposed swale consideration should be given to the use of check dams.

The applicant should explain why swales are only proposed to manage the runoff from one of the areas proposed for the solar PV panels.

We would be happy to provide another substantive response if additional information is submitted to the local planning authority.

4.02.2021

Following my previous consultation response FRM/MD/01679/2019, dated 29/01/2021, the applicant has provided additional information in relation to the surface water drainage aspects of the above planning application, in an e-mail dated 02/02/2021, for which I am grateful.

Technical Note, Response to DCC Objection Langford Solar Farm, 629-0004 dated 2nd February 2021

The applicant has updated the calculation in Micro Drainage based on our requirement for 40% for climate change for the attenuation volume. The calculation indicates that the swale can accommodate the 40% climate change allowance, 20% was previously used within the design.

The freeboard has lessened however we feel due to the nature of the proposals being a solar farm, this is acceptable in this instance.

The applicant has considered the use of check dams within the swale but considers that they are not appropriate here due to the gradient of the swale being 1 in 150.

To summarise, the applicant is proposing a filter drain and a swale to manage the runoff from the substation/ battery units and inverter cabins. Grass will be maintained below the panels in line with best practice and a buffer strip will be utilised downslope of the solar

panels. Additional swales are also being proposed to manage the runoff from the solar fields in a field located outside of the fluvial flood zones.

The applicant should be mindful of easements adjacent to ordinary watercourses and that a Land Drainage Consent would be required for any works to an ordinary watercourse at this site. The applicant has confirmed that the drainage will be maintained by either the landowner or a management company. All proposed drainage devices should be maintained as should the scrapes and buffer strips.

Environment Agency

We have reviewed the document titled 'Response to Environment Agency' dated 2nd December 2019 by Kris Tovey of Calibro Transport, Flood and Infrastructure consultants and advise that our position remains that of our previous letter dated 30th October 2019. We maintain our objection to the proposed development. The reason for this position and advice is provided below.

Reason – As a statutory consultee, we advise your authority regarding planning proposals in accordance with policy contained within the National Planning Policy Framework (NPPF), and it's associated Planning Practice Guidance (PPG).

This response highlights two important issues very much embedded into the above government planning policy documents that would potentially significantly affect the size and layout of the proposed Solar Panel Farm, these being the Flood Risk Vulnerability Classification of the proposal, and issue the Sequential Test.

Flood Risk Vulnerability Classification

We bring to your Authority's attention Table 2 of the PPG which states the following: 'Essential infrastructure

- Essential transport infrastructure (including mass evacuation routes) which has to cross the area at risk.
- Essential utility infrastructure which has to be located in a flood risk area for operational reasons, including electricity generating power stations and grid and primary substations; and water treatment works that need to remain operational in times of flood.
- Wind turbines.'

In light of the above statement we advise your authority that Solar panels, and associated infrastructure, do not require to be in areas at risk of flooding for operational reasons.'

We also bring to your attention the fact that Solar Panels, and associated infrastructure' are also not included in the definitive list of 'Essential Infrastructure' in Table 2.

Given the above we disagree with the statement in the Closure section of Calibro's letter of the 2 December 2019 that 'The proposed development constitutes essential infrastructure..' and thus we maintain our objection to the provision of Solar Panels or other associated infrastructure within areas of 'Functional floodplain' FZ3b. By definition any development of the type sought within FZ3b would be 'inappropriate'.

The Sequential Test

We bring to your Authority's attention the following sections of the PPG.

The sequential, risk-based approach to the location of development

What is the sequential, risk-based approach to the location of development?

This general approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. The aim should be to keep development out of medium and high flood risk areas (Flood Zones 2 and 3) and other areas affected by other sources of flooding where possible.

Application of the sequential approach in the plan-making process, in particular application of the Sequential Test, will help ensure that development can be safely and sustainably

delivered and developers do not waste their time promoting proposals which are inappropriate on flood risk grounds. According to the information available, other forms of flooding should be treated consistently with river flooding in mapping probability and assessing vulnerability to apply the sequential approach across all flood zones.

The aim of the Sequential Test

What is the aim of the Sequential Test for the location of development?

The Sequential Test ensures that a sequential approach is followed to steer new development to areas with the lowest probability of flooding. The [flood zones](#) as refined in the Strategic Flood Risk Assessment for the area provide the basis for applying the Test. The aim is to steer new development to Flood Zone 1 (areas with a low probability of river or sea flooding). Where there are no reasonably available sites in Flood Zone 1, local planning authorities in their decision making should take into account the [flood risk vulnerability of land uses](#) and consider reasonably available sites in Flood Zone 2 (areas with a medium probability of river or sea flooding), applying the [Exception Test if required](#). Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 (areas with a high probability of river or sea flooding) be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required.

Who is responsible for deciding whether an application passes the Sequential Test?

It is for local planning authorities, taking advice from the Environment Agency as appropriate, to consider the extent to which Sequential Test considerations have been satisfied, taking into account the particular circumstances in any given case. The developer should justify with evidence to the local planning authority what area of search has been used when making the application. Ultimately the local planning authority needs to be satisfied in all cases that the proposed development would be safe and not lead to increased flood risk elsewhere.

With these three fundamental statements in mind we confirm that:

- The principle of providing Solar Panels or other associated infrastructure within areas of Flood Zone 2, and then areas of Flood Zone 3a, would be acceptable subject to MDDC confirming they deem the Sequential Test has been applied and passed.
- The principle of providing Solar Panels, and associated infrastructure, within areas of 'Functional floodplain' FZ3b is clearly contrary to written government planning policy.

Functional Floodplain

On the subject of 'Functional Floodplain' FZ3b we bring to your Authority's attention the fact that the applicant's Flood Risk Assessment does not differentiate between which parts of FZ3 are FZ3a (high risk) and which parts are FZ3b (functional floodplain). This is vitally important so that Local Planning Authority can be in a position to apply the Sequential Test for the area of Flood Zone 3, and thus identify the areas where inappropriate development should not be permitted. In the absence of not knowing which parts of Flood Zone 3 are functional floodplain i.e. FZ3b, your authority should consider the area of Flood Zone 3 as all being Flood Zone 3b (functional floodplain). Such a stance would conform with policy contained within MDDC's Strategic Flood Risk Assessment.

21.12.2020 Revised Comment

Based on the revised Flood Risk Assessment (FRA) by Calibro dated 30 Nov 2020 and the revised site layout (918-1820_14 REV J) we are able to remove our objection to this proposal. We recommend that a condition is included within any permission granted to ensure that the mitigation measures proposed in the FRA are implemented, including the level for level floodplain compensation outlined in paragraph 7.6.6 of the FRA.

Before determining the application your Authority will need to:

- ☐ confirm the vulnerability classification of the development with reference to the Planning Practice Guide; and

☐ if you agree with our conclusion that it is essential infrastructure, be content that the flood risk Sequential Test has been satisfied in accordance with the NPPF. Please let us know if you would like us to suggest wording for the recommended condition. Further flood risk advice is set out below.

Advice – Flood Risk

The applicant has submitted a revised FRA informed by revised flood modelling and advice we have given. We confirm that the FRA has satisfactorily assessed the flood risks and proposed acceptable mitigation measures.

We confirm that part of the site is located within Flood Zone 3b (functional floodplain). However, the revised site layout (918-1820_14 REV J) shows:

- ☐ no solar panels in the active functional floodplain (no build area);
- ☐ revised connected flood compensation areas;
- ☐ the use of deer fencing;
- ☐ the design of the panels 300m above ground level;
- ☐ enhanced scrapes to the no build area;
- ☐ minimal culverting of the watercourse for access routes.

These measures are acceptable to minimise flood risk from the development

Advice – Vulnerability Classification

Based on the characteristics of the development and conversations our National Office are having with MHCLG, we consider that it should be considered in the same light as wind turbines, i.e. essential infrastructure. However, the vulnerability classification of this development remains your Authority's decision on.

