

Public Document Pack

Committee Administrator
Sally Gabriel
E-Mail: sgabriel@middevon.gov.uk

PLEASE NOTE: - this meeting will take place at Phoenix House and members of the Public and Press are encouraged to attend via Zoom wherever possible. The attached Protocol for Hybrid Meetings explains how this will work. Please do not attend Phoenix House without contacting the committee clerk in advance, in order that numbers of people can be appropriately managed in physical meeting rooms.

Join Zoom Meeting

<https://zoom.us/j/98993938331?pwd=WlNiVUdXVnlKWENIRHIUa3FXaGdGQT09>

Meeting ID: 989 9393 8331

Passcode: 605458

One tap mobile

08002605801,,98993938331#,,,,*605458# United Kingdom Toll-free

08003582817,,98993938331#,,,,*605458# United Kingdom Toll-free

Dial by your location

0 800 260 5801 United Kingdom Toll-free

0 800 358 2817 United Kingdom Toll-free

0 800 031 5717 United Kingdom Toll-free

Meeting ID: 989 9393 8331

Passcode: 605458

MID DEVON DISTRICT COUNCIL

PLANNING COMMITTEE

A MEETING of the **PLANNING COMMITTEE** will be held in the Phoenix Chambers, Phoenix House, Tiverton on Wednesday, 3 November 2021 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 1 December 2021 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

STEPHEN WALFORD

Chief Executive

26 October 2021

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

Note: A maximum of 30 minutes is allowed for this item.
- 3 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT**
Councillors are reminded of the requirement to declare any interest, including the type of interest, and reason for that interest at each item.
- 4 **MINUTES OF THE PREVIOUS MEETING** *(Pages 5 - 16)*
Members to consider whether to approve the minutes as a correct record of the meeting held on 6th October 2021.
- 5 **CHAIRMAN'S ANNOUNCEMENTS**
To receive any announcements the Chairman may wish to make.
- 6 **DEFERRALS FROM THE PLANS LIST**
To report any items appearing in the Plans List which have been deferred.
- 7 **THE PLANS LIST** *(Pages 17 - 152)*
To consider the planning applications contained in the list.
- 8 **MAJOR APPLICATIONS WITH NO DECISION** *(Pages 153 - 154)*
List attached for consideration of major applications and potential site visits.
- 9 **PLANNING PERFORMANCE REPORT** *(Pages 155 - 162)*
To receive the planning performance report from the Interim Development Management Manager.

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. 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/s23135/MeetingProtocolUpdateOct2021nextreviewFeb2022.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

Public Wi-Fi is available in all meeting rooms.

This page is intentionally left blank

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 6 October 2021 at 2.15 pm

Present

Councillors

P J Heal (Chairman)
Mrs F J Colthorpe, G Barnell, S J Clist,
L J Cruwys, Mrs C P Daw, R J Dolley,
C J Eginton, F W Letch and B G J Warren

Apologies

Councillor(s)

E J Berry

Also Present

Councillor(s)

D R Coren and Mrs M E Squires

Present

Officers:

Maria De Leburne (Operations Manager
Legal and Monitoring), Dean Emery
(Corporate Manager for Revenues, Benefits
and Recovery), Myles Joyce (Consultant
Development Management Manager),
Adrian Devereaux (Area Team Leader),
John Millar (Acting Area Team Leader),
Jake Choules (Planning Assistant), Sally
Gabriel (Member Services Manager) and
Carole Oliphant (Member Services Officer)

100 **APOLOGIES AND SUBSTITUTE MEMBERS (0.03.09)**

Apologies were received from Cllr E J Berry.

101 **ELECTION OF VICE CHAIRMAN (0.03.23)**

Cllr L J Cruwys was duly elected Vice Chairman of the Planning Committee for the remainder of the municipal year.

102 **HYBRID MEETINGS PROTOCOL (0.04.56)**

The Committee had before it, and **NOTED**, the *Hybrid Meetings Protocol.

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

103 **PUBLIC QUESTION TIME (0.05.23)**

1. **Neil Davis**, referring to no 3 on the Plans List, provided a statement which was read out by the Chairman which stated:

In relation to the application 21/00617/FULL. Creedy Park is designated as being on the 'Local Register of Historic Parks and Gardens'. Please could someone from the committee explain what kind of protection, process or consideration is given to this designation when evaluating planning applications within the parkland boundary?

2. **Alan Murray**, again referring to no 3 on the Plans List, stated:

1 The site plan as included in the Committee Report only shows a small indicative rectangle with hatching to indicate the site and not as shown on the Site Location Plan - Revised dated 30/06/21 as submitted by the applicant and posted on to the Public Access list of documents on 15/09/21.

As this plan is extremely misleading can you please ensure that all members receive a copy of this latest correct plan clearly showing the buildings, site area and access track in advance of the meeting?

2 The proposed development is “for an agricultural building relating to the renewable heat installation business section of the applicant’s business.” We understand the applicant’s main business is making cider.

Can you please clarify where the crossing point is between agricultural use and business use and how it affects planning law?

3 Can you please explain why when the ‘Constraint’ of Historic Designed Park or Garden was acknowledged on both the Permitted Development and Full planning applications that Devon Gardens Trust were not consulted on either application?

4 In Section 3 Ecology it is stated that the proposed site area is ‘likely’ less than 0.1 hectare and therefore does not meet the Wildlife Trigger point.

When measured off the applicant’s latest site plan the site area, excluding the access track, measures at 0.2 hectares. Why was this missed?

5 In Sandford Parish Council’s submission it reflected “Concerns from residents at Creedy Park on the creation of heavy agricultural traffic on to the busy Crediton to Sandford main road.”

Although the Highways Authority had no comments to make in this matter.

In the applicant’s agent’s email dated 30 July the applicant has listed the machinery intended to be stored on the site, in addition to the storage of biomass etc. This list appears to show about 9 large self powered tractors and mules to be stored inside plus numerous trailers and toppers to be stored outside.

The use of this equipment may be seasonal but must surely have an impact getting onto and off the main road?

104 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (0.09.46)**

Members were reminded of the need to make declarations where appropriate

105 **MINUTES OF THE PREVIOUS MEETING (0.09.58)**

The minutes of the meeting held on 22nd September were agreed as a true record and duly **SIGNED** by the Chairman

106 **CHAIRMAN'S ANNOUNCEMENTS (0.10.40)**

The Chairman had no announcements to make.

107 **DEFERRALS FROM THE PLANS LIST (0.10.59)**

There were no deferrals from the Plans List.

108 **THE PLANS LIST (0.11.03)**

The Committee considered the applications on the *Plans List

Note: *List previously circulated and attached to the minutes

Applications dealt with without debate.

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

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

- a) Application 20/01588/MFUL - Erection of storage building with first floor office (512sqm) following demolition of barn and erection of grain store (498sqm) and change of use of land to car and lorry park at Crediton Milling Co Ltd, Fordton Mill, Crediton*** be approved subject to the conditions as set out in the report

(Proposed by the Chairman)

Reason for the decision: As set out in the report and confirmation that the amended condition detailed in the update sheet was not now required due to a further response from the Environment Agency

Notes:

- i. Cllr S J Clist declared a personal interest as he had conducted business with the applicant in the past
- ii. Cllr G Barnell declared a personal interest as he had visited the site after a fire
- iii. The following late information was provided:

5//10/21

The following response has been received from the Environment Agency – 5th October 2021:

Environment Agency position

Following our previous response (ref. DC/2020/121794/03-L01, dated 13 September 2021), we confirm that we remove our previous objection subject to inclusion of a condition.

Reason

We acknowledge receipt of drawing CMC-001-211 PO1 'PROPOSED NEW BUILDINGS FINISHED FLOOR LEVELS' (dated September 2021) by Kewillijoe Structural Designers which show proposed finished floor levels (FFLs) of the proposed buildings, namely 40.6mAOD (metres above Ordnance Datum) for the proposed 'BARN/OFFICE' and 40.1mAOD for the proposed 'GRAIN STORE' and thus a comital to provide floor levels above existing ground levels. If in the event the above FFL's cannot be achieved then a limited reduction of 300mm below the above would still ensure that in overall terms the requirements of the National Planning Policy Framework (NPPF) would be met.

Condition requirement and reasoning

We use this opportunity to inform all relevant parties that the area of the proposed car/lorry parking as shown on drawing CMC-001-212 PO1 'PROPOSED NEW PARKING LAYOUT CARS AND LORRIES' (dated September 2020) by Kewillijoe Structural Designers would be on an area of functional floodplain, this area being on the cusp of flooding in the relatively minor flood of November 2012. Therefore, it is vitally important that the functionality of this area is not compromised by the development for which permission is sought. Any raising of ground levels in the proposed car park area, and/or associated landscaping, would increase flood risk locally, including the Mill complex and such is contrary to policy within the NPPF and would be unacceptable.

The suggested wording for our recommended condition is set out below.

Condition

No development approved by this permission shall commence until such time that the applicant has submitted, and the planning authority approved in writing, details of the undeveloped and proposed levels of the car/lorry park area as shown on drawing CMC-001-212 PO1 'PROPOSED NEW PARKING LAYOUT CARS AND LORRIES' (dated September 2020) by Kewillijoe Structural Designers, and any associated landscaping.

Reason

To prevent a loss of functionality of this area of floodplain thus ensuring the proposal would not increase flood risk elsewhere.

b) Application 21/00855/FULL - Erection of a workshop and store for woodland and land management at Posbury Clump, Posbury, Devon.

The Area Team Leader outlined the application by way of a presentation highlighting site location plan, block plan, floor plans, elevations, aerial photographs and photographs of the site.

The Officer explained that Natural England was satisfied that the development was unlikely to impact on the Site of Special Scientific Interest (SSSI) and that the County Ecologist had raised no objections. A woodland management plan had been

provided and the building would have no detrimental effect on neighbouring properties.

Consideration was given to:

- The objectors statement which included that the application was recreational, was not justified, ran contrary to the National Planning Policy Framework, there was no legal protection for the woodland and the application concerned a SSSI
- The agents statement which included that the officers had provided clear recommendations and that none of the statutory consultees had raised any objections and the application had Parish Council support. Natural England welcomed the application and the proposed building was distant from the ecological site. The client was proud to be the custodian of the site.
- The Ward Members statement that he was asked to call in the application by an objector but he would not speak for or against the application
- Historic England were not consulted because they were not a statutory consultee but Natural England were and they had been consulted and had raised no objections
- The officers view that the dark forest conditions could be enforced.

RESOLVED that planning permission be granted as per the Interim Planning Development Management Manager subject to conditions as set out in the report

(Proposed by Cllr R J Dolley and seconded by Cllr L J Cruwys)

Reason for the decision: As set out in the report

Notes:

- i. Cllr F W Letch declared a personal interest as he had attended a Parish Council meeting where the application was discussed
- ii. Cllrs Mrs F J Colthorpe, G Barnell, 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 received correspondence from objectors to the application
- iii. Cllr S J Clist requested that his vote against the decision be recorded
- iv. Simon Ford provided a written as the objector which was read out by the Chairman
- v. Duncan Hartley spoke as the agent
- vi. Cllr D Coren spoke as the Ward Member

c) Application 21/00617/FULL - Erection of a general purpose agricultural building at Land at NGR 282822 101624 (Creedy Park), Crediton, Devon

The Area Team Leader outlined the application by way of a presentation highlighting the site plan, elevations, floor plan and photographs to and from the site.

The officer explained that Creedy Park was an historic park and that a previous application to build a smaller agricultural building had been granted under permitted

development. The new application consisted of a building which was larger than permitted development allowed.

It was understood that the farm holding comprised of 114 acres. It was clarified that 40 acres were owned by the application whilst the remainder were rented. Part of the enterprise included providing logs for a biomass boiler relating to the wider enterprise. The building was proposed to store the logs to ensure that they remained dry, which was a legal requirement of the business. This was therefore considered a reasonably necessary function for an agricultural building in order to support the farming enterprise.

The officer confirmed that both Devon Garden's Trust and the Council's Conservation Officer had raised concern over the proposals with the Conservation Officer also noting that a heritage statement should have been provided to allow for the full assessment to the impact on the heritage asset of the Park. The Devon Gardens Trust had also raised concern to the proposed landscaping which would impact upon the openness of the parkland.