Your view on this will be important because less vulnerable development should not be permitted within functional floodplain, but essential infrastructure can be acceptable in principle (subject to the Sequential Test).

Informative – Environmental Permitting

Under the terms of the Environmental Permitting (England and Wales) Regulations 2010 a permit is required for any proposed works or structures, in, under, over or within eight metres of the top of the bank of the river. Further details and guidance on how to apply or register an exemption are available on the GOV.UK website:
<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>.

Natural England

Climate Change

Natural England recognises that climate change represents the most serious long term threat to the natural environment because of the damage it will cause to ecosystems, the biodiversity, landscape value, and services to society which they support. Solar energy developments have an important role to play in meeting national targets to reduce UK contributions to greenhouse gases. The present challenge is to move to a low carbon economy without unacceptable impacts on the natural environment.

Designated sites

Details of designated sites can be found at www.magic.gov.uk The proposal does not appear to trigger any relevant thresholds within Natural England's designated sites Impact Risk Zones(*2) (IRZs). It is our advice, on the basis of the material supplied with the consultation, that, in so far as statutory designated sites are concerned, there are no potential impacts.

Protected Landscapes

The proposed development is for a site within 6km of the Blackdown Hills Area of Outstanding Natural Beauty (AONB) and has triggered Natural England's Impact Risk Zones for solar developments greater than 10ha. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and

information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraph 172 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 172 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape. Alongside national policy you should also apply landscape policies set out in your development plan or appropriate saved policies.

We note that you have consulted the Blackdown Hills AONB Partnership but they have yet to comment. They will have knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, which will be a valuable contribution to the planning decision.

The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose. Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

All proposals should complement and where possible enhance local distinctiveness and be guided by your Authority's landscape character assessment and the policies protecting landscape character in your local plan in determining the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

Your Authority's supplementary planning document (SPD) 'Solar pv developments in the landscape 2016' suggest that all landscapes in Mid Devon are sensitive to very large schemes (>15ha) and outlines out a set of principles to follow.

You may also find useful the Devon Landscape Policy Group Advice Note No. 2: 'Accommodating Wind and Solar PV Developments in Devon's Landscape' particularly with reference to cumulative impacts and siting and design.

Biodiversity net gain

Development provides opportunities to secure a net gain for nature as outlined in paragraphs 170 and 174 of the revised NPPF (*3) (2019), the Defra 25 year Environment Plan (*4) and the Environment Bill (*5).

We advise you first to follow the mitigation hierarchy as set out in paragraph 175 of the NPPF and consider what existing environmental features on and around a site can be retained or enhanced before considering what new features could be incorporated into a development proposal.

An evidence based approach to biodiversity net gain can help LPAs demonstrate compliance with their duty to have regard for biodiversity in the exercise of their functions (*6) (under Section 40 NERC Act, 2006). Biodiversity metrics (*7) are available to assist developers and local authorities in quantifying and securing net gain. The Environment Bill sets out a 10% net gain threshold.

Natural England's Technical Information Note Solar parks: maximising environmental benefits (TIN101)(*8) provides a summary of advice about their siting, their potential impacts and mitigation requirements for the safeguarding of the natural environment. You may also wish to note the industry guidance 'Solar farms and biodiversity opportunities'(*9)

Consideration could be given to the use of SuDS features in managing surface water run-off from the panels to prevent soil erosion.

We note that the proposal includes maintaining established field boundaries, planting native hedgerows and trees, enhanced wildlife corridors through the site and new species rich grassland around the panels and our advice is that any mitigation and enhancement measures are secured through a conditioned Landscape and Environmental Management Plan (LEMP). There may also be the potential for the development to have a wider positive impact by financially contributing to local environmental / social initiatives in the Parishes affected to help connect people and wildlife.

Soil and land quality

From the documents accompanying the consultation we consider this application falls outside the scope of the Development Management Procedure Order (as amended) consultation arrangements, as the proposed development would not appear to lead to the loss of over 20 ha 'best and most versatile' agricultural land (BMV) (paragraph 112 of the National Planning Policy Framework).

The Agricultural Land Classification report (Davis Meade Agriculture October 2019) indicates that the land affected is predominantly Grade 3b and not therefore BMV agricultural land.

For this reason we do not propose to make any detailed comments in relation to agricultural land quality and soils, although more general guidance is available in Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, and we recommend that this is followed. If, however, you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

We note that the panel arrays would be mounted on steel posts driven into the ground and that no substantial areas of concrete construction would be required, with the exception of foundations for the Inverter, the sub-station buildings and the battery storage facility, meaning that the panel arrays could be removed when planning permission expired with no likely permanent loss of agricultural land in the long term.

Whilst soil would be disturbed in some parts of the site through the construction of the switch station and access tracks and installing of buried cables this equates to a relatively small area and much of the soil disturbance is likely to be reversible during decommissioning.

Based on the information provided, the agricultural use of the land would subsist alongside the proposed PV panels through the grazing of sheep and that the land would be restored to full agricultural when planning permission expired (approximately 40 years).

Detailed guidance is available in Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites (including accompanying Toolbox Talks) and we recommend that this is followed.

We would also draw to your attention to Planning Practice Guidance for Renewable and Low Carbon Energy (March 2014).

Protected Species

We have not assessed this application and associated documents for impacts on protected species.

Natural England has produced standing advice (*10) to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

The Institute of Lighting Professionals has produced practical guidance on considering the impact on bats when designing lighting schemes - Guidance Note 8 Bats and Artificial Lighting (*11). They have partnered with the Bat Conservation Trust and ecological consultants to write this document on avoiding or reducing the harmful effects which artificial lighting may have on bats and their habitats.

Where security fencing is proposed it should be permeable allow the continued movement of species through the wider landscape and we note that this has been accounted for.

Ancient Woodland and veteran trees

We note that there may be ancient/veteran trees within the development site. Natural England and the Forestry Commission have produced standing advice for ancient woodland and veteran trees http://www.naturalengland.org.uk/Images/standing-advice-ancient-woodland_tcm6-32633.pdf.

Local authorities have a vital role in ensuring their conservation, in particular through the planning system. When determining planning applications, local planning authorities should apply the following principles (NPPF para.175):

- if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts); adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.

Should the proposal change, please consult us again.

Blackdown Hills AONB Partnership

Do not wish to comment.

RSPB

Do not wish to comment.

Exeter Airport

No objections.

Historic England

This application is for the construction of an extensive solar array in an area which typifies the rural Mid Devon landscape, consisting of gently rolling countryside interspersed with vernacular buildings. A considerable number of those buildings are listed as being of architectural and historic interest and therefore their setting warrants special consideration in the consideration of any impact which might be caused by the development, as set out in Historic England's Good Practice Advice In Planning Note 3 - The Setting of Heritage Assets.

Of the listed buildings within close proximity to the application site that fall within our planning remit, Langdon Court, a grade II* late medieval (and later) house has the potential for its setting to be most directly affected. This is due to its position 350m from the nearest extent of the solar array, and the fact that the array extends across a considerable extent of landscape which forms a backdrop to the north of the Court. We have not had the opportunity to visit the site in order to make a closer inspection of Langford Court and its setting, but consider that any potential for harm to this highly graded building needs careful consideration, as is set out in paragraphs 193-194 within the NPPF.

The applicant's heritage statement provides a detailed assessment of the potential impact of the development on Langdon Court, concluding that it would result in "no harm" to its setting.

This conclusion is reached due to the view that the array won't be visible from the house itself, combined with the previous erosion of its setting considered to have been caused by the development around it in the twentieth century of a large industrial-scale farmyard and its accoutrements.

We would not entirely agree with the author of this report that the wider agricultural setting of the Court is of minimal significance to its setting. Our view is that a vernacular building that originated as the focal point of an agricultural estate has a meaningful relationship with the surrounding farmland in both functional and visual terms - as has been accepted by planning inspectors in a number of appeals for similar developments.