He explained that the officer recommendation was that of refusal because the Local Planning Authority was of the opinion that by means of its scale, siting and design, the proposed building was unacceptable for this countryside location within the sensitive historic setting of Creedy Park which was on the local list for Historic Park and Garden. Insufficient information had also been submitted to assess the potential harm to the two nearby listed buildings currently known as Kerswell Cottage and West Lodge. Therefore the proposal was considered to harm the character of the area without sufficient justification for the development. The proposed development was therefore considered to be contrary to policies S14, DM1, DM20 and DM25 of the Mid Devon Local Plan (2013-2033).

In response to questions asked at public question time the officer provided the following responses:

- Creedy Park was on the local register for parks and gardens not the national list like Shobrooke Park but it is of local and regional importance. National Planning Policy Framework states that non designated heritage assets 'the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or non-directly that effect non designated heritage assets a balanced judgement will be required having regard to the scale of any harm or loss of any significance to the heritage asset. Local Planning Authorities should not permit the loss of the whole or part of a heritage asset without taking reasonable steps to ensure that the new development will proceed after the loss has occurred'
- The correct plans had been included within the presentation
- Section 336 of the Town and Country Planning Act 1990 defines 'agriculture' as including: 'horticulture, fruit growing, seed growing, dairy farming; the breeding and keeping of livestock. Therefore, cider making is considered to fall within this definition. It is understood that the renewable energy is used to support the farming/cider making enterprise, however, the LPA did not find that this justification was sufficient with regard to policy DM20 hence recommending refusal for this application. It should be noted that this is a full planning application rather than a prior notification where the case needs to be

made that the building is reasonably necessary for the purposes of agriculture whereas under a full planning application alternative countryside uses can be considered.

- There is no requirement to consult on the prior notification applications. As for the application before committee, Devon Gardens Trust and the Conservation Officer were consulted and their comments have been considered.
- If an application is greater than 0.1 hectares, it is down to the LPA to be 'reasonably certain that there will be no impact on protected or priority habitats and species' before requesting an ecology appraisal. The area for the building and access comes to approx. 800sqm so under 0.1ha. However, the red line on the plan includes the hedgerow etc which takes it over 0.1ha. It should also be noted that the access was approved under a prior notification. We therefore do not consider that the erection of a new building will have a significant impact on such species and we are consistent with this approach for other agricultural buildings.
- It was considered that such farm machinery was likely to be already used by the holding and the erection of a further building to store the machinery would not significantly increase traffic movements to justify this being included as a reason for refusal

Consideration was given to:

- The objectors statement which included that she had lived at West Lodge for 20 years and it was grade II listed, the park was grazing parkland and the statutory consultees had objected. She had spoken to a majority of residents and they welcomed the officers recommendation
- The applicants statement which included the need to store machinery and wood on their own land, that they owned Sandford Cider and were the only residents who made a living from the site, that if refused they would go ahead with the previous permission which had been granted and there it was a choice between 2 barns on the site and he urged Members to pick to barn the business needed
- The views of the Ward Member who stated that 'Creedy Park is a historic and natural asset for Sandford and surrounding areas. This asset is also — or should also — be a constraint when it comes to planning applications. I believe it is for full planning applications, but unfortunately not for permitted developments. A heritage impact assessment should have been submitted, and the Devon Gardens Trust should have been consulted. Indeed, they see it as a serious concern that they weren't. There are trees and habitats in the park that are of a unique and important significance, and these have not been properly taken into account. Kerswell Cottage and West Lodge are Grade II listed buildings, and their proximity to the proposed building will cause them (and others) a detrimental visual impact. Many residents are worried too about a potential increase in heavy traffic, over what is a privately-maintained drive. There are options for places to build a new agricultural building in the area, but Creedy Park shouldn't be one of them. I therefore support the refusal recommendation."
- The views of the second Ward Member who stated that if Members were minded to refuse that they ask for a site visit as the current application was in a different position to the permitted development. She had heard what the applicant had to say and that the storage capacity would be for hay, apples

and wood. She did not think that the impact was that bad and she understood why the applicant had applied for a bigger building

- Confirmation that approval would not result in two barns on the site as the application sat over the plans for the permitted development
- Confirmation that the applicants agent had been asked to provide a heritage statement so that the conservation officer could assess the impact of the development but as this had not been provided they could not support the application
- Members views that the although they wanted to protect the countryside there was already a pre notification and the new application was out of site and supported the expansion of a local business
- Members views that the park was not openly accessible to the general public and if they could not enjoy the views how would the application impact them
- Members views that they were encouraged that a new Devon Bank would be provided
- Members views that the application would have less of an impact than the permitted development
- Members views that the applications benefit of supporting a local rural business outweighed the harm to the views from the site
- Members view that the Highways Authority had no concerns with regards to increased traffic movements.

RESOLVED that planning permission be granted and delegated authority be given to the Interim Planning Development Management Manager to apply appropriate conditions to include:

1. A condition which would ensure that the building was lowered into the ground as much as practical

(Proposed by Cllr Mrs F J Colthorpe and seconded by Cllr G Barnell)

Reasons for the decision:

1. The application would create less of an impact than that which had prior notification and would therefore be built. There would be a reduction of impact on the park and the amenity of those who could see it; and
2. The application was developing a legitimate business and creating employment in the rural area and was compliant with local policies

Notes:

- i. Cllr F W Letch declared a personal interest as he knew the applicant
- ii. Cllrs Mrs F J Colthorpe, G Barnell, 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 received correspondence from objectors to the application
- iii. Cllr R J Dolley requested that his vote against the decision be recorded
- iv. Jo Poulton spoke as the objector
- v. Barney Butterfield spoke as the applicant
- vi. Cllr Mrs M E Squires spoke as Ward Member

- vii. Cllr Mrs E Lloyd provided a statement as Ward Member which was read out by the Chairman
- viii. The following late information was provided:

21/00617/FULL - Erection of a general purpose agricultural building - Land at NGR 282822 101624 (Creedy Park) Crediton Devon.

29/09/21

'The Parish Council's comments have been updated, adding a paragraph that reads: "We feel that agricultural buildings within the park detracts from the beauty of the parkland. Traditionally all farming buildings were outside the park the only agricultural activities within the park were grazing and hay making."

5th October

Devon Gardens Trust understands that the above application, to which we submitted a written objection on 23rd April 2021, is to be considered by the Members of the Planning Committee on 6th October.

We would like to take this opportunity to confirm that our assessment and advice with regard to this application remains unchanged, and that we maintain our objection for the reasons set out in our previous letter:

- The visual intrusion of a large agricultural building within the otherwise open parkland landscape, to the detriment and damage of its special historic interest and character;
 - The permanent fragmentation and sub-division of the parkland by the introduction of a solid barrier in the form of a Devon hedge bank.
- We note that the applicant still does not appear to have provided the appropriate historic impact assessment. We would advise that without such information, your Authority is not in a position properly to determine this application, and we continue to advise that the proposed development would have a significant adverse impact upon the historic designed landscape of Creedy Park, which is included on the Devon Gazetteer of landscapes of regional and local significance, and which forms the designed setting of Creedy House (Listed Grade II), and which relates to, and forms the designed setting of, several other Listed structures.

We would commend the Officer's Report which accompanies this application to the close attention of members, and respectfully ask them to endorse the recommendation to refuse this adverse proposal.

We would be grateful if you could kindly confirm to the Elected Members the position of Devon Gardens Trust with regard to this application.

d) Application 21/00191/FULL - Conversion of outbuilding to holiday let and siting of 2 holiday cabins at Land at NGR 290204 109476 (Home Farm), Cadeleigh, Devon.

The Interim Area Team Leader outlined the application by way of a presentation highlighting the site plan, site location, block plan, elevations, holiday cabins and existing buildings

The officer explained that the proposed new building were tucked out of view and a number of objections had been received with regard to highways, justification and visual impact.

He confirmed that there had been no objections raised from the Highways Authority and that after a site visit to the applicant the Economic Development officer was satisfied with the scheme and had withdrawn their initial objections.

Consideration was given to:

- The objectors statement which included that he farmed directly next door and that the proposal was unpopular in the village. The access was unauthorised and if the Members approved the scheme they were condoning an offence, that the road network could not support the extra traffic and this was a threat to public safety. There was a direct threat to livestock as town trained dogs were not suitable in the countryside and that there were too many holiday lets in the area
- The agents statement which included that his client was experienced in holiday lets and the scheme had able bodied and disabled in mind. The lodges were luxury and the visual impact had been thought about, the site was not visible from the road or from neighbouring properties. His client had taken on board comments from objectors, some of which had been offensive
- Cadeleigh Parish Meeting statement which included that the application would turn the field into a hotel and the Parish did not want a hotel. The existing timber shed was only put up to be converted later on and that the applicant was not really a farmer
- The Ward Member statement which included that he was asked to call in the application by objectors concerned about visual impact and traffic concerns. He confirmed that the cabins had been moved after consultation with planning officers and he thought it caused less harm to the surrounding area. He felt that the increased traffic movements would be minimal and the offering would be high class.
- Confirmation that the extension to the existing building and access appeared to have been completed without consent but they did not form part of the application in front of Members today and that future enforcement action may need to be taken to rectify any issues
- Confirmation that the holiday lets could be used all year round and that they were going to be dog friendly not dog targeted
- The officers confirmation that Policy DM22 was a permissive policy and did not prevent development in rural locations and holiday lets tended to be in rural areas and not next to settlements.
- Confirmation from the Legal Team Leader that objectors comments about illegal development on the site were not relevant to the application in front of Members and could not be used to influence a decision
- Members views that if holiday makers were looking to get away from it all then this was the place
- Members noted that no objections had been upheld by the Economic Development Team or the Highways Authority

RESOLVED that planning permission be granted as per the Interim Planning Development Management Manager subject to conditions as set out in the report

(Proposed by Cllr Mrs F J Colthorpe and seconded by Cllr Mrs C P Daw)

Reason for the decision: As set out in the report

Notes:

- i. Cllrs Mrs F J Colthorpe, G Barnell, 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 received correspondence from objectors to the application
- ii. Cllr C J Eginton requested that his abstention from voting was recorded
- iii. Mark Ravnkilde spoke as the objector
- iv. Simon Archer spoke as the agent
- v. Mr Gough spoke for Cadeleigh Parish Meeting
- vi. Cllr R M Deed provided a statement as Ward Member which was read out by the Chairman

109 MAJOR APPLICATIONS WITH NO DECISION (02.21.26)

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

It was **AGREED** that: Application 21/01754/MARM Reserved matters for residential development of 125 dwellings (including 35% affordable housing), with public open space, landscaping and associated infrastructure following outline approval 18/00175/MOUT - Land at NGR 303288 110467 Adj Meadow Park Silver Street Willand Devon be brought to Committee and no site visit was required

Note: *list previously circulated and attached to the minutes

110 APPEAL DECISIONS (02.24.00)

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

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

(The meeting ended at 4.40 pm)

CHAIRMAN

This page is intentionally left blank

PLANNING COMMITTEE AGENDA - 3rd November 2021

Applications of a non-delegated nature

<u>Item No.</u>	<u>Description</u>
01.	21/00454/MARM - Reserved Matters (appearance, landscaping, layout and scale) for 164 dwellings with the provision of public open space, vehicular and pedestrian access, landscaping, drainage and related infrastructure and engineering works following Outline approval 14/00881/MOUT at Land East of Tiverton, South of A361, and Both North and South of Blundells Road, Uplowman Road, Tiverton. RECOMMENDATION Approve Reserved Matters subject to conditions
02.	20/01458/FULL - Erection of single storey extension to Care Home at Ashdowne Care Centre, Ashdowne House, Orkney Mews. RECOMMENDATION Grant permission subject to conditions.
03.	21/00152/FULL - Change of use from place of worship to residential dwelling together with external alterations at Gospel Hall, Peter Street, Bradninch. RECOMMENDATION Grant permission subject to conditions.
04.	21/01079/FULL - Change of use of land for the siting of a temporary worker's dwelling (log cabin) for three years (Revised Scheme) at Land at NGR 316266 116080 (Poachers Rest), Clayhidon, Devon. RECOMMENDATION Grant permission subject to conditions.
05.	21/00887/FULL - Erection of 5 dwellings with associated works following demolition of existing agricultural building at Land at NGR 278841 104538 (Linscombe Farm), New Buildings, Sandford. RECOMMENDATION Refuse permission.
06.	21/01764/TPO - Application to reduce height by 3m and canopy spread on north side by 2m of 1 beech tree (T1) and fell 2 ash trees (T2 and T3) protected by Tree Preservation Order 80/00001/TPO at Land at NGR 294817 112951, (South Of 45 Derick Road), Patches Road. RECOMMENDATION Grant consent.

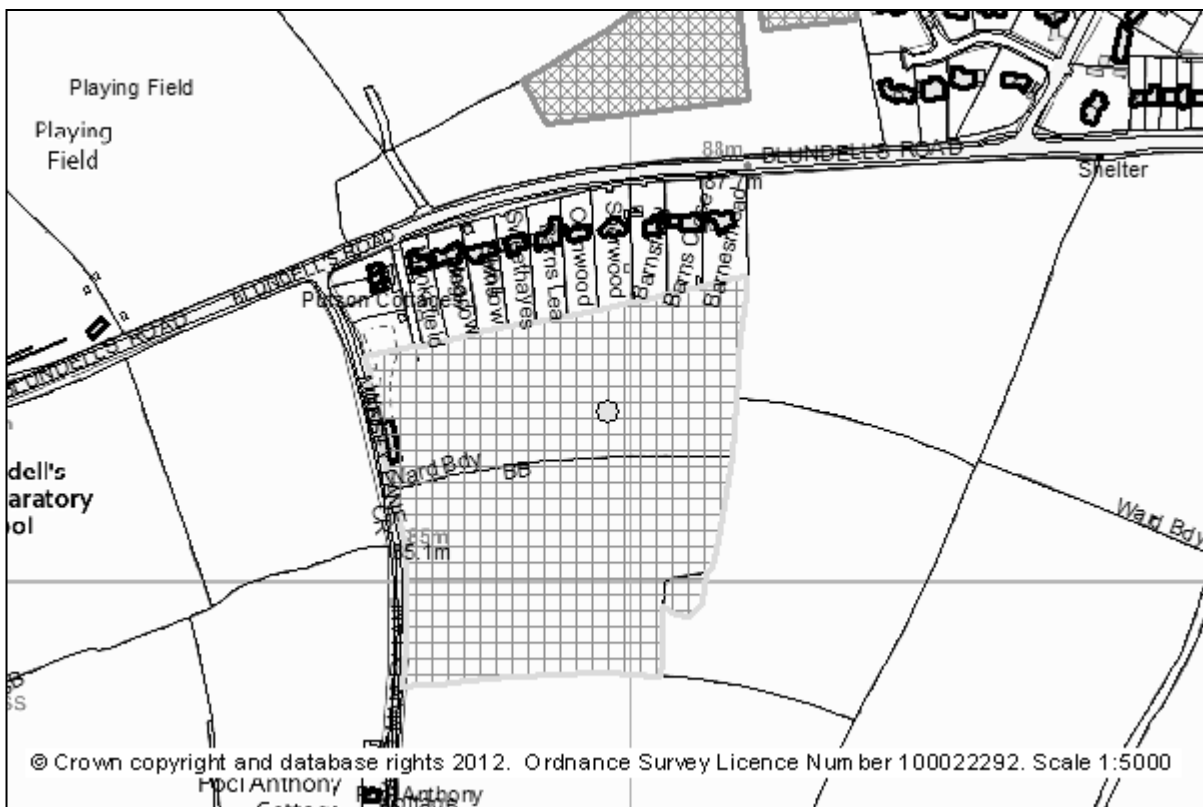
Grid Ref: 113549 : 298246

Applicant: Cattermole

Location: Land East of Tiverton, South of A361, and
Both North and South of Blundells Road
Uplozman Road Tiverton Devon

Proposal: Reserved Matters (appearance,
landscaping, layout and scale) for 164
dwellings with the provision of public open
space, vehicular and pedestrian access,
landscaping, drainage and related
infrastructure and engineering works
following Outline approval
14/00881/MOUT

Date Valid: 18th March 2021



APPLICATION NO: 21/00454/MARM

RECOMMENDATION

Grant permission subject to conditions.

PROPOSED DEVELOPMENT

This is a reserved matters application for the appearance, landscaping, layout and scale of 164 dwellings with the provision of open space, vehicular and pedestrian access, landscaping, drainage and related infrastructure and engineering works following outline planning approval (14/00881/MOUT). The application site forms part of the Tiverton Eastern Urban Extension which is allocated for mixed use development in the Adopted Mid Devon Local Plan 2013-2033. The application has been subject to pre-application discussions and has been presented to a Design Review Panel.

The application was presented at Planning Committee 28th July 2021. Committee resolved that:

The decision on the application be deferred and that delegated authority be given to the Head of Planning, Economy and Regeneration, in conjunction with Members of the Planning Committee to renegotiate with the developer with regard to the appearance, scale, characteristics, design and density of the scheme.

A Planning Committee Member, Ward Member and stakeholder meeting was held on the 6th September 2021 providing opportunity to discuss concerns associated with the proposal.

Subsequent to this meeting, revised drawings have been submitted by the applicant and are detailed in the 'Applicant's Supporting Information' (below).

This report should be read in conjunction with the report presented at Planning Committee 28th July 2021.

It is drawn to members attention that a three week period of statutory and stakeholder consultation has been provided on the submission of the revised drawings. It is not anticipated that the revisions proposed will result in a significant shift of opinion with statutory consultees. Nonetheless, verbal updates at Planning Committee will be required.

APPLICANT'S SUPPORTING INFORMATION

Affordable Housing Supporting Information

Covering letter: Amendments following Committee Adoption Plan

Engineering Strategy. Sheets 1 & 2

Drainage Strategy. Sheets 1 & 2

Swept path Analysis- fire tender

Swept path analysis - refuse vehicle

Street Scene and Section

Apartment 1 (Plots 148-456): plans and elevations

Apartment 2 (Plots 32-37): plans and elevations

Detailed Landscape Design – public open space (Sheets 1-8)

Informal Play Space

Detailed Landscape Design – residential plot planting

House Types Floor Plans and Elevations
Planning Layout
External Materials Layout
Boundary Enclosures Layout
Storey Heights Layout
Refuse Collection Layout
Affordable Housing Layout
Meter Box Location Layout
Land Ownership Layout
Parking and EV Charging Layout
M (4)2 Compliance Plot Plan
Site Location Plan

RELEVANT PLANNING HISTORY

Please refer to the report presented at Planning Committee 28th July 2021.

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan (2013-2033)

S1 Sustainable Development Priorities
S2 Amount and Distribution of Development
S3 Meeting Housing Needs
S4 Ensuring Housing delivery
S5 Public Open Space
S8 Infrastructure
S9 Environment
S10 Tiverton

TIV1 Eastern Urban Extension
TIV2 Eastern Urban Extension transport provision
TIV3 Eastern Urban Extension environmental protection and green infrastructure
TIV4 Eastern Urban Extension community facilities
TIV5 Eastern Urban Extension phasing

DM1 High quality design
DM2 renewable and low carbon energy
DM3 Transport and air quality
DM4 Pollution
DM5 Parking
DM23 Community facilities
DM25 Development affecting heritage assets
DM26 Green infrastructure in major development

INFORMATIVES

Site allocation under the Adopted Local Plan 2013-2030
Masterplanned under the Tiverton Eastern Urban Extension Masterplan Supplementary Planning Document (2018)
Tiverton EUE Design Guide (2016)
Refuse Storage for New Residential Properties SPD
Parking SPD
Meeting Housing Needs SPD
Open Space SPD
National Planning Policy Framework 2021

CONSULTATIONS

To be read in conjunction with consultation comments presented at Planning Committee 28th July 2021:

DEVON CORNWALL & DORSET POLICE – 7 October 2021

The relevant additional information and revised drawings are noted and supported.

LOCAL LEAD FLOOD AUTHORITY – 15 October 2021

No in-principle objections to the above planning application, from a surface water drainage perspective. It is understood that the changes have minimal if any impact on the proposed drainage strategy so we have no objection to the above application.

DEVON COUTY COUNCIL HIGHWAY AUTHORITY – 19 October 2021

The Head of Planning, Transportation and Environment on behalf of Devon County Council, as local highway authority, has no objection to the proposed development.

Further revised Drawings have been submitted to show changes on the internal layout. Previous comments apply to the revised Drawings.

If it is the applicants intention to offer any of the highway included in the application for adoption as maintainable highways, permission under the Town and Country Planning Act should not be construed as approval to the highway engineering details necessary for inclusion in an Agreement under Section 38 of the Highways Act 1980.

REPRESENTATIONS

None at the time of writing the report – please see previous officer report in regards to those raised since the application was submitted.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

This application area has previously been the subject of an outline planning application (No. 14/00881/MOUT) and has a signed S106 agreement. The planning conditions and financial contributions secured through the outline application are retained.

The main issues in the determination of this application, points 1 to 9, detailed in the Officer report at Planning Committee 28th July 2021 remain relevant. This report seeks to address the particular concerns raised at Planning Committee on the 28th July and at the Member and stakeholder meeting on the 6th September 2021. At those events particular consideration was given to:

- The density, design and layout of development directly to the rear of existing properties, south of Blundell's Road.
- The depth of the landscape buffer to the rear of properties south of Blundell's Road and west of properties on Pool Anthony Drive.
- The height and design of the 2.5 storey apartment block (Plots 32-37) on land south of Blundell's Road.
- The identification of character areas; more specifically the neighbourhood hub identified south of Blundell's Road.
- The spread of affordable housing across the development proposal including the confirmed need for 1 and 2 bed affordable apartments.
- The provision of children's play facilities north of Blundell's Road.
- The inclusion of bungalows within the scheme.
- Protection of views to and from Blundell's School and conservation area.
- Climate change and EV charging.

- The availability of an access point to the development site north of Blundell's Road (not forming part of this application) so negating the need for individual access points from off Blundell's Road.

This report will now address the particular points of concern that were raised at Planning Committee on the 28th July 2021 and at the Member and stakeholder event on 6th September 2021:

1.0 Density, design and layout of development to the rear of existing properties, south of Blundell's Road.

1.1 The proposed layout presented at Planning Committee on the 28th July (Dwg No. 21-04-02 Rev F) identified 21 dwellings to the rear of properties south of Blundell's Road. They were organised to provide frontage on to the principle point of access into the southern development parcel; accessed off the spine road (Application No: 21/00374/MARM). The mix of property types were organised to provide a discreetly staggered building line as a means to soften and introduce more informality to the layout. This was supported further through the Land Ownership Plan to ensure the street trees were within the adoption of a private management company; ensuring their retention as features within the public realm.

1.2 These features are largely retained with amends to the layout (Dwg No. POST-21-04-02 Rev G) and to house types to introduce detached garages to the side and rear of 16 of the units (Plots 1, 4-18) and the introduction of two bungalows (Plots 19-20). The changes seek to offer greater separation and enhanced visual break between the properties proposed to the rear of those existing, south of Blundell's Road. The Streetscene and Section (Dwg No: 200A) provides some evidence of the likely 'breaks and gaps' between buildings, with the existing TPO trees to the rear of properties south of Blundell's Road being re-plotted following additional work. Overall this has resulted in a reduction in the number of units located directly to the rear of properties, south of Blundell's Road, from 21 to 20 units with gaps between buildings varying between 1.35m minimum to 3.5m maximum (excluding gaps where garages are located).

2.0 Depth of the landscape buffer (rear of properties south of Blundell's Road and west of Pool Anthony Drive).

2.1 The Officer report presented at Planning Committee 28th July 2021 provides clear policy background on the provision of a buffer strip to properties south of Blundell's Road and west of those on Pool Anthony Drive. Whilst the Adopted Tiverton EUE Masterplan SPD and Tiverton EUE Design Guide set out the need for a landscape buffer, there is no specification of the depth of it.

2.2 The proposed layout presented at Planning Committee on the 28th July (Dwg No. 21-04-02 Rev F) made provision for a 1.5-3m landscape buffer strip. Amendments to the scheme now include a 3.5-5m buffer strip to properties south of Blundell's Road. Due to the nature of the site boundary, three existing properties (Long Meadow, Barns Hollow and Sweethayes) have a reduced landscape buffer (3.5m); this being associated with the greater length of garden attached to these properties. Nonetheless, the increase in the depth of the landscape buffer (achieved due to a change in house types, with properties that have a footprint of reduced depth) allows for a new hedgeline along the entire length of existing properties south of Blundell's Road with additional tree planting to supplement existing (Dwg No. edp6162_d018g). This is considered to be a significant enhancement.