The Landscape and Visual Impact Assessment identifies the potential visual impact of the array on Langford Court by selecting a location on a public footpath immediately to its east looking towards the array. This viewpoint forms the basis of a photomontage which illustrates that a wide array of solar panels could be intervisible with the house, as it is approached and passed on the footpath.

It would have been useful if a viewpoint could have been provided to show whether a view of the front of the house itself would be changed by acquiring a backdrop of solar panels. That change from currently undeveloped fields (as evidenced in the images in the LVIA) to an industrial array of solar panels, regardless of how much the immediate setting of the house is affected by modern farm buildings, would only cause more harm to its setting.

In relation to GPA 3 - The Setting of Heritage Assets, the sequential test set out as a means of assessing whether an unacceptable impact would be caused to a heritage asset, makes clear that harm should preferably be avoided or minimised. We would question whether the extent and location of the development has taken sufficient account of achieving that objective. We would request that the Council's heritage specialist makes an independent assessment of the setting of Langford Court, to judge the level of potential harm that might be caused to its setting and whether that harm could be avoided or minimised to an acceptable level.

We are satisfied that your own specialists can take an informed view of the level of harm that might occur to the setting of Langford Court once a site visit has been made, and it is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. If you would like detailed advice from us, please contact us to explain your request.

Conservation Officer (MDDC)

The heritage aspects of this application relate to the setting of listed buildings including one grade II* building.

The starting point for the considering of applications which affects a listed building or its setting is the statutory requirement on local planning authorities to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses' (section 66).

The Court of Appeal has made it absolutely clear that the statutory duty in relation to section 66 does not allow a local planning authority to treat the desirability of preserving the settings of listed building as a mere material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a development would harm the setting of a listed building it must give that harm considerable importance and weight. Finding of harm gives rise to a strong presumption against planning permission being granted. This presumption is a powerful one, but not irrefutable. It can only be outweighed by material considerations powerful enough to do so.

Applicants for consent that affects a heritage asset must be able to justify their proposals. The NPPF says that the LPA should require an applicant to describe the significance of any heritage asset affected including any contribution made to their setting. This should be

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

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

Advice on how to assess the setting of heritage assets is given in the Historic England general advice note 3 – The Setting Heritage Assets.

The applicant has submitted both a heritage statement and a LVIA.

The applicant in 5.2 of their heritage statement identifies assets as potentially susceptible to indirect impact as being shown on Figure 2. This figure identifies over 80 listed buildings, and omits the Conservation Area in the area covered by the map. The legend relates to the listed buildings but does not explain the black dashed line. This may be the zone of influence. There are 18 listed buildings within this area.

The applicant states that the buildings identified in figure 2 were inspected during a site visit. The only asset that was found to warrant further assessment comprised the Grade II* listed Langford Court. There is further discussion at 5.48 which lists some of the buildings and explains that the intervening distances; the lack of material inter-visibility; the lack of relevant non-visual associations; lack of third points from which both are visible within the same view shed to any material extent; negates the potential for development within the site to adversely affect their heritage significance. This lacks detail and does not justify the proposal in the context how a building has gone from being potentially susceptible as identified by the applicant to not to warrant further assessment. Whilst accepting that any submission should be proportionate, the submission is an assertion not a reasoned justification. This step should be further explained to justify and explain the proposal where there is a statutory duty to have special regard to the setting of listed buildings.

The applicant does go further with the Grade II* Langford Court. This is a large building, now two houses with associated historic outbuildings, set on a small promontory on the side of the valley. The listed group sit on a level platform, with the land continuing to rise to the west. The building is painted white and is visible and prominent in the landscape.

GPA 3 advises us that significance relates to how an asset is experienced. This includes views to and from the asset. Views do not have to be designed and may be long views. At 5.49 and 6.4 the applicant states that all key views towards and from all the identified heritage assets have been assessed.

The Heritage statement identifies the effect on views from the Langford Court to the east to be negligible. Negligible is not none. It may be too small or too slight to be considered of importance to the author of the report but it should be noted that it is registerable.

I can see no such assessment of the views from the east towards Langford Court in the Heritage Statement.

This view is considered in the LVIA as viewpoint 7 and 7A. Their Landscape Architect considers the value of the view, which includes the highlighted Langford Court, to be medium with Medium Sensitivity. It states "The proposed solar farm battery storage and substation would be distinguishable in the mid-ground" and goes on to assess the impact to be minor to moderate.

The battery storage and substation includes a spare parts container, a battery inverter, a customer cabin, a client substation, a DNO substation, a control room and a 132KV Substation Gantry. The area is roughly 100m by 40m. The overall height of the buildings is about 3m above ground level. It is assumed that there will be a number of 4m camera

positions, and a fence for the compound, but again no details. There are no lights shown to facilitate safe access for workers, but these are highly likely.

This and the array in the field behind sits in the key view of Langford Court across the valley. This area is identified as field number 13 by the Consultant the Council retained to review the applicants LVIA. Their assessment is that the level of change is greatest in two sectors including field 13. It states the introduction of the built structures as part of a large complex of cabins and battery storage would result in a high scale of change to field 13. This is ultimately assessed as having an overall visual effect of Minor to Moderate.

In my view, with regard to the experience of the heritage asset, there will be a noticeable localised Moderate harmful change in the view to Langford Court from the road at Plymtree identified as view point 7. This will result in a slight to moderate negative impact on the experience of this Grade II* listed building by the introduction of a new and prominent element into the view, which will draw the eye and compete with the heritage asset, and the loss of a typical rurality of agricultural and other features that are expected in the countryside.

There would also be adverse changes to views from Viewpoints 5 and 6 as assessed by our consultant.

View 6 includes views from the west of the site and includes Langford Court in the view of the wider landscape. I would be of the view that in terms of the setting of Langford Court, this proposal would noticeably change the setting and experience of the asset, resulting in a Minor Magnitude of impact and a Slight negative harm, in that the asset will be read against a landscape which has had a major impact in visual effect.

View 5 is from the public footpath to the front of the Langford Court. This is on the lip of the small plateau the house sits on. I have not been into the house, principally the upper floors, but the view from the outside of the house at ground floor level is quite different than that from the footpath, as the house is set back from the edge of the plateau and cannot see down into the full width of the valley. However the existing garden extends up to the footpath, and although it is agreed that this present garden is not historically significant, it is the area where the house is currently appreciated. The applicants LVIA assess the impact as Moderate on residents and PROW users, our consultant: Major. Due the reduced significance of the view point and the lack of direct visibility, at least from ground level at the house, my assessment would be a noticeable change to setting resulting in a Negligible magnitude of impact and a Negligible adverse harm to the experience of the asset.

Overall the applicant has failed to justify the assertions made with regard to the Grade II listed buildings. The heritage assessment of the grade II* building has failed to take into account the long views of the building which relate to the experience of the asset. The proposal would result in registerable harm to the significance and setting of the grade II* listed Langford Court which must be given considerable weight and importance by statute and be contrary to the NPPF and Policy DM27 of the adopted Local Plan.

Devon Wildlife Trust

Whilst it is acknowledged that solar farms can often provide opportunities for improving the biodiversity of fields in agricultural use, the extent to which they will actually do so depends on effective, on the ground, implementation. Any planning decision will therefore need to be made with confidence about the biodiversity mitigation & enhancement measures proposed. Will, for instance, new habitat be effectively created (in terms of quantity & quality); managed (to maintain this quality); monitored (to detect & resolve any issues arising); and is there a source of funding for carrying out these actions?

Unfortunately, **the documents submitted with the above planning application do not give the required confidence that the habitat mitigation proposed will actually be effectively implemented.** Our reasons are as follows.