- 2.3 As means of confirmation, the proposed layout presented at Planning Committee on the 28th July made provision for 5 house types, separated into material type:

Shaftsbury (Plot 1).
Oxford Lifestyle render (Plot 14).
Oxford Lifestyle brick (Plot 2, 5, 7).
Oxford render (Plot 4, 8, 13, 18).
Oxford brick (Plot 17).
Marlow brick (Plot 9, 10, 16, 19 & 20).
Marlow render (Plot 3, 6, 15).
Cambridge render (Plot 11, 12),
Stratford brick (Plot 21).

The Oxford and Marlow house types (accounting for 17 of the Plots) included an integrated garage. Revised plans now submitted include a mix of 7 house types, separated into material type:

Shaftsbury render (Plot 1)
Oxford brick (Plots 2 & 3)
Cambridge brick (Plot 8).
Cambridge render (Plots 10 & 13).
Stratford brick (Plots 5, 11 & 12)
Leamington Lifestyle brick (Plots 4, 6, 7, 9, 17 & 18)
Leamington Lifestyle render (Plots 14 & 15).
Warwick brick (Plot 16)
Hadleigh (Plots 19 & 20).

The Oxford house type (Plots 2 & 3) are now the only house type with an integrated garage (but which also provide on-plot, frontage, parking); the change in house type and reduction in the number of integrated garages (15) facilitating an increase in the depth of the landscape buffer in response to committee expectations.

- 2.4 A 1.8m close board fence is provided on the rear boundary of Plots No.s 1-20; closed at the western end by close board fencing with 1.8m high timber closeboard gate and to the eastern end by a 1.8m high brick screen wall with 1.8m high timber closeboard gate. The landscape buffer remains within the adoption of a management company as a managed landscaped area. This will ensure its long term integrity (Land Ownership layout, Dwg No: POST-21-04-09 Rev G).
- 2.5 The Adopted Masterplan SPD (2014) identified a buffer to the west of properties on Pool Anthony Drive. The landscape buffer retained from the proposal presented at Planning Committee 28th July 2021 maintains a depth of approximately 6-8m. A drainage easement along the length of this boundary to Pool Anthony Drive restricts new planting to those with shallow growth roots. This continues to be reflected in the Detailed Landscape Design (public open space) (Dwg No: edp6162_d018g) that identifies a new hedgebank to supplement the existing. The area will continue to fall within the adoption of a management company (Land Ownership Layout, Dwg No. POST-21-04-09 Rev G) to ensure the long term integrity of this space as a landscape buffer. A chain link fence is again retained along the boundary of Plot No.s 160 and 161 (Boundary Enclosures Layout, Dwg No. POST-21-04-04 Rev F).

- 3.0 The height and design of Apartment Block 2 (Unit No.s 32-37); south of Blundell's Road.**
- 3.1 The scheme presented at Planning Committee on the 28th July identified a 2.5 storey apartment block of nine affordable housing units south of Blundell's Road. Amendments to the proposed scheme now provide this apartment block, 2 storeys in height. This both reduces the overall height of the building from 11.5m to 9.1m (reduction of 2.5m) and the number of affordable housing units within that block to 6. The reduction in height affirms a scale and massing that will not result in a loss of light or privacy to existing dwellings or that will be overbearing within views in and out of the Blundell's Conservation Area. The section drawing (A-A) of the two storey building (Plot 18) towards West Manley Lane (Dwg No. 200A) gives some indication of the relationship of proposed with the 2 storey development in Blundell's Conservation Area, whose eastern boundary abuts West Manley Lane. The location of Apartment Block 2 supports established urban design principles including the integration of affordable housing with open market housing. The remainder of units south of Blundell's Road remain two storey in height.
- 4.0 The identification of character areas; more specifically the neighbourhood hub south of Blundell's Road**
- 4.1 The Adopted Masterplan SPD promotes a hierarchy of streets within the Tiverton EUE Design Guide developing the concept in the form of character areas to provide a richer and more legible townscape. This concept has been developed further, as is common practice in larger schemes, by the applicant. The applicant has established 6 character areas across the application area with the use of materials, landscape planting and dwellings types within each as means to enhance legibility. A very important and key aspect of large developments.
- 4.2 The 'neighbourhood hub' character area, south of Blundell's Road, incorporates those dwellings directly to the rear of those existing south of Blundell's Road (Plots 10-15), Apartment Block 2 and near neighbours (Plots 43 and 59). This character area as established through this application has a density of 36 dwellings per hectare. The Tiverton EUE Design Guide identifies this same area as 'residential core' (Chapter 3c1) with an expectation that it is the 'highest density residential development' (P80, Tiverton EUE Design Guide). In the achievement of sustainable development, the NPPF (para 8) requires the 'effective use' of land. Officers advise that the net density of development at the neighbourhood hub of 36 dwellings per hectare and an overall density across the development site of 22 dwellings per hectare, whilst medium to low density, accords with the Adopted Masterplan SPD and Tiverton EUE Design Guide. It is also acknowledged that the amendments introduced since the Member and stakeholder meeting on the 6th September 2021 have resulted in an overall reduction of units from 166 units to 164.
- 5.0 Spread of affordable housing across the development proposal including the confirmed need for 1 and 2 bed affordable apartments.**
- 5.1 Concerns were raised at the Member and stakeholder meeting on the 6th September 2021 relating to the locational spread of the affordable housing units both north and south of Blundell's Road. The proposal presented provides 16 affordable units in the form of terrace and semi-detached dwellings with private gardens and 11 affordable apartments. The 11 affordable apartments do not have access to dedicated private amenity space but do have access to areas of grass immediately attached to the building. In addition, an area of informal play space has now been introduced into the scheme a short distance away from the apartments (Dwg No. edp6162_d031). This new introduction makes provision for a fenced and hedge screened area of play including feature boulders and a small number of

play equipment's.

- 5.2 South of Blundell's Road, 8 affordable apartments (in Apartment Block 2) and 4 apartments (Plots 39-42).are proposed. Whilst it is acknowledged that there is a greater proportion of affordable housing units north of Blundell's Road compared to south of Blundell's Road, Officers advise that this reflects a 'pepper-pot' approach to the distribution of affordable housing and complies with policy requirements.

- 5.3 As regards to the provision of 23 of the 39 affordable housing units being 1 and 2 bed apartments, an Affordable Housing Statement has been submitted in support of the application. It sets out the need arising through Devon Homechoice; with the greatest demand being for 1 and 2 bedroom apartments. As a Reserved Matters application, the S106 agreement to application 14/00881/MOUT (Schedule 1, Part 1, para 1.1 – 1.6.6) establishes the requirement for 22.5% affordable units. This translates to 37 units. The proposed scheme offers 39 affordable units.

6.0 The provision of children's play facilities north of Blundell's Road.

- 6.1 As detailed at para 5.1 above, an area of informal play space has also been introduced to the scheme (Dwg No. edp6162_d031). Whilst focused towards the younger age group (Ages 3-8 years) it makes some provision for families north of Blundell's Road. The NPPF (para 102), policies S8, TIV2 and DM1 of the Adopted Mid Devon Local Plan 2013-2033 require opportunities for walking and cycling to be planned comprehensively into development proposals to provide safe and accessible places for the whole community. DCC as the Highway Authority will ensure, through the approval of the detailed technical drawings for the linking road (north of Blundell's Road, application No. 14/00881/MOUT) and the spine Road (south of Blundell's Road, application No. 21/00374/MARM) the provision of safe and accessible crossing places including across Blundell's Road to other areas of open space and children's play.

7.0 The inclusion of bungalows within the scheme.

- 7.1 A request was made through the Member and stakeholder meeting on the 6th September 2021 for the inclusion of bungalows within the scheme. Two bungalows have been introduced, providing a modest increase in the choice of housing within the development. The Planning Layout (Dwg No. POST-21-04-02 Rev G) provides detail of their location at Plots 19 and 20, to the rear of existing properties south of Blundell's Road. The change in house type, their height, scale and massing sits appropriately within the street scene as confirmed in the Street Scene and Section Drawing (No. 200A). Their location also seeks to respect views both in and out of the Blundell's Conservation Area.

8.0 Protection of views to and from Blundell's Conservation Area.

- 8.1 The Tiverton EUE Design Guide, Chapter 3b5 acknowledges the sites' visibility from the eastbound carriageway of Blundell's Road and its important relationship with Blundell's School and the setting of the conservation area. Policy DM1 of the Adopted Mid Devon Local Plan 2013-2033 requires the design of new development to be of high quality, based upon and demonstrating a clear understanding of the characteristics of the site, its wider context and the surrounding area and making efficient and effective use of the site ensuring that development proposals make a positive contribution to local character including any heritage assets. Para's 3.1 and 7.1 above, provide some detail including the introduction of bungalows and a reduction in the height of Apartment Block 2. Further, the retention of the existing hedgerow and trees adjacent to West Manley Lane, setting the development approximately 10m behind the retained hedge with a landscaped buffer but with frontage on to West Manley Lane ensure views into and out of the Blundell's Conservation Area are appropriate and have been given full consideration.

9.0 Climate change and Electric Vehicle (EV) charging

9.1 A request was made at Planning Committee and through the Member and stakeholder meeting on the 6th September 2021 for greater consideration towards energy efficiency and enhanced EV charging provision. The Officer report for the Planning Committee of the 28th July provides detail on the management of meeting energy standards and confirms that Government documentation is still at consultation stage. Nonetheless, following further officer negotiations, the revised Parking / EV Charging Layout now reveals an increase in the provision of EV charging points from 26 to 48. Policy DM5 of the Adopted Mid Devon Local Plan 2013-2033 requires 1 electric charging point for every 10 units; the equivalent of 16 EV charging points within a scheme of 164 units. The provision of 48 EV charging points represents a substantial over provision in policy terms.

10.0 The availability of an access point to the development site north of Blundell's Road.

10.1 A request was made through the Member and stakeholder meeting on the 6th September 2021 for a point of access to be made available, within the development parcel north of Blundell's Road, for future phases of development adjacent to Blundell's Road. Officers can advise, as detailed in Drawing No. POST 21-04-02 Rev G at Plots 121 and 122, that this proposed scheme does not preclude the ability for the future phase of development adjacent to Blundell's Road to achieve a point of access from development north of Blundell's Road. Officers draw to members attention that the proposed layout (Dwg No. POST 21-04-02 Rev G) which does not extend that point of access up to and including the red line boundary of the application area.

11.0 Planning balance

11.1 This Reserved Matters application was presented at Planning Committee 28th July 2021, with a recommendation for approval. The main issues in the determination of this application, points 1 to 9 as detailed in the Officer report dated 28th July 2021, remain relevant.

11.2 This revised proposal seeks to respond to the issues and concerns raised both at Planning Committee and at the members and stakeholder event on the 6th September 2021. As such, the revised proposal represents an overall reduction in the number of units from 166 to 164.

11.3 Officers advise that the proposed development can be accommodated without an unacceptable impact on the highway network; that it can be served by the necessary infrastructure in a predictable, timely and effective manner whilst promoting sustainable modes of transport.

11.4 The proposed development provides a net density of 22 dwellings per hectare and accords with the Adopted Masterplan SPD and NPPF regarding the effective use of land. Building types remain standard designs rather than those designed to distinctly reflect the character or qualities of Post Hill or the wider area. However, the proposal retains the principles of character areas with materials and landscape features enhancing the sense of legibility throughout the development. The proposal continues to meet Nationally Described Space Standards and Parking Standards, with an enhanced EV charging provision in excess of policy requirements. Amendments to the scheme have sought to respond to Member and stakeholder concerns and as such include:

- additional play facilities north of Blundell's Road;
- an increased in the depth of the landscape buffer (3.5-5m) to the rear of properties south of Blundell's Road;

- a reduction in the height of Apartment Block 2 and resultant reduction in overall housing numbers from 166 units to 164;
- Consideration of the Blundell's Conservation area including the introduction of two bungalows; and
- A reduction in the number of units directly to the rear of those existing on Blundell's Road from 21 to 20 units with amends to layout and house types as a means to provide clear separation and visual break between units (No.s 1-20).

11.5 Your officers advise that the proposed scheme, on balance, accords with the NPPF, the Adopted Mid Devon Local Plan 2013-2033, the Adopted Tiverton EUE Masterplan SPD and Tiverton EUE Design Guide and for these reasons advise a recommendation of approval.

CONDITIONS

9. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
2. Prior to the commencement of any part of the site hereby approved, the Planning Authority shall have received and approved in writing a report giving detail on:
 - a) The predicted amount and type of waste generated during the construction, demolition, excavation and occupational stages of the development;
 - b) The method of auditing the waste for the construction, demolition and excavation stage including a monitoring scheme and corrective measures if failure to meet the targets occurs;
 - c) Measures taken to avoid waste occurring during the construction, demolition, excavation and occupational phase of the development; and
 - d) Details of waste disposal during the construction stage.

The recommendations in the report shall be adhered to and the development shall be operated thereafter in accordance with those recommendations.

3. The development hereby approved shall not be carried out otherwise than in accordance with a phasing programme which shall previously have been submitted to and approved by the Local Planning Authority in writing.
4. No external lighting shall be installed on any part of the site unless as part of an external lighting plan that has been previously submitted and approved in writing by the Local Planning Authority. The external lighting plan should include all details of external lighting and light levels falling on wildlife habitats and demonstrate how dark corridors will be provided for wildlife.
5. First occupation of any dwelling shall not take place until details of street furniture to be provided within the public areas have been submitted to and approved in writing by the Local Planning Authority. Such details shall include benches or other seating, dog waste and litter bins and handrails where required, together with a timescale for their delivery. Following their provision, such facilities shall be permanently retained and maintained for their purpose at all times.
6. All planting, seeding, turfing or earthworks comprised in the approved details of landscaping as shown on the submitted plans, shall be carried out within 9 months of the

substantial completion of the development (or phase thereof) whichever is the sooner; and any trees or plants which within a period of 5 years from the implementation of the scheme (or phase thereof), die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

7. First occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been approved in writing by the Local Planning Authority and constructed and made available for use:
 - a) The access road and cul-de-sac carriageways including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
 - b) The access road and cul-de-sac footways and footpaths which provide direct pedestrian routes to an existing highway maintainable at public expense in any phase have been constructed up to and including base course level;
 - c) The cul-de-sac visibility splays have been laid out in accordance with current approved standards;
 - d) The street lighting for the access road and cul-de-sac and footpaths has been erected and is operational;
 - e) The car parking and any other vehicular access facility required for the dwellings by this permission has/have been completed;
 - f) The verge and service margins and vehicle crossings on the road frontage of the dwelling have been completed with the highway boundary properly defined;
 - g) The street nameplates for the access road and cul-de-sacs have been provided and erected; and
 - h) A site compound and car park have been constructed in accordance with a Construction Management Plan to be approved under Condition 4.
8. First occupation of any dwelling shall not take place until the boundary treatments for that dwelling have been installed in accordance with Boundary Enclosures Layout drawing number POST-21-04-04 Rev F. Only such approved boundary treatments shall be installed.
9. Prior to the occupation of any part of the development hereby permitted, detailed drawings of all play equipment including a range of equipment that is inclusive to all children to access and utilise, shall be submitted to and agreed in writing by the Local Planning Authority.
10. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared which is subject to the approval in writing of the Local Planning Authority.

Following completion of remediation measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

11. No development shall take place on the site except in accordance with the details set out within the submitted Landscape Management Plan (June 2021; edp6162_r005c) and Habitat Assessment and Mitigation Plan (March 2021). The recommendations in the Landscape Management Plan (June 2021) and Habitat Assessment and Mitigation Plan (March 2021) shall be adhered to throughout the construction period and the development shall be operated thereafter only in accordance with the management provisions set out within them.

REASONS FOR CONDITIONS

1. To ensure the timely delivery of an early phase of development in the complex delivery of the Tiverton EUE.
2. In the interest of waste management and proper planning.
3. To ensure the proper development of the site.
4. In order to protect wildlife habitats from light pollution in accordance with the provisions of the National Planning Policy Framework.
5. To provide certainty in the interests of good planning.
6. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with Policies S1, S9, TIV3 and DM1 of the Adopted Mid Devon Local Plan 2013 – 2033.
7. To ensure that adequate access and associated facilities are available for the traffic attracted to the site
8. To ensure a good standard of residential amenity and security for residents.
9. In the interests of good planning and residential amenity.
10. In the interest of public health and safety.
11. To ensure landscape features and habitats are protected and enhanced to provide net gains in biodiversity on the site and to ensure the development assimilates well into the surrounding landscape, in accordance with the provisions of the National Planning Policy Framework and the guiding principles in the Tiverton Eastern Urban Extension Masterplan SPD.

INFORMATIVES

1. A Written Scheme of Investigation needs to be formally submitted, either by the applicant or their agent, to the Local Planning Authority for their approval and to enable the condition associated with archaeology works for this phase of the development to be discharged prior to any development commencing on site. The applicant should ensure that the archaeological works are implemented as described in order to avoid breach of the Condition.

REASON FOR/ APPROVAL OF PERMISSION/GRANT OF CONSENT

Comprehensive consideration has been given to the overall design, scale and layout of the proposal. The scheme provides well integrated landscaping and public open space providing biodiversity net gain. The development can be accommodated without an unacceptable impact on the highway network with necessary infrastructure able to be delivered in a predictable, timely and effective manner. The design and layout including house types are acceptable meeting Nationally Described Space Standards. For these reasons the proposal is considered to comply with the Adopted Mid Devon Local Plan 2013 – 2033, Policies S1, S3, S5, S8, S9, DM1, DM2, DM3, DM4, DM5, DM25, DM26, TIV1, TIV2, TIV3, TIV5 of the Adopted Mid Devon Local Plan 2013-2033 and with the principles set out in the Adopted Masterplan SPD and Tiverton EUE Design Guide.

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

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

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 further negotiations/discussions during the application process to address issues raised.

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. 21/00454/MARM

Grid Ref: 113549 : 298246

Applicant: Cattermole

Location: Land East of Tiverton, South of A361, and
Both North and South of Blundells Road
Uplowman Road Tiverton Devon

Proposal: Reserved Matters (appearance,
landscaping, layout and scale) for 166
dwellings with the provision of public open
space, vehicular and pedestrian access,
landscaping, drainage and related
infrastructure and engineering works
following Outline approval
14/00881/MOUT

Date Valid: 18th March 2021

REPORT OF THE HEAD OF PLANNING AND REGENERATION

21/00454/MARM - RESERVED MATTERS (APPEARANCE, LANDSCAPING, LAYOUT AND SCALE) FOR 166 DWELLINGS WITH THE PROVISION OF PUBLIC OPEN SPACE, VEHICULAR AND PEDESTRIAN ACCESS, LANDSCAPING, DRAINAGE AND RELATED INFRASTRUCTURE AND ENGINEERING WORKS FOLLOWING OUTLINE APPROVAL 14/00881/MOUT - LAND EAST OF TIVERTON, SOUTH OF A361, AND BOTH NORTH AND SOUTH OF BLUNDELLS ROAD UPLOWMAN ROAD TIVERTON DEVON

APPLICATION NO: 21/00454/MARM

RECOMMENDATION

Grant permission subject to conditions.

PROPOSED DEVELOPMENT

This is a reserved matters application for the appearance, landscaping, layout and scale of 166 dwellings with the provision of open space, vehicular and pedestrian access, landscaping, drainage and related infrastructure and engineering works following outline planning approval (14/00881/MOUT). The application site forms part of the Tiverton Eastern Urban Extension which is allocated for mixed use development in the Adopted Mid Devon Local Plan 2013-2033. The application has been subject to pre-application discussions.

The application site has previously been the subject of an outline planning application (14/00881/MOUT) for the construction of a mixed-use development including 700 dwellings, 22,000msq of B1/B8 employment land, a care home, primary school and neighbourhood centre with associated access and egress onto Blundell's Road. Subsequent to outline planning permission, Reserved Matters application 21/00374/MARM has approved details for the first phase of the arterial road that will serve future residential development parcels south of Blundell's Road; the arterial road hereafter being referred to as the 'spine road'. The spine road will provide the main point of access for this application site to access Blundell's Road.

This application is bound by Condition 2 of the outline planning permission that requires, prior to the submission of any Reserved Matters application, the submission of an illustrated Urban Design & Architectural Principles document, a strategy for the management, maintenance and delivery of all Green Infrastructure and a Low Emissions strategy. An Urban Design & Architectural Principles document was approved by this Council in December 2020. Particular design and architectural principles were agreed – including formal building lines, areas of public open space, key vistas, key nodal development, tree planting on the spine road as a green boulevard (21/00374/MARM), community gathering places, pedestrian/cycle routes, connections to future phases and attenuation for water management.

This application site relates to land north and south of Blundell's Road. The area of land north of Blundell's Road is located within a single pasture field bounded along its northern edge by agricultural land and the new A361 road junction, to the east by existing residential property, and to the south and west by pasture land. The area of land to the south of Blundell's Road comprises 2 pasture fields with hedgerow boundaries. The northern edge of this part of the development site is bounded by existing residential properties, the eastern and southern by pasture land and the western by West Manley Lane. A strong hedge line crosses this part of the application site, from east to west.

The Reserved Matters, spine road, application (21/00374/MARM) forms the eastern boundary of this application site, south of Blundell's Road. Outline planning application (14/00881/MOUT) granted full detailed planning consent for access north of Blundell's Road by means of the 'linking road' to connect the new A361 road junction to Blundell's Road. The spine road will connect, by means of an approved new junction to Blundell's Road, to the linking road north of Blundell's Road and to the new A361 road junction beyond. The spine road provides the principle point of access for this application site, south of Blundell's Road, to access Blundell's Road while the linking road bisects the development proposed through this application, north of Blundell's Road.

To the east of this application site, south of Blundell's Road, is land identified for a future neighbourhood centre.

Surface water drainage is to be managed across this application site by means of a sustainable urban drainage system (SUDs); additional detail to be provided later in this report.

In accordance with the requirements of the Environmental Impact Assessment Regulations 2017 (as amended), this application has been accompanied by a Planning Statement detailing compliance with the Environmental Statement pursuant to Application 14/00881/MOUT.

APPLICANT'S SUPPORTING INFORMATION

Residential Parcels Drainage Statement 1A, 1B &1C

Adoption Plan

Engineering Strategy

Drainage Strategy

Refuse Tracking

Fire tracking

Detailed Landscape Design

Planting Character Areas

Planning layout

External materials Layout

Boundary Enclosures Layout

Storey Heights Layout
 Refuse Collection Layout
 Affordable Housing Layout
 Meter Box Location Layout
 Land Ownership Layout
 Parking and EV Charging Layout
 Compliance Plot Plan
 Site Location Plan
 Arboricultural Impact Assessment
 Design and Access Statement
 Habitat Assessment and Mitigation Plan
 Heritage Statement relating to Knightshayes Court
 Landscape Management Plan
 Planning Statement and Statement of Community Involvement
 Waste Audit Statement
 House Types Floor Plans and Elevations
 Street Scenes

RELEVANT PLANNING HISTORY

14/00881/MOUT - PERCON date 12th June 2017

Outline for a mixed use development comprising up to 700 dwellings, 22,000 square metres of B1/B8 employment land, care home, primary school and neighbourhood centre with associated access including a left in left out junction on the westbound A361 and access and egress onto Blundells Road. Non Material Amendment 20/00804/NMA - Granted 4/11/2020. Non Material Amendment - 20/01787/NMA - GRANTED 13/11/2020

OTHER HISTORY

13/00056/SCR - CLOSED date 1st March 2013

Request for scoping opinion in respect of a mixed use development (Eastern Urban Extension - Area 3)

21/00374/MARM - PERCON date 30th June 2021

Reserved Matters in respect of (appearance, landscaping, layout and scale) for infrastructure associated with initial phases of development, following Outline approval 14/00881/MOUT

21/00454/MARM - PCO date

Reserved Matters (appearance, landscaping, layout and scale) for 166 dwellings with the provision of public open space, vehicular and pedestrian access, landscaping, drainage and related infrastructure and engineering works following Outline approval 14/00881/MOUT

13/00054/SCR - CLOSED date 1st March 2013

Request for scoping opinion in respect of a mixed use development (Eastern Urban Extension - Area 2b)

13/00055/SCR - CLOSED date 1st March 2013

Request for scoping opinion in respect of a mixed use development (Eastern Urban Extension - Area 2a)