Effective creation of mitigation habitat (in terms of quantity & quality). No figures have been submitted for the loss of existing habitats (of various types & quality). Similarly, it is not known how much newly created habitat, (of various types & quality), is being proposed.

The National Planning Policy Framework requires 'net gains' in biodiversity (NPPF para. 170) and these net gains should be '**measurable**' (NPPF para. 174b.).

The National Planning Practice Guidelines (Natural Environment para.022) state-
"The NPPF encourages net gains for biodiversity to be sought through planning policies and decisions. Biodiversity net gain delivers measurable improvements for biodiversity by creating or enhancing habitats in association with development.....It may help local authorities to meet their duty under Section 40 of the NERC Act 2006".

This recommended that the following should 'inform further detailed design and any discharge of planning conditions' -

- ☐ ☐ new species-rich grassland
- ☐ ☐ new planting
- ☐ ☐ bat roosting and bird nesting measures
- ☐ ☐ the above would be detailed in an Ecological Enhancement & Management Plan which can be secured by a planning condition on any consent.

The National Planning Practice Guidelines (Natural Environment para.023) states that –

"Care needs to be taken to ensure that any benefits (for wildlife) promised will lead to genuine and demonstrable gains for biodiversity"

We believe that more detail is required before the above can be satisfied. For instance, how long will it take to establish the proposed grassland to the required 'species-rich' quality? How much, where and what type of new planting is proposed? It is not sufficient to say that these matters will be dealt with in a future Ecological Enhancement & Management Plan. They need to be known before a decision can be made on a planning application having implications for such a large area of countryside.
Managed (to maintain the quality proposed)

Similar to the above, more details about how the proposed and existing habitats are to be managed is required before the application is decided. For instance, who is going to manage the new habitat and for how long?

Monitored (to detect & resolve any issues arising)

The Ecological Enhancement & Management Plan will need to include provision for monitoring. A close eye needs to be kept on the newly created or enhanced habitats, as they evolve, to ensure that they meet expectations. We would recommend that a habitat restoration ecologist be involved in drawing up such an EE&M Plan and be involved in subsequent managing, maintaining and monitoring, to give credibility to any proposals, findings and any suggested remedial action.

Funding

The source of funding needs to be identified for the life of the project, to cover the costs of habitat creation, management, monitoring and any remedial action.

REPRESENTATIONS

136 representations have been received from the general public.

36 letters of objection have been received, including from the Campaign to Protect Rural England, raising the following material concerns:

- The proposal is too big, particularly when considered in combination with a separate solar farm located nearby.
- There would be a loss of trees and harm to wildlife.
- There would be a loss of prime agricultural land for a long period of time.
- The loss of grazing land as a result of the grasses receiving insufficient sunlight.
- The proposal would harm the rural character of the area and dominate the village.
- Potential harm to human health as a result of radiation.
- Harm to highway safety and amenity, particularly during the construction phase. The local highway is considered sufficient to accommodate additional traffic, particularly heavy goods vehicles.
- Potential noise nuisance during construction, and once operational.
- Harm to neighbouring amenity as a result of noise and disturbance.
- Screening should be installed/planted prior to construction starting.
- Impact on neighbouring businesses, including a camp site and bird-of-prey related enterprise, owing to noise and disturbance, and difficulty retrieving birds that may land in the site area once the development is in place.
- The proposal would worsen flood risk and surface water run-off, with potential for soil erosion.
- The proposal would not provide a consistent or reliable supply of energy and there is a lack of information about the capacity and usefulness of the proposed batteries.
- Risk of pollution as the solar panels degrade over time.
- The benefits of the proposal are significantly outweighed by the harm in terms of the landscape, loss of greenfield land, and the environment.
- The proposal would be harmful to the Grade II* listed Langford Court.
- The proposal will eventually become redundant and derelict.

2 letters of support stating that:

- Renewable energy facilities will help to address climate change.
- The visual impact will be limited owing to flat ground and use of screening.
- The proposal can be removed at the end of its life and the land restored.
- Grazing can continue on the land and biodiversity can be enhanced compared to the existing situation.
- The proposal would not worsen flood risk.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1) Principle of Development:

The proposal is for a renewable energy facility, located in open countryside and must be assessed against the policies of the Development Plan. An application which is in accordance with the Development Plan must be approved unless material considerations indicate otherwise.

The key policies of the Mid Devon Local Plan 2013 – 2033 are S9 and DM2. Policy S9 of the Local Plan allows for renewable energy development where there is an acceptable local impact....balanced with the wider sustainability benefits of renewable energy. Policy DM2 has a presumption in favour of renewable energy proposals provided that the proposal does

not have significant adverse impacts on the character, the amenity and the visual quality of the area.

The Cullompton Neighbourhood Plan 2020 – 2033 is supportive of the increase use of renewable energy subject to controlling the impact of renewable energy installations.

The NPPF states that the planning system has three overarching principles - economy, social and environmental. The environmental objective includes “mitigating and adapting to climate change, including moving to a low carbon economy. The NPPF builds on this principle and defines renewable energy in the following way:

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

Paragraph 148 of the NPPF states that:

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

Paragraph 154 of the NPPF states that:

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

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

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

Taking the policies of the Local Plan and the material consideration of the NPPF, it is considered that there is support for the development of renewable energy facilities within the open countryside. On this basis there is no objection to the principle of a solar farm in the open countryside.

2) Visual Impact and Heritage Assets

Policy DM1 of the Local Plan states that the design of new development must be of high quality and demonstrate a number of principles, including efficient and effective use of the site, an understanding of the local context, and appropriate siting, layout, scale, and other design characteristics to ensure visually attractive and well integrated development. Policy DM2 states that proposal's for low carbon or renewable energy will be permitted where they do not have significant adverse impacts on the character, amenity, and visual quality of the area, including cumulative impacts of such developments. Policy DM25 seeks to ensure that a development proposal does not cause significant harm to a heritage asset or where it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh that harm or loss or the requirements of the NPPF are met.

Visual Impacts

The applicant submitted a Landscape Visual Impact Assessment as part of the application, and this was considered against the policies of the Local Plan 2021 – 2033 and the Council's

Supplementary Planning Document (SPD) –Solar PV Developments in the Landscape (2016).

The SPD identified three main principle against which a solar PV development must be considered against

Principle 1: Solar PV developments should minimise their effects on the landscape through sensitive siting and design.

Principle 2: Solar PV development should be of a size and scale appropriate to the landscape, with particular regard to its sensitivity to change as a result of such development.

Principle 3 Solar PV development proposals should include an assessment of landscape and visual effects, taking into account the location of the site's landscape sensitivity as well as that of adjoining Landscape Character Types and Areas (where appropriate). The cumulative effects of existing and consented solar PV development in the surrounding area should also be considered.

It is acknowledged that the proposed solar farm would introduce a new and uncharacteristic feature to the landscape of this part of Mid Devon which may have an impact upon the character of the area. The SPD assesses that the host landscape (Lowland Plains) has a landscape with medium sensitivity to solar PV development – although it is highly sensitivity to very large solar PV developments (such as the proposal). Though it should be noted that the SPD is a high level guidance documents and should not replace an individual site assessment for a proposal of this kind.

The applicant submitted a Landscape Visual Impact Assessment for the solar farm. The applicant considered that the visibility of the proposal would be limited by the surrounding landforms of the rolling countryside, the intervening vegetation and the distance of the site. In addition the low profile of the panels would not be easily perceptible in most views from publicly available viewpoints, which are limited in number.

Following on from this the Council had an independent review of the LVIA carried out due to the size of the development within the Mid Devon rural landscape.

The independent review concluded in the wider landscape, the development would result in the change of rural character over an extensive area of the local landscape and would result in the introduction of new, uncharacteristic elements into the landscape. While the arrays would be noticeable in the local landscape, their full scale would only be perceived in a few locations on high ground at some distance from the site. In the local area, existing tree growth, substantial hedgerows and the generally flat topography would help to mitigate the overall scale of the proposal.

The Visual effects are considered to be in line with those predicted in the LVIA, with the exception of VPs 5 (Langford Court) and 6 (Hill west of Clyst Hydon), where effects are assessed as major adverse and moderate/major adverse respectively. It is acknowledged that the introduction of PV solar arrays at this scale would introduce a prominent new element into the view behind Langford Court (Grade II*) The nature of the view would change from one of typical rurality containing only agricultural and natural features to one where PV solar array was evident and prominent. The view would be of a rural, farmed landscape containing PV solar array as a defining element.

The proposal overall would lead to lesser landscape and visual effects than might be predicted from the SPD assessment of the host landscape. As a result, it is considered that further mitigation (other than reducing the overall scale of the proposal) would have little effect on further reducing landscape or visual effects.

It should be noted that the independent review did not disagree with the LVIA conclusion in relation to VP7 from the edge of Plymtree and taking in Langford Court in the mid distance. It is considered that there would be a minor/ moderate impact on the landscape. The proposed solar farm battery storage and substation would be distinguishable in the mid-ground. Proposed planting would further screen this area over time.

Overall the proposal will have a moderate/ minor impact upon the landscape of the area, though there are areas of concern with two of the viewing points with major and moderate/major concerns. Taking the 61ha site as whole it is considered that the harm identified with VPs 5 and 6 is not sufficient to warrant the refusal of the development on impact to the landscape character.

Heritage

There are no designated heritage assets within the site; however Langford Court, a Grade II* building is a heritage asset outside but in close proximity to the development site. This heritage asset is identified as having potential impacts by the proposal.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Local Planning Authority to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. The importance of considering the impact of new development on the significance of designated heritage assets is dealt with in section 16 of the NPPF. This section advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm requires clear and convincing justification.

The setting of heritage assets is defined in the glossary of the NPPF as the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surrounding evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

Langford Court is a Grade II* house, which was originally the centre of a 465 acre estate. Over time the grounds have been divided to accommodate an intensive agricultural regime of sheds, barns, silos and tanks. Langford Court, is now used as two separate dwellings, and has agricultural buildings surrounding to the North, North West, South West and a fishing lake to the East. The consideration of harm to the setting of Langford Court by the solar farm, must be seen within the context of the setting of the Court which has been altered by the agricultural buildings.

It is clear from the submitted Heritage Assessment that the overall views of the solar panel array from Langford Court itself would not cause harm to the setting of the house. Both Historic England and the Council's Conservation officer state that the issue is the impact of the location of the solar panel array in the south eastern part of the application site upon the setting of Langford Court. It has already been recognised through the LVIA discussion that the view from the west towards Langford Court (to the east) will change from the house with a rural landscape to the house with a back drop of the solar panel array. This view has been designated as major adverse view upon the landscape. In contrast the view from the edge of Plymtree looking east towards Langford Court and over the array has a moderate impact on the landscape.

There is no doubt that the introduction of the solar farm in this location will have an impact upon the setting of Langford Court, in particular when looking from the west to the east. Having reviewed the setting and taking account of the consultations it is considered because of the distance, the visual impact of the panels would be limited and would be a small part of the wide countryside setting of Langford Court, the overall impact would be less than substantial harm.

Paragraph 196 of the NPPF states that 'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'. This is reiterated by Local Plan policy DM25 (d).

In terms of the public benefit the solar farm of this size will generate a significant amount of electricity from renewable sources. In context the proposed solar farm can meet the energy needs of approximately 10,077 homes in the Mid Devon District. This would be a substantial benefit to Mid Devon and would mean that Mid Devon would be contributing to the aims of Devon Climate Emergency Response Group by reducing carbon emissions.

It should also be noted that the scheme would represent a substantial investment of £40,000,000. The development will also support between 70 and 80 direct and indirect jobs during the construction phase and a smaller number of jobs when the solar farm is operational

Taking account of the public benefit of the scheme in the production of renewable energy balanced with the less than substantial harm impact of the solar farm on the setting of Langford Court, it is considered that the proposal on balance accords with Local Plan policies DM2 and DM25 and the provisions of the NPPF.

3) Access Arrangements

Policy DM1 of the Local Plan states that new development should be safe and accessible.

The proposed development is making use of existing access points off the lane which links the B3181 to Langford, and the lane which links Langford Green with the Plymtree. The primary access to the site will be via the farm access to Tye Farm, and that the secondary access points will make use of the existing gated field access points from the Langford Green to Plymtree Lane. The Highway Authority has not raised any objections to the proposal subject to the use of conditions to secure improvements to the surface and the visibility splays of the existing access points.

In addition the applicant has submitted a construction management plan which has highlighted that during the construction period the primary access point at Tye Farm will be used for the delivery of materials by articulated vehicles. These will then be off loaded to smaller construction vehicles, to move the materials and equipment to the other parts of the site utilising the secondary access points. One of the key reasons for using smaller vehicles is to avoid issues with the bridge on the lane from the primary access to the secondary access, as the bridge has a 26t weight limit. The Highway Authority has welcomed the provision of wheel washing and road sweeping to keep the roads clean during the construction period. In addition the Highway Authority will seek traffic management measures to warn drivers of the increase of slow moving vehicles exiting and entering the B3181 at the Merry Harriers Public House. This is important as the speed limit on the B3181 is 60mph, and there is a need to ensure the safety of all highway users.

The parking for the contractors and the construction compound itself will be on the part of the site close to the access from Tye Farm. This will accommodate up to 80 construction workers during the setting up of the solar panel array and it is anticipated that the construction period will be 26 weeks. Once construction is completed there will only be limited access to the site for repair and maintenance. There will be no public access to the site.

The Highway Authority has recommended a number of conditions to be considered should planning permission be granted. It is considered that subject to the conditions the proposed access and parking arrangements are satisfactory and are in accordance with the Local Plan Policies DM2 and DM8.

4) Amenity

Policy DM2 states that renewable and low carbon energy development will be considered in relation to the environmental amenities of nearby properties. Policy DM7 of the Local Plan states that development will be permitted where the effects of pollution would not have unacceptable impacts in relation to health, the natural environment, and general amenity. Policy S9 allows for renewable energy developments where there is an acceptable local impact.

The applicant has submitted a Glint and Glare study about the solar panels assessing the impact of the solar farm on the activities of Exeter Airport, the adjoining residential dwellings and the local roads. The study has concluded that there will be no impact upon the operations of Exeter Airport and this is confirmed by the operator of Exeter Airport raising no objection to the proposal.

The study has identified that the solar farm array is likely to have a moderate impact upon a number of dwellings (16) which have a boundary with the proposed solar farm. In order to mitigate this impact of glare the study has recommended that the boundary hedges are infilled and strengthened with planting, with the suggested hedge height of 3m. This has been supported by Public Health and to ensure that the hedge works are carried out and maintained, it is considered appropriate to condition this. The study has also concluded that the users of the two local roads adjacent to the site, will only be impacted in a limited way by glints from the array. This is due to the low speeds along the roads and existing boundary treatment of the fields to the road.

Representations have been made about the life of the panels, potential noise from the panels and the risk of pollution from the degradation of the panels. In general solar panels have a life of approximately 30 years; however with the technology continually evolving it is anticipated that the life of the panels will increase. As part of the operation of the solar farm, there will be regular checks on the condition and operation of the panels, so replacement panels if needed can be installed. It is understood that the panels would have to be disposed of in accordance with Government requirement rules which follow on from the EU Directive – Waste Electrical and Electronic Equipment. This requires the producers of the panels to finance the end of life treatment for the panels.

The solar panels in themselves do not generate noise, and that is the associated equipment such as the transformers, inverters, battery and DNO Substation would give rise to a slight hum during operation but this would be contained to within the site boundary with the panels themselves silently converting solar irradiation to electricity. It should be noted that the noise would not occur at night as the solar power cannot be generated at night. In addition Public Health has not raised an objection to the scheme on the basis of noise.