14/00667/MFUL - PERMIT date 4th September 2014

Construction of a 'left in left out' road junction with associated engineering works, drainage facilities, embankment, soft landscaping and noise barrier

14/01168/MFUL - PERMIT date 31st October 2014

Construction of a 'cloverleaf' road junction with access and egress onto both the eastbound and westbound carriageways of the A361 with associated engineering works, drainage facilities, embankments, road bridge, lighting, soft landscaping and a noise barrier to the rear of the houses on Upplowman Road, a roundabout, a stretch of connecting highway and a junction and access onto Blundell's Road with associated engineering works and landscaping

16/01757/FULL - PERMIT date 14th February 2017

Variation of condition 15 of planning permission 14/01168/MFUL for the relocation of acoustic fence

16/01759/FULL - PERMIT date 14th February 2017

Variation of condition 15 of planning permission 14/00667/MFUL for the relocation of acoustic fence - Non Material Amendment - 20/00806/NMA GRANTED 4.11.20

20/00806/NMA - PERMIT date 4th November 2020

Non-Material Amendment for 16/01759/FULL to allow amendment to condition 7

81/00829/FULL - NOBJ date 3rd July 1981

DEEMED CONSENT for the erection of high voltage (11kV) overhead lines

84/01928/OUT - REFUSE date 13th February 1985

Outline for the erection of a dwelling

13/01199/SCR - CLOSED date 7th October 2013

Request for scoping opinion in respect of half clover leaf junction at A361 Tiverton

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

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

16/01424/MOUT - WDN date 22nd December 2017

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

17/00098/FULL - PERCON date 12th April 2017

Removal of vegetation, reprofiling existing garden to embankment to assist with construction of the A361 road junction, implementation of new landscaping design and acoustic boundary fence

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

Reserved Matters application, pursuant to Outline application 13/01616/MOUT, for the construction of 248 dwellings, 3 Gypsy and Traveller pitches, public open space, landscape planting, pedestrian, cycle and vehicular links; and associated infrastructure - Non Material Amendment 19/00607/NMA - Granted 13/05/2019, Non Material Amendment - granted 26.09.19, 19/01731/NMA - Non Material Amendment Granted 01.11.19, 19/01903/NMA - Granted 18.11.19, 19/02011/NMA - Non-Material Amendment Granted 08/01/20. 20/02024/NMA - Non-Material Amendment - Granted 08/01/2021. 18/00133/MARM - Non-Material Amendment - Granted 27/04/2021

20/00804/NMA - PERMIT date 4th November 2020

Non-Material Amendment for 14/00881/MOUT to allow amendment to condition 11

20/01787/NMA - PERMIT date 13th November 2020

Non-Material Amendment for 14/00881/MOUT to vary condition 12 re occupation of dwellings before roundabout complete

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan (2013-2033)

S1 Sustainable Development Priorities

S2 Amount and Distribution of Development

S3 Meeting Housing Needs

S4 Ensuring Housing delivery

S5 Public Open Space

S8 Infrastructure

S9 Environment

S10 Tiverton

TIV1 Eastern Urban Extension

TIV2 Eastern Urban Extension transport provision

TIV3 Eastern Urban Extension environmental protection and green infrastructure

TIV4 Eastern Urban Extension community facilities

TIV5 Eastern Urban Extension phasing

DM1 High quality design

DM2 renewable and low carbon energy

DM3 Transport and air quality

DM4 Pollution

DM5 Parking

DM23 Community facilities

DM25 Development affecting heritage assets

DM26 Green infrastructure in major development

INFORMATIVES

Site allocation under the Adopted Local Plan 2013-2030

Masterplanned under the Tiverton Eastern Urban Extension Masterplan Supplementary Planning Document (2018)

Tiverton EUE Design Guide (2016)

Refuse Storage for New Residential Properties SPD

Parking SPD

Meeting Housing Needs SPD

Open Space SPD

National Planning Policy Framework 2021

CONSULTATIONS

HISTORIC ENVIRONMENT TEAM – 23 MARCH – OBJECTION

Condition 15 on the consent granted for the outline application 14/00881/MOUT is worded as:

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

The supporting information for this reserved matters application does not include the written scheme of investigation required by the above condition for this phase of the development. In the absence of this document I would therefore recommend that this planning application is not determined until a written scheme of investigation setting out the scope of archaeological works required is submitted for approval by the Local Planning Authority.

HISTORIC ENVIRONMENT TEAM – 7 MAY – COMMENT

The programme of archaeological works as described in the Written Scheme of Investigation (WSI) submitted by your organisation - Cotswold Archaeology - (CA Project: CR0627 and dated: 22nd April 2021) is acceptable to the Historic Environment Team.

The acceptance of the WSI by this office does not represent the discharge of the condition that has been applied to the consent granted.

The WSI needs to be formally submitted, either by the applicant or their agent, to the Local Planning Authority (LPA) for their approval and to enable them to discharge the condition for this phase of the development prior to any development commencing on site. The applicant should ensure that the archaeological works are implemented as described in order to avoid breach of the Condition.

HISTORIC ENVIRONMENT TEAM – 9th JULY – OBJECTION

To date the Historic Environment Team are unaware that a Written Scheme of Investigation for this phase of the development has been submitted in accordance with Condition 15 of the consent granted for the outline consent 14/00881/MOUT.

In the absence of this document I would therefore recommend that this planning application is not determined until a written scheme of investigation setting out the scope of archaeological works required is submitted for approval by the Local Planning Authority.

SOUTH WEST WATER – 19 MARCH 2021 – NO OBJECTION

South West Water have no objection subject to surface water being managed in accordance with the drainage details submitted with the application.

WASTE PLANNING – 8 APRIL 2021 – OBJECTION

The submitted Site Waste Management Plan, makes a good attempt to consider the waste issues posed on this development by explaining the targets for reuse, recycling, and recovery of waste.

However, the following points need to be addressed in the statement:

- Explain the method of auditing the waste for the construction, demolition and excavation stage. This should include a monitoring scheme and corrective measures if failure to meet targets occurs;
- Identify the predicted amount of waste that will be generated once the development is occupied (in tonnes);
- Identify the main types of waste generated when development is occupied; and
- Identify measures taken to avoid waste occurring.

In addition details of the waste disposal during the construction stage will be required; to conform to Policy W4 of the Devon Waste Plan.

We would expect the information stated above to be provided at this stage of the application. If the applicant does not wish to provide this information at this stage, we request that a condition is attached to any consent to require the submission of a more detailed statement in advance of the commencement of development.

Furthermore, we note that in paragraph 4.5 of the statement, the applicant states they will provide information on the amount of construction, demolition, and excavation waste (tonnes) and the type of material waste will arise from at a later stage. We request that this is provided prior to commencement, as such it may be appropriate that a condition is attached to any consent.

Devon County Council has published a Waste Management and Infrastructure SPD that provides guidance on the production of Waste Audit Statements. This can be found online at:

<https://www.devon.gov.uk/planning/planning-policies/minerals-and-waste-policy/supplementary-planningdocument>

LEAD LOCAL FLOOD AUTHORITY – 6 APRIL 2021 –OBJECTION

This application does not satisfactorily conform to Policy S9, specifically part(c), of Mid Devon District Council Local Plan 2013-2033 (Adopted 2020), which requires developments to include sustainable drainage systems. The applicant will therefore be required to submit information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations

The applicant should submit a Drainage Layout covering the proposed southern parcel of land. The Drainage Layout for the northern parcel has been submitted twice.

The proposal is for the runoff from the parcel to be attenuate within basin N1 however we would need calculations / model outputs at this stage to indicate that the basin has the capacity to take the runoff. We would also need evidence that basin N1 is outside of the fluvial flood zones associated with the River Lowman. The basin should be designed to be sympathetic to the wider landscape of the area, have side slopes no steeper than 1 in 3 and we would encourage use of a sediment forebay to aid treatment of the runoff prior to discharge into the River Lowman.

At the outline stage, the Indicative Surface Water management Strategy C698/13 which formed part of the approved Flood Risk Assessment, proposed that part of Parcel 1c would use infiltrate. This intention to provide infiltration hasn't been taken forward to this current Reserved Matters stage. The applicant should explain why infiltration is not proposed to manage runoff from at least part of Parcel 1c. The applicant should explain where further site investigation has been undertaken.

The applicant should provide details on the proposed swale and filter strip for Parcel 1c mentioned in the Drainage Statement dated March 2021 as they don't appear to be included on the Surface Water Drainage Masterplan R402/06.

The applicant should clarify whether the intention is to discharge from the basin at Qbar, as proposed at outline stage, or at variable rates as per the submitted Micro Drainage outputs. If the intention is to discharge at variable rates, the applicant should incorporate long term storage requirements into the design.

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

The applicant must submit details of the exceedance pathways and overland flow routes across the site in the event of rainfall in excess of the design standard of the surface water drainage management system.

HIGHWAYS ENGLAND – 30 March 2021 – NO OBJECTION

NATURAL ENGLAND – 29 MARCH 2021 – NO OBJECT SUBJECT TO MITIGATION

This application site is within 300m of the Tidcombe Lane Fen SSSI and has triggered Natural England's Impact Risk Zones including discharges to surface water. The SSSI is notified for its fen, marsh and swamp communities.

Given the proximity of the development site to the SSSI, impacts on water quality and water quantity during construction and operation are possible and, without appropriate mitigation, the proposal could damage or destroy the interest features for which Tidcombe Lane Fen SSSI has been notified.

The information provided (Residential Drainage Statement PFA consulting) indicates that the surface water drainage from parcel R1C links in to the development of the wider Tiverton East

Urban Extension site allocation SuDS (18/00978/MFUL) ensuring protection of the SSSI in terms of water quality which is in line with Local Plan policy TIV3. The other two parcels of land that form part of this application discharge into the River Lowman which does not affect the SSSI.

Based on the information provided and subject to:

- the SuDS being secured via condition;
- securing best practice measures during construction for pollution prevention control through a construction environment management plan; and
- management of the SuDS being included in any ecological management plan (as maintenance of these features is key to a properly functioning system),

Then Natural England is satisfied that the proposed development will not damage or destroy the interest features for which the SSSI has been notified and has no objection.

Biodiversity Net Gain

Development provides opportunities to secure a net gain for nature as outlined in paragraphs 170 and 174 of the revised NPPF (2019), the Defra 25 year Environment Plan and Mid Devon's Green Infrastructure Plan (Policy GI/3 biodiversity net gain).

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 (under Section 40 NERC Act, 2006). Biodiversity metrics are available to assist developers and local authorities in quantifying and securing net gain. Local Authorities can set their own net gain thresholds but the Environment Bill currently sets a 10% threshold.

The use of SuDS to manage surface water run-off can also contribute towards green infrastructure by increasing biodiversity value. Amenity value can also be increased with careful design to manage risk (CIRIA). The RSPB/WWT has produced a guide for developers and planners on designing and managing SuDS features that are also good for wildlife.

Using native plants in landscaping schemes provides better nectar and seed sources for bees and birds.

Soils and Land Quality

Based on previous applications covering the site, the proposed development affects approximately 7.38 ha of Grade 2 agricultural land classified as 'best and most versatile' (Grades 1, 2 and 3a land in the Agricultural Land Classification (ALC) system). We consider this application falls outside the scope of the Development Management Procedure Order (as amended) consultation arrangements, as the proposed development would not lead to the loss of over 20 ha 'best and most versatile' agricultural land (paragraph 170 and 171 of the National Planning Policy Framework).

For this reason we do not propose to make any detailed comments in relation to agricultural land quality and soils except to advise that if the development proceeds, the developer uses an appropriately experienced soil specialist to advise on and supervise soil handling, including identifying when soils are dry enough to be handled and how to make best use of the different soils on site. Further guidance is available in the 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.

Ancient woodland and veteran trees

Natural England and the Forestry Commission have produced standing advice for planning authorities in relation to ancient woodland and veteran trees. The Arboricultural Impact Assessment (February 2021) does not identify any ancient woodland or veteran trees within the site but the survey does identify several mature trees which have the potential to become veteran or ancient trees. The standing advice includes measures to protect ancient and veteran trees which should also be applied to future ancient and veteran trees e.g. root protection zones.

Protected species

We have not assessed this application and associated documents for impacts on protected species. Natural England has produced standing advice 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. 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.

We note that a detailed public-realm lighting strategy will be reviewed by an ecologist and agreed with the Mid Devon District Council prior to commencement of works, to ensure that 'dark' wildlife corridors are maintained. This should be for lighting both during construction and operation and be secured via a suitably worded condition.