HGV movements and construction/decommissioning may also generate noise for a temporary period. Even though the access is currently used by vehicles serving the farm, it is recommended that restricted hours of construction and deliveries are imposed by planning condition due to the varied nature of the use they would be linked to.

Given the proposal's siting, scale, and design in conjunction with the limited output in terms of noise emissions it is considered that it would not result in unacceptable harm in terms of neighbouring or local amenity. In this respect, the proposal is in accordance with Policies S9, DM2 and DM7 of the Local Plan.

5) Flood Risk Drainage Arrangements

Policy S1 of the Local Plan seeks to manage the challenge of climate change by...increasing the use and supply of renewable and low carbon energy, managing flood risk and conserving natural resources. Policy S9 deals with the Environment and states the provision

of measures to reduce the risk of flooding to life and property, requiring sustainable drainage systems including provisions for future maintenance, guiding development to locations of lowest flood risk by applying sequential test where appropriate, and avoiding an increase in flood risk elsewhere.

The NPPF states in part 14 that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal changes. Paragraphs 155 to 165 (inc) deal with Planning and Flood Risk.

The NPPF directs development away from areas at highest risk of flooding employing a sequential approach. The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. It goes on to say that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

The NPPF continues by stating if it is not possible for development to be located in zones with a lower risk of flooding, the exception test may need to be applied. For the exception test to be passed it should be demonstrated that

- a- The development would provide wider sustainability benefits to the community that outweigh the flood risk; and
- b- The development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and where possible will reduce the flood risk overall

The applicant has been in lengthy discussions with the Environment Agency and the Lead Flood Authority to resolve the issues in relation to flooding and drainage. The applicant has submitted a site specific Flood Risk Assessment as the site is greater than 1ha and with parts of the site within Flood zones 2 and 3.

The River Weaver is the main watercourse flowing across the central part of the site, in a south easterly direction before flowing east into the River Culm. Around the north of the site is a series of watercourses and drainage ditches which flow into the River Weaver. Another watercourse is located along the field boundaries in the south eastern area of the site. This watercourse flows from northeast to south west and subsequently discharges into the Upper Clyst. The development site is located across Flood zones 1, 2, 3a and 3b and essential infrastructure is allowed to be in these flood zones. The Environment Agency has stated that solar farms are regarded as essential infrastructure.

The Environment Agency Flood Map shows a large area around the central part of the development site to be in Flood zone 3. This zone is described as zone 3 b – The functional Flood plain - as there is a lack of modelling of a < 1 in 20 year flood event. The Environment Agency had a number of concerns about flooding in this area and has defined a “No Build” area which encompasses the area closest to the River Weaver. The applicant has removed all solar panels and fencing from this area. In addition the applicant will be providing a flood compensation area landscape to flows in and out of the functional flood plain, which will not aggravate the current flood plain environment.

The applicant has also agreed the following measures with the Environment Agency
All inverters and DNO equipment, as well as the substation, are located in Flood Zone 1, which will allow for the equipment to remain operational in a flood event. The battery storage area in the south eastern part of the site will be raised 300mm above the existing ground level to provide protection against extreme flooding conditions. The areas of the site located within Flood Zones 2 and 3 will be allowed to flood as existing. This means all development within these areas, including any electrical cables and connections, will need to be resistant to flooding. Solar panels will be raised at least 300mm above the surrounding ground level in all flood risk areas and above the simulated 1 in 100 year +35% climate change level. Deer fencing will be used which allows water to flow through. The applicant proposes to use enhanced scrapes to improve drainage capacity which will have the added aspect of

providing a wet field feature which is attractive to wildlife, thereby adding to the biodiversity of the site.

The constructed solar farm will only be accessible to staff and not members of the general public. Therefore, it will be the responsibility of the site managers to ensure that staff are kept safe from flood risk. A flood escape plan would need to be prepared as part of the flood mitigation measures.

In general development of a solar farm does not have a significant effect on the existing run off rates and that is the case with this site. A surface water drainage strategy is proposed to manage runoff from hardstanding associated with the substation which will reduce runoff rates to as low as reasonably practicable. The proposed drainage strategy has been designed to accommodate surface water flows without flooding up to, and including, the 1 in 100 year storm event plus climate change. Additional swales are also being proposed to manage the runoff from the solar fields in a field located outside of the fluvial flood zones.

The Environment Agency and the Lead Local Flood Authority are satisfied with the Flood Risk Assessment and the proposed mitigation measures. In terms of the NPPF exception test it is considered that as the proposal is for essential infrastructure it meets part a) of the test. In terms of part b), the development will not be open to the general public and will not result in an increase in flooding elsewhere. Overall it is considered that the exception test has been passed. Thus the proposal meets the requirements of policies S1 and S9 of the Local Plan.

6) Nature Conservation

Policy DM2 of the Local Plan states that proposals for renewable energy and low carbon development must consider the effects on biodiversity and avoid habitat fragmentation. Policy S9 of the Local Plan states that development will support opportunities for protecting and enhancing species population and linking habitats. The NPPF in paragraph 175 suggests that if there is significant harm to biodiversity resulting from a development which cannot be avoided, adequately mitigated or compensated for then planning permission should be refused. Paragraph 172 of the NPPF advises that great weight should be given to conserving and enhancing landscape and scenic beauty in.....Areas of Outstanding Natural Beauty (AONB).

Taking the above into account the applicant has submitted an ecological impact assessment which noted that the nearest statutory designated site is the Charwell Wetlands (Bradinch) Local Nature Reserve located approximately 3.5km to the west. This site has not been included in the assessment as it is considered to be outside the zone of influence of the proposed solar farm. The majority of the site is arable fields with grazing semi improved grasslands. In addition many of the fields are delineated by managed hedgerows of limited species.

In terms of fauna a number of bats species have been recorded in the area, with hedgerows providing ideal foraging areas but there are limited suitable sites for roosting bats. The area is generally used for bat commuting. Evidence of badger setts were found on the site and the fences for the solar farm will be badger friendly to allow for the free movement of badgers. No records of Great Crested Newts were found and there were limited findings of reptiles due to the managed nature of the land. The survey found a number of different bird species using the hedgerows, which were also found to be home to dormice. The report also included a number of mitigation measures and concerns were raised by the Council's independent ecologist about the report and the mitigation measures.

The applicant subsequently submitted a breeding bird survey which identified a number of notable species to be found on the development site. These included stock dove, dunnoek*, willow warbler, reed bunting*, mallard, skylark*, song thrush* and house sparrow. Those

birds with an asterisk are identified as rare and threatened species. It should be noted that all wild birds, nesting sites and eggs are protected under the Wildlife and Countryside Act 1981. The report identified that after the construction of the solar farm, the whole site area will provide a relatively undisturbed habitat for the at risk species, particularly the skylark. The report also recommended that the no construction work should take place in the bird breeding season (March to August) and this is reiterated in the informative to the proposed decision notice.

The applicant has also submitted a revised biodiversity management plan and one of the positive steps of this plan is to appoint an Ecological Clerk of Works to advise on and supervise ecological mitigation and enhancement works during construction and operation as required and a licensed dormouse ecologist will be present to supervise hedgerow removal works where undertaken. Initially site visits will be undertaken on a monthly basis during the last week of each month that the site is under construction.

This submitted plan as well describing the mitigation measures similar to the previous document, also provides ecological enhancement measures. The design and long-term management of the land seeks to maintain and improve functionality through protecting and enhancing potentially important wildlife corridors i.e. through creation and maintenance of native species hedgerows within and around the site. New hedgerow planting proposed as part of the development as shown on the *Site Layout and Planting Proposals Plan* includes approximately 600m of new mixed native species hedgerow creation and strengthening infill of existing gappy sections of hedgerow. This will provide well-structured hedgerows of value for wildlife around the Site. Protection of hedgerows and mature trees on Site or along access routes and adjacent land will safeguard potential roost sites and maintain foraging and commuting opportunities for bats.

Other enhancement measures include the planting of a native species woodland copse area on the eastern boundary, which will provide an effective boundary to the adjoining residential. As the panels are raised from the ground a diverse grassland habitat can be created, using a variety of native species, which will change the site to meadow grassland. This allows for sheep grazing between and under the solar panels.

Examples of fauna enhancement include 10 bird boxes and 10 bat boxes to be installed in tree locations around the site. In addition 10 dormice boxes will be placed in hedgerows. The security fencing will be lifted in various locations to allow the badgers movement in and around the site.

The development of the biodiversity interest of the site will be monitored over time by a suitably experienced ecologist. A walkover monitoring survey will be undertaken in years 2, 3, 4, 5, 10 and 15 after construction. This will involve an inspection of the hedgerows, trees, grassland and any other ecological features to ensure that they are being managed in a manner suitable for the enhancement of wildlife interest. Bird and bat boxes will also be checked. The results of these monitoring surveys will be used to inform future changes in management and the need or otherwise to replace missing bat/bird boxes. The management plan will be amended if necessary based on the monitoring recommendations.

It is considered that the revised biodiversity management plan addresses many of the concerns about the habitat and the biodiversity of the site. Overall it is concluded that the proposal would not result in unacceptable harm to protected species or biodiversity in general subject to the use of mitigation and enhancement measures. In addition this development will not harm the character or the appearance of the Blackdown Hills AONB. The proposal is considered to be acceptable and in accordance with Policies S9 and DM2 of the Local Plan.

7) Loss of Agricultural Land

Policy S1 of the Local Plan states that proposals for renewable energy and low carbon development must consider the quality and productivity of the best and most versatile agricultural land. Policy S9 refers to preserving and productivity of the best and most versatile agricultural land where possible. Policy DM2 which relates directly to renewable energy, states that proposals must demonstrate that impacts are or can be made acceptable in relation to quality and productivity of the best and most versatile agricultural land (grades 1, 2 and 3a).

Paragraph 170 of the NPPF states that:

"Planning policies and decisions should contribute to and enhance the natural and local environment by....b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land..."

The stance taken by the NPPG is to encourage the effective use of land by focusing large scale solar farms on previously developed land and non-agricultural land Paragraph 13 of the NPPG goes on to state where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.

The NPPF defines the best and most versatile agricultural land as being land in Grades 1, 2 and 3a of the Agricultural Land Classification and the implication is that development should use the poorer quality land paragraph. The application is supported by an Agricultural Land Classification report (ALC) undertaken by qualified expert, who confirms that the proposal would utilise 17 fields making up 61ha, with 15 fields of Grade 3b, 1 fields of Grade 4 and 1 field of Grade 5. This means that the site comprises of, at best moderate quality agricultural land, to poor quality and very poor quality agricultural land; therefore the proposal does not result in the loss of good quality agricultural land, and there would be no objection to the use of this land with Grades 3b, 4 and 5 of Agricultural classification.

As the site area for the proposal will cover 61ha, it can only be described as substantial. The solar farm would be in situ for a 40 year period and would not result in the long term loss of agricultural land, and the resource of the land would be available for the next generations. The solar panels are to be secured to the ground with steel piles with limited soil disturbance, which means that the panels can be removed in the future with no permanent loss of agricultural land quality. It should be noted that the construction of the substation and other buildings may permanently impact the agricultural land, but this would be for relatively small areas within the whole development area. The proposal also includes the planting of grassland around the solar panels for grazing of animals and this would allow for a continual agricultural use during the anticipated 40 year operation of the solar farm.

Overall it is concluded that it would be difficult to justify a refusal of the proposal on the grounds of the impact upon the agricultural land; and that the proposal complies with policies S1, S9 and DM2 of the Local Plan and national policy in respect of agricultural land.

8) Archaeology

Following the receipt of further information, the County Historic Environment Team has raised no objections to the proposal subject to the use of a condition to secure a written scheme of investigation, setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets and archaeological interest. This pre-commencement condition is required to ensure that the archaeological works are agreed

and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works. Subject to the use of this condition, it is not anticipated that the proposal would result in any harm to archaeological heritage assets, and that the proposal would be in accordance with Policy DM25 of the Local Plan and the guidance contained in the NPPF.

9) Length of temporary consent

The solar farm would be a temporary use of the land as the equipment would be removed and returned to its former condition when the development is decommissioned following 40 years from the date of the first export of electricity to the electricity grid. In the past, 25 year permissions have been sought for solar farm developments. As far as I am aware there is no government time limits imposed on the lifetime of a solar farm. Previously 25 year permissions were imposed as this was the warranty period offered by manufacturers and was used for modelling the viability of solar projects by developers.

The understanding now is that solar farms are now more efficient for a longer period, which has resulted in extended warranty periods, and improved the business models for companies maintaining the solar farm. Whilst this is not necessarily a material consideration, the economic and environmental benefits of increasing the length of operation of the solar farm are improving which means that the community would have the benefit of renewable energy production for a longer period.

It is suggested that any approval of this application should be subject to a condition which requires the permission to be implemented within 3 years, the timeframe for the construction of the solar farm and its commissioning, and a temporary period for the operation of the solar farm. It is also suggested that a conditions is needed to ensure the restoration of the landscape takes place when the solar farm is decommissioned and the equipment removed.

Planning Balance and Conclusion

There is an in-principle support for renewable energy schemes in Policy DM2 of the Local Plan and the NPPF provides that the benefits of proposals in terms of renewable energy can be material considerations. The 49.9MWp (Mega Watt peak) would provide electricity equivalent to the average electrical needs of 10,077 homes in the Mid Devon area. This would be a large scheme that would provide a valuable contribution to cutting greenhouse gas emissions and this is a material consideration which warrants considerable weight. The proposal would support the Government's targets in terms of renewable energy provision to meet international commitments. Furthermore it would allow Mid Devon to address the Climate Emergency in conjunction with Devon County Council.

Also there would be ecological enhancement of the application site with species diverse meadows and additional and improved habitats such as new hedgerows and belts of rough grassland. This would accord with national guidance that biodiversity improvements are to be encouraged around arrays.

The proposal would support economic growth in this part of Mid Devon area by providing an additional source of income and so increasing the financial security of farming enterprises. Thus it would represent farm diversification which is supported by the NPPF. The agricultural function of the land would also continue by means of sheep grazing and the site would be used effectively for agriculture as well as for electricity production. There would be a financial investment in the local economy with employment opportunities.

The application has been found to be acceptable with regards to impact on trees/hedgerow, residential amenity, heritage, archaeology, highways and not resulting in any increased flood risk.

Overall, the proposed solar farm would result in a substantial benefit in terms of energy production and I am satisfied that no significant adverse impacts have been identified which would outweigh this benefit. The proposed development is acceptable and would represent sustainable development in accordance with Mid Devon Local Plan 2013 – 2033 and the national guidance.