DEVON CORNWALL & DORSET POLICE – 7 July - COMMENT

The relevant revision (boundary treatments) is noted. No further comments.

DEVON CORNWALL & DORSET POLICE – 6 APRIL - COMMENT

It is now widely accepted that a key strand in the design of a 'sustainable' development is its resistance to crime and anti-social behaviour. Therefore please note the following comments from a designing out crime, fear of crime, antisocial behaviour (ASB) and conflict perspective:- Residential - Building Regulations Approved Document Q - Security. The security element within the Building Regulations, namely Approved Document Q (ADQ) creates security requirements in relation to all new dwellings

All doors at the entrance to a building, including garage doors where there is a connecting door to the dwelling and all ground floor, basement and other easily accessible windows, including roof lights, must be shown to have been manufactured to a design that has been tested to an acceptable security standard i.e. PAS 24 (2016) or equivalent.

The back to back gardens are much supported from a security perspective, please ensure that all gates that lead to the rear of dwellings are capable of being locked from both sides, by for example, means of a key, as this will enable rear gardens to be secured regardless of access or egress.

The proposed boundary treatments are noted. I recommend plots with a side or rear boundaries adjacent to an area of open space, for example, plots 71, 72, 111 & 113, have this boundary enhanced with defensive planting.

Any hedge must be of a type which does not undergo radical seasonal change which would affect its security function.

Any formal play area designed with younger children in mind must be enclosed with, as a minimum, 1200mm fencing to discourage casual entry, reduce damage to equipment and help provide a safe and clean play area and to prevent access to the adjacent active highway.

Parking

The need for the parking court for plots 32-44 is understood, however, I do not support the currently proposed pedestrian access points, between plot 44 and cycle store continuing around to link with the east/west foot and cycle path. This leaves the rear of dwellings, cycle store and parked vehicles potentially vulnerable to crime and anti-social behaviour. The 1.8m boundary walls offer limited surveillance opportunities for overlooking residents or pedestrians/cyclists entering and leaving the court, whilst equally offering seclusion and anonymity for anyone intent on criminal or anti-social activity. Whilst it would be preferable for this pedestrian access to be removed from the parking court, I suggest a compromise would be to remove the access between plot 44 and cycle store while opening up the remaining point by removing the wall and widening the path.

Combined with suitable lighting provision, this would provide the desired level of surveillance and provide safe and secure access for pedestrians and cyclists. Communal parking facilities must be lit to the relevant levels as recommended by BS 5489-1:2013.

From a designing out crime and disorder perspective it is vital that the parking provision for the proposed development is both sufficient, when balanced against the schedule of accommodation, as even a one bedroom dwelling could attract 2 vehicles, and designed so it is convenient and practical to use, for example, side by side parking as opposed to tandem style parking, as this will encourage its use by residents and reduce the level of unplanned parking elsewhere, introducing a source of conflict amongst residents. With reference to tandem parking above, there is ever increasing evidence from new developments within the county where this design of parking is not being embraced by residents.

It is recommended the communal bin and bicycle stores should be easily accessible, with floor to ceiling dividing walls, no windows and be fitted with a secure doorset that meets the same physical specification as front door, for example PAS24:2016.

A bicycle store must also be provided with stands with secure anchor points or secure cycle stands.

HISTORIC ENGLAND – 6 APRIL 2021 – NO COMMENT

PUBLIC HEALTH – 1 APRIL – NO COMMENT / NO CONCERNS

Contaminated Land: No concerns. (31.03.21)

Air Quality: No concerns. (31.03.21)

Environmental Permitting: No objection to this proposal. (22.03.21)

Drainage: No concerns. (31.03.21)

Noise & other nuisances: No concerns. (31.03.21)

Housing Standards: No comment. (29.3.21)

Licensing: No comments. (22.03.21)

Food Hygiene: No comments. (22.03.21)

Private Water Supplies: Not applicable. (19.03.21)

Health and Safety: No comments. (22.03.21)

TIVERTON TOWN COUNCIL – 30 MARCH 2021 - COMMENT

Tiverton Town Council is concerned about the movement of construction traffic during the construction of this site; and therefore requests that adequate road structures are in place prior to the commencement of work and that the County council agrees a robust management plan for all movements to and from the site

HIGHWAY AUTHORITY – 29 MARCH 2021 - NO OBJECTION

This is a Reserved Matters Application and the Highway Authority has no objection to the proposed development. If it is the applicants intention to offer any of the highway included in the application for adoption as maintainable highways, permission under the Town and Country Planning Act should not be construed as approval to the highway engineering details necessary for inclusion in an Agreement under Section 38 of the Highways Act 1980.

TIVERTON CIVIC SOCIETY – 5TH MAY - OBJECTION

Although we support the concept of an attractive 'Garden Neighbourhood' in the Tiverton Eastern Urban Extension and we acknowledge that small changes may become necessary between the Outline and Reserved Matters stages, we consider that this application, in its present form, is unacceptable, especially because parts of it represent a blatant attempt by the applicants to contravene the policies in the TEUE Masterplan SPD, the TEUE Design Guide, the National Design Guide, and the Outline Planning Approval 14/00881/MOUT. The proposed new NPPF Paragraph 133 states that: *'Development that is not well designed should be refused, especially*

where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents which use visual tools such as design guides and codes', while the Tiverton Eastern Extension Design Guide states, on Page 23, that, for Reserved Matters and full planning applications, content should include:

- Detailed design in accordance with MDDC validation requirements
- Demonstration of compliance with policy, SPD masterplan, and the urban design and architectural principles
- Pre application consultation

Compliance with Policy and Pre-Application Consultation.

Although the applicants, Redrow Homes, have made significant changes to the approved Outline Planning Consent, they have failed to carry out a full public consultation and stakeholder workshop, stating that they consider it to be unnecessary 'because a variety of stakeholders were engaged in these documents!' (Many of the stakeholders were, of course, different when the outline consent was granted in 2014). This lack of consultation is a considerable contrast to the development at Braid Park where Barratt Homes/David Wilson Homes have consulted with, and engaged with, the public and stakeholders at all stages of the application and construction processes, with a dedicated website.

In comparison to the outline planning application the overall layout of the proposed development may be relatively unchanged, but the very important five metre buffer zones between the new development and the existing housing in both Blundell's Road and Pool Antony Drive have been omitted, also because the applicant arbitrarily considers them to be unnecessary. This should surely be justified by the applicants at a public meeting!

- In addition, a large new three storey Neighbourhood Hub, not included in the outline application, has been included and this would overlook, and potentially compromise the privacy of the occupants of the existing properties, being completely out of scale with surrounding housing. Although we welcome the commitment to provide more affordable housing, we consider that, to encourage greater social cohesion, this housing should be dispersed throughout the development in two storey units, thereby preventing the construction of a hub which is completely alien to the context of the surrounding residential area and to current planning best practice. Alternatively, if it is to remain, we consider that the hub should be located at a less sensitive part of the development.
- Also, the number of new properties on the northern edge of the new development to the south of Blundell's Road has been significantly increased from 18 to a 'wall' of 21 properties. Thereby exacerbating a highly unsatisfactory and unsympathetic transition between the new high- density housing and the existing low- density properties.
- Additionally, the application follows the Braid Park application in paying scant regard to the key 'Centre to Edge Principle' enshrined in the TEUE Design Guide, the high- density mass of the Neighbourhood Hub being positioned in the centre of the proposed new development south of Blundell's Road and close to the existing low-density housing.

Detailed Design

Paragraph 56 in the National Design Guide states that ‘well-designed places contribute to local distinctiveness. This may include:

- Adopting typical building forms, composition, articulation, proportions, features, materials, details, patterns, and colours of an area.
- Drawing upon the architectural precedents that are prevalent in the local area, including the proportions of buildings and their openings
- Using local building, landscape or topographical features, materials, or planting types.
- Introducing built form and appearance that adds new character and difference to places, with particular attention to how buildings meet the ground and sky.
- Creating a positive and coherent identity that residents and local communities can identify with.’

The Design and Access Statement accompanying this application states that ‘Redrow have created a housing range based on quality Arts and Crafts details*, Based on the evidence previously provided these house types will fit nicely into their surroundings given the design and scale proposed’ **(presumably ‘the use of local and natural materials and demonstration of craft skills in wood, stone, brick and tiles’?)*

This statement is extremely vague and generalised, as is the whole of Page 16 of the Design and Access Statement (‘Appearance’), and we are not convinced that the proposed development contributes sufficient local distinctiveness to make it dissimilar to similar schemes built throughout the country, a situation which the government, through the National Design Guide, is seeking to avoid in the quest for good design. This apparent uniformity is confirmed when comparisons are made online to similar developments, using their ‘housing range’, which Redrow Homes have built elsewhere in the United Kingdom.

We consider that, to make the development acceptable, the applicants should pay much greater attention to the National Design Guide and TEUE Design Guide, and provide greater specific detail concerning which local vernacular features, not just small ‘tweaks’, they propose to incorporate in the development. Some typical local features are listed in the TEUE Design Guide.

In conclusion, we consider that Redrow Homes should withdraw the application and that a full consultation with the general public and key stakeholders should be carried out. When this consultation has been carried out, the revised application should then be re-submitted, including any resultant changes, in addition to the restoration of the buffer zones and, if feasible, the removal of the Neighbourhood Hub, or its relocation to a less sensitive location. The complete application should be revised to show full compliance with both the TEUE Masterplan SPD and the TEUE Design Guide.

We also contend that it is likely that any major concessions granted to the present applicants would also be demanded by future planning applicants and that this could compromise the original vision for this major housing development. They should therefore be strongly resisted.

REPRESENTATIONS

Fourteen (14) objectors and one (1) general comment summarised as follows:

1. The applicant has failed to comply with the public consultation process as prescribed in the Tiverton EUE Masterplan, Section 7.1. prior to submitting the Urban Design and Architectural Principles document and Reserved Matters application so preventing the public and others from raising their concerns.
2. The applicant failed to comply with the requirement that the Reserved Matters application be presented to the Design Review Panel ahead of submission of the application as prescribed by Tiverton EUE Masterplan, Section 7.1.
3. There is no evidence to suggest that the Local Planning Authority encouraged the applicant to enter any local community (public) consultation process.
4. The application does not show any off-plot buffer strip (including landscape planting) between existing properties, south of Blundell's Road or those along Poole Anthony Drive in disregard to the Tiverton EUE Masterplan, Tiverton EUE Design Guide and Condition 6(ii), Application 14/00881/MOUT.
5. Seek to relocate the neighbourhood hub towards the centre of Phase 1c. Currently it is located immediately against the boundary of existing properties and includes the tallest building in the whole of Area 1c.
6. No provision of a suitably sized communal amenity area or adjacent recreational space for use by apartment residents.
7. No provision of a neighbourhood hub in the northern land parcel (1a).
8. No reference is provided in the application to meet the target of zero carbon dwellings by 2035. Based on evidence the owners would be expected to upgrade their properties to meet Government targets within 13 years.
9. There is no evidence to suggest that gas boilers will not be used (the Government confirming that they will be withdrawn from all new housing developments by 2026 with a preference for Heat Pump electrical heating).
10. New housing should be carbon neutral (or Code level 6+) to ensure the government target of a 78% reduction in carbon dioxide by 2035 is met. A condition, should planning consent be given, to require Code Level 5 or above, should be a minimum requirement.
11. Vehicular re-charging should be indicated on plans with provision also where parking is off-plot.
12. The Arboricultural Impact Assessment (dated 21st march 2021) is out of date with TPO trees not being identified.