RECOMMENDATION

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

REASON FOR DECISION

As a renewable energy facility, the proposal's location within the countryside is acceptable in principle according to Policy DM2 of the Mid Devon Local Plan. The limited visual harm that the proposal would give rise to would be outweighed by the environmental benefits of allowing it. It is considered that the proposal would not result in unacceptable harm in terms of local and residential amenity; highway safety; surface water drainage arrangements; flooding risk; ecology or in relation to the availability of agricultural land.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The permission hereby granted shall be limited to a period of 40 years from the date when electricity is first exported from the solar panels to the electricity network (The First Export Date). Written notification of the First Export Date shall be given to the Local Planning Authority within 14 days of the event occurring
3. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice
4. Within 3 months of the solar array ceasing to be used for the generation of electricity, or the end of this permission, whichever is the earliest, the array, and associated infrastructure, shall be permanently removed from the land, and the site restored to its former condition in accordance with details to be submitted to, and approved in writing by, the local plan authority prior to these works being carried out.
5. The Solar PV Panels hereby permitted shall not be erected until samples of the materials to be used in the construction of the solar panel array have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved samples and retained as such thereafter.
6. The site access roads shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 6.00 metres back from its junction with the public highway
7. Visibility splays shall be provided, laid out and maintained for that purpose at the Primary site access where the visibility splays provide inter-visibility between any points on the X and Y axes at a height of 0.60 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway shall be 2.40 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 43.0 metres in a southern direction and as identified on the access plan in the other direction.
8. Visibility splays shall be provided, laid out and maintained for that purpose at the other site accesses in accordance where the visibility splays provide inter-visibility between any points on the X and Y axes at a height of 0.60 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.40 metres and the visibility distances along the nearer edge of the carriageway of the public highway

- (identified as Y) shall be 33.00 metres in on coming direction and 33.00 metres to the centre line in the offside direction.
9. No other part of the development hereby approved shall be commenced until the until the access, parking facilities, commercial vehicle loading/unloading area, visibility splays, turning area and access drainage have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times
 10. No development shall take place on site until the off-site highway condition surveys have been undertaken and approved in writing by the Highway Authority.
 11. No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.
 12. No development shall take place until a detailed scheme of ecological mitigation and enhancement measures, in accordance with the recommendations of the submitted Biodiversity Management Plan by avian ecology v4 (Dated 20/07/2020), has been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include proposals for protective measures during the construction process; external lighting; and planting, including a timetable for implementation. The development shall thereafter be undertaken in accordance with the approved details.
 13. The Solar PV Panels hereby permitted shall not be erected until details, on a suitably scaled plan, of the soft landscape works have been submitted to, and approved in writing by, the local planning authority. The details to be submitted shall include planting plans, including specifications of species, sizes, planting centres, number and percentage mix, and details of seeding or turfing. The development shall not be carried out other than in accordance with the approved details.
 14. All agreed landscaping comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the erection of the panels, and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All landscape works shall be carried out in accordance with the guidance contained in British Standards 8545: 2014.
 15. The Solar PV Panels hereby permitted shall not be erected until the full details of the works to the hedges including species adjacent to the residential properties, as shown on Figures 11 and 12 of the Glint and Glare Study Page Power Ltd v 4 dated 16th August 2019, have been submitted and approved in writing by the Local Planning Authority. The works be carried out in the first planting season after the written approval and thereafter retained and maintained.
 16. The development hereby approved shall not be brought into use until the surface water drainage arrangements have been provided in full, in accordance with details which shall previously have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall thereafter be retained for the life of the development.
 17. The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment report v5 prepared by Calibro, and issued on 30th November 2020. The mitigation measures shall be fully implemented in accordance with the timing/phasing arrangements detailed within the Flood Risk Assessment. The approved measures shall thereafter be retained for the life of the development.
 18. No development including any site clearance or groundworks of any kind shall take place within the site until a scheme to minimize the risk of offsite flooding caused by surface water run-off and groundwater during construction works has been submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the agreed scheme.

19. No external form of illumination of the site shall be undertaken other than low level lighting required on ancillary buildings during occasional maintenance and inspection visits.
20. The installation or construction of all plant, equipment, and buildings shall be undertaken using a colour scheme which has previously been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be retained in accordance with the approved colour scheme.
21. Prior to the commencement of development on each relevant phase a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. In respect to the protection of residential amenity and the local environment, the CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. The following specific details should also be included in respect to highway safety:
 - (a) the timetable of the works;
 - (b) daily hours of construction;
 - (c) any road closure;
 - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
 - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
 - (h) hours during which no construction traffic will be present at the site;
 - (i) the means of enclosure of the site during construction works; and
 - (j) details of wheel washing facilities and road sweeping measures with the respective obligations
 - (k) The proposed route of all construction traffic exceeding 7.5 tonnes.
 - (l) Details of the amount and location of construction worker parking.
 - (m) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To establish the commencement date for the 40 year operational life of the solar farm.
3. For the avoidance of doubt and in the interests of proper planning.
4. For the avoidance of doubt and to establish the duration of the planning permission and in the interests of the visual appearance of the landscape once the plant is redundant in accordance with policy DM2 of the Mid Devon Local Plan 2013 – 2033.

5. In the interests of local character, and in accordance with Policies DM2 and S9 of the Mid Devon Local Plan 2013 – 2033.
6. To prevent mud and other debris being carried onto the public highway.
7. To provide adequate visibility from and of emerging vehicles.
8. To provide adequate visibility from and of emerging vehicles.
9. To ensure that adequate facilities are available for traffic attracted to the site.
10. To minimise the impact of the development on the highway network in accordance with the NPPF.
11. To ensure, in accordance with Policy DM27 and paragraph 199 of the National Planning Policy Framework (2019), that an appropriate record is made of archaeological evidence that may be affected by the development.
12. In the interests of local character, and in accordance with Policies DM2 and S9 of the Mid Devon Local Plan 2013 - 2033
13. In the interests of local character, and in accordance with Policies DM2 and S9 of the Mid Devon Local Plan 2013 - 2033
14. In the interests of the visual amenity of the area and in accordance with Policies DM2 and S9 of the Mid Devon Local Plan 2013 – 2033.
15. To protect the amenities of the adjoining residential properties and in accordance with policy DM2 of the Mid Devon Local Plan 2013 - 2033.
16. To prevent the increased risk of flooding by ensuring the satisfactory means of surface water disposal is incorporated into the design and build and that the principles of sustainable drainage are incorporated into this proposal and maintained for the life of the development in accordance with policy DM2 of the Mid Devon Local Plan 2013- 2033.
17. To prevent the increased risk of flooding by ensuring the satisfactory means of surface water disposal is incorporated into the design and build and that the principles of sustainable drainage are incorporated into this proposal and maintained for the life of the development in accordance with policy DM2 of the Mid Devon Local Plan 2013- 2033.
18. To prevent the increased risk of flooding by ensuring the satisfactory means of surface water disposal is incorporated into the design and build and that the principles of sustainable drainage are incorporated into this proposal and maintained for the life of the development in accordance with policy DM2 of the Mid Devon Local Plan 2013- 2033.
19. To minimise light pollution in this rural area and in the interests of biodiversity and ecology, in accordance with policies S9 and DM2 of the Mid Devon Local Plan 2013 – 2033.
20. In the interests of local character, and in accordance with Policies DM2 and S9 of the Mid Devon Local Plan. 2013 - 2033
21. To minimise the impact upon the highway network and the neighbouring residential properties during the construction period.

INFORMATIVES

Protected Species

All bats are protected by law. If bats are found, works must immediately cease and further advice be obtained from Natural England and / or a licensed bat consultant. Works must not resume until their advice has been followed. Nesting birds are also protected by law. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds and reptiles all of which are protected under the Wildlife & Countryside Act 1981 (as amended). Where works are to involve cutting or clearance of shrubs, hedges or other vegetation, which can form nesting sites for birds, such operations should be carried out at a time other than in the bird breeding season (which lasts between 1 March - 15 September inclusive in any year). Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.

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

Contact for more Information: Eileen Paterson Development Management Manager,
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Circulation of the Report: None

List of Background Papers: All documents submitted in relation to application
19/01697/MFULL and development plan documents

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

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

<i>Item</i>							<i>Expected Decision Level</i>	
<i>No.</i>	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>	<i>Delegated</i>	<i>Committee</i>
1	2	15/09/2021	21/00967/MFUL	Erection of 8 affordable dwellings and 2 affordable flats with associated road drainage and landscaping works	Land at NGR 270775 112743 (West of School Close) Chawleigh Devon	Mr Arron Beecham	DEL	

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