13. The Arboricultural Impact Assessment contains incorrect measurement data including tree heights and root protection area spread – relevant due to the proximity of trees to the proposed construction.
14. The Arboricultural Impact Assessment does not identify trees to be felled or pruned.
15. Indications are that the applicant intends works on the TPO trees (T3, T4 & T6). This must not be allowed to happen.
16. No information is provided as to how the boundaries to the existing properties will be addressed.
17. Proposals for the 'northern gateway' are visually unattractive as an arrival to Tiverton.
18. There is no evidence of how and where the construction traffic will cross Blundell's Road.
19. The proposal is not in compliance with the Tiverton EUE Masterplan or Design Guide. More specifically, at the applicant's admission, without maximising the land available the design 'would not fit'. A deficiency in the amount of land available does not justify noncompliance with the Adopted Masterplan or Design Guide.
20. The proposal is not in compliance with Condition 6(i) that relates to boundary treatments, existing site levels, finished floor levels, long and cross sections or 6(ii) that relates to the provision of a landscaped buffer with existing properties on Poole Anthony Drive of the outline application 14/00881/MOUT.
21. The proposal has failed to minimise its visual impact on Blundell's School which is a key visual receptor as established in the Tiverton EUE masterplan – including inappropriate location of the 3 storey apartment block. Seek to relocate the apartment block.
22. Inappropriate design, layout and massing of properties to the rear of existing properties south of Blundell's Road offering no visual gaps between proposed properties with a significant increase in the number of units proposed between adoption of the Urban Design and Architectural Principles document and Reserved Matters application.
23. Disregard for the centre-to-edge objective as set out in the Tiverton EUE Design Guide.
24. Why can't the landscape buffer be managed by a specialist contractor through the Landscape Maintenance Plan?
25. The block of apartments east of the linking road and adjacent to Poole Anthony Drive is not in keeping with existing (bungalow) development, will over shadow and block views.
26. No landscape buffer is provided between the proposed development and Poole Anthony Drive as defined in the Adopted Masterplan SPD.
27. A hydropool and garden (specifically adapted to the needs of an existing resident) in properties south of Blundell's Road will be subject to a lack of privacy and overlooking through the proposed scheme.

28. Department of Transport Guidance (LTN 1/20) requires the physical segregation of cycles for motor vehicles and discourages shared use cycle and pedestrian provision.
29. There is no indication of safe crossing across Blundell's Road – particularly from development north of Blundell's Road to the proposed new school.
30. There is no indication of segregated cycle infrastructure on Blundell's Road itself. The existing west bound cycle path (1m wide) being inadequate, no east bound cycle path being available and the existing footpath being too narrow
31. The proposal and lack of associated infrastructure is lacking co-ordination.
32. Construction of the roundabout would in the first instance be unsafe and inappropriate in a rural setting.
33. A three storey apartment block is proposed towards the rear of existing dwellings. The land rises and this with an adverse impact on existing properties.
34. Existing trees and their roots will be impacted by the proposal. The proposal represents a disregard to wildlife and the landscape.
35. Housing neighbouring Blundell's School and the associated increase in traffic will have a detrimental impact on the school.
36. There is a lack of capacity at the sewage works within the town.
37. All proposed dwellings should have electric charging points and ground source heat pumps or photo voltaic cells.

OTHER REPRESENTATIONS:

RSPB – 7 APRIL - OBJECTION

It is pleasing to see that bat/bird nesting and roosting provision has been included in EAD's Habitat Assessment and Mitigation Plan. However, it is extremely disappointing to see that only twenty five percent of the new dwellings will have swift bricks incorporated in the fabric. Good practice is widely considered to be an average of one per residential unit* (see attached paper to the CIEEM 2019), monitoring results confirm that at least 50% of these may be used by a number of different species during the course of the year and they are all likely to be used during the lifetime of the building.

We have consulted the Bat Conservation Trust regarding their recommendations and are advised that that they are still researching the effectiveness of bat tubes and are reluctant to make any recommendations until this work has been completed.

The hedgehog highways are welcomed and we recommend the inclusion of "bee bricks" for solitary species. We strongly recommend that the Habitat Assessment and Mitigation Plan is reviewed and upgraded to meet the criteria of good practice set out above.

OTHER COMMENTS RECEIVED:

1. A request is made for access to be maintained to allow the rear boundary to properties south of Blundell's Road, to be maintained

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. **Policy Background and Principle of Development**
2. **Transport Infrastructure**
3. **Design and Layout**
4. **Public open space and green infrastructure**
5. **Drainage and Flood Risk**
6. **Air Quality**
7. **Ecology, Landscape and Visual Impact**
8. **Heritage**
9. **Other matters**
10. **Planning balance**

1.1 Policy Background and Principle of Development

- 1.2 The high level policy considerations relevant to this application site were considered at outline application stage (Application No. 14/00881/MOUT). The Officer's Report for the 2014 application provides detailed consideration.
- 1.2 The Adopted Mid Devon Local Plan 2013-2033 (July 2020) sets out the sustainable strategy for growth across the District, to achieve positive social, environmental and economic objectives. Accordingly, Policy S2 of the Adopted Mid Devon Local Plan 2013-2033 focuses development in and around the main settlements including Tiverton with Policy S10 seeking to maintain Tiverton as the largest urban area.
- 1.3 Policy S1 seeks sustainable communities in which people want to live and work whilst reducing the need to travel by car and conserving and enhancing the natural environment to meet the challenge of climate change.
- 1.4 Policy S3 sets a target provision for housing; Tiverton providing a minimum of 2,358 dwellings over the 2013-2033 plan period. This application supports the housing numbers identified within the Adopted Mid Devon Local Plan 2013-2033.

- 1.5 Policies S5 and S8 seek to ensure that development is served by necessary infrastructure in a predictable, timely and effective fashion. Whilst Policy S9 expects development to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets and minimise the impact of development on climate change.
- 1.6 Policies TIV1 –TIV 5 set out the site allocation for the Tiverton EUE, of which this application site forms part of. Policies TIV1-TIV5 include provisions for transport, environmental protection, community facilities, carbon reduction and air quality, phasing and master planning to meet strategic growth requirements.
- 1.7 The Adopted Mid Devon Local Plan 2013-2033 also sets out a number of sustainable development principles through policies DM1 high quality design; DM2 renewable and low carbon energy; DM3 Transport and air quality; DM4 Pollution; DM5 Parking; DM23 community facilities; DM25 development affecting heritage assets and DM26 green Infrastructure in Major Development. Each of these policies are relevant in the determination of this planning application.
- 1.8 Following the allocation of the site under the former adopted AIDPD, the Tiverton EUE Masterplan was adopted as a Supplementary Planning Document in 2014 and again in 2018 with revisions. The Adopted Masterplan SPD is a material consideration in determining planning applications on the site.
- 1.9 The adopted masterplan sets a strategic vision for the allocation and aims to guide development to achieve a high quality, distinctive and well integrated place. It sets out the major land uses and infrastructure to be accommodated on the site, to provide consistency of approach in relation to design. The masterplan is intended to be flexible and to allow alterations to the policy provisions to reflect further analysis and studies. It is supported by the Tiverton EUE Design Guide, June 2016 ensuring an understanding of locally distinct characteristics to produce well designed streets, open spaces, work places and affordable homes.
- 1.10 This application site forms part of the larger Tiverton EUE meaning the principle of development on the site has been established. The application must therefore be assessed against the detailed policies in the Adopted Mid Devon Local Plan 2013-2033 and the principles set out in the Adopted Masterplan SPD and Tiverton EUE Design Guide.

2.0 Transport Infrastructure

- 2.1 The NPPF (para 102) states that transport issues should be considered from the earliest stages of plan-making and development proposals, so that potential impacts of development on transport networks can be addressed. The environmental impacts of traffic and transport infrastructure should be identified, assessed and taken into account, including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (NPPF, para 109).
- 2.2 Policies S8 Infrastructure, TIV2, TIV5 and DM1 of the Adopted Mid Devon Local Plan

2013-2033 seek to ensure new development is served by necessary infrastructure in a predictable, timely and effective fashion to create safe and accessible places without reliance on the private car. Such measures are reflected in the Adopted Masterplan SPD with a view to the strategic delivery of infrastructure.

- 2.3 Outline application 14/00881/MOUT granted planning permission for ingress and egress for development south of Blundell's Road. The capacity of the highway network was established at outline planning application stage including provision for construction traffic to cross Blundell's Road. Similarly, mitigation in the form of financial contributions towards a new grade separated junction on to the A361, traffic calming measures and environmental enhancement between Heathcott Way and Putson Lane as required by Policy TIV2 were also established through application 14/00881/MOUT. This application will connect to the approved spine road (21/00374/MARM) thereby complying with the principles of the Adopted Masterplan SPD to ensure that infrastructure and phases of development are co-ordinated and served by the necessary infrastructure in a predictable, timely and effective fashion. The Highway Authority have no objection the proposed scheme, confirming that the highway layout is satisfactory.

Safe and accessible places

- 2.4 The NPPF (para 102) requires transport issues to be considered at the outset so that opportunities to promote walking, cycling and public transport use are identified and pursued. This can be achieved by ensuring a genuine choice of transport alternatives.
- 2.5 Policy S8 Infrastructure of the Adopted Mid Devon Local Plan 2013-2033 seeks to ensure that new development and transport planning will be coordinated to improve accessibility for the whole community and promote the use of sustainable modes of transport. Policy DM1 High Quality Design requires the creation of safe and accessible places that encourage and enable sustainable modes of transport such as walking and cycling.
- 2.6 Policy TIV 2 allocates the urban extension subject to the provision of appropriate transport infrastructure including suitable accessibility for all modes of transport; creating an attractive, permeable network for non-car modes travelling within, into and out of the area.
- 2.7 The Adopted Masterplan SPD requires transport infrastructure to link development south of Blundell's Road to Blundell's Road and the A361 road junction. This application north and south of Blundell's Road seeks to achieve that comprehensive approach to development, offering a genuine choice of transport modes by way of footways adjacent to streets, cycle provision on-street or segregated from traffic through the clearly defined nature corridor. The proposal seeks to encourage walking and cycling ahead of car use; reinforcing the principles of the Adopted Masterplan SPD of a walkable neighbourhood. Housing is designed to front streets and provide informal surveillance over segregated foot and cycle ways. Provision is made with the intention of connecting into the wider network of strategic pedestrian and cycle routes including the linking road north of Blundell's Road, the spine road south of Blundell's Road, West Manley Lane, the railway walk, Grand Western Canal and nearby public rights of way as means to create a safe and accessible development. The detailed landscape design supports the principle of creating pleasant, safe and accessible routes. Details of proposed cycle and pedestrian routes are shown on the

submitted plans and are acceptable to the Highway Authority.

- 2.8 A representation makes specific reference to the lack of suitable pedestrian and cycle provision along Blundell's Road. Whilst this application seeks to offer a genuine choice of transport modes including integration with existing and future phases of development including to the neighbourhood centre, proposed community centre and primary school, it is the outline application (14/00881/MOUT) that establishes the contributions towards traffic calming which will include enhanced pedestrian and cycle provision on Blundell's Road. This application is unable to deliver those enhancements in advance; these enhancements being dependent on later phases of development.
- 2.9 It is for these reasons that it is considered that the development can be accommodated without an unacceptable impact on the highway network whilst making provision for safe and accessible alternatives to the private car. It establishes the principle of a network of streets, pedestrian and cycle routes, linking to the public highway. It makes provision for future phases of development to be served by the necessary infrastructure in a predictable and effective manner to improve accessibility whilst promoting the use of sustainable modes of transport. The proposed development is considered to comply with policies S8, TIV2, TIV5 and DM1 of the Adopted Mid Devon Local Plan 2013-2033 and the Adopted Masterplan SPD and Tiverton EUE Design Guide

3.0 Design and Layout

- 3.1 The NPPF states that the creation of high quality places is fundamental to what the planning and development process should achieve (NPPF, Para 124). Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Planning decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. New places should be visually attractive, sympathetic to local character and landscape setting and establish a strong sense of place using the arrangement of streets, spaces, building types and materials to create distinctive, inclusive and accessible places.
- 3.2 The NPPF (Para 129) encourages local planning authorities to make use of tools and processes for assessing and improving the design of development, and to have regard to the outcome from these processes, including any recommendations made by Design Review Panels and assessment frameworks such as Building for Life. This application was taken to the independent Creating Excellence Design Review Panel (9 June 2021).
- 3.3 This application is bound by Condition 2 of the outline application that requires the submission of an illustrated Urban Design and Architectural Principles document. The Urban Design and Architectural Principles document was approved in December 2020 and has influenced the overall mix of housing types, detailed landscape plan, active travel routes, character areas, densities, frontages, key open space and views. The Design Review Panel made a number of comments relating to:
- The landscape buffer to the rear of properties south of Blundell's Road and associated security;

- The provision of connected streets (fewer cul-de-sacs) or variation in materials to create a stronger focus on 'shared streets';
- Street trees – ensuring that those trees serving a function as a community asset are not in private (homeowner) ownership;
- The street to the rear of properties south of Blundell's Road being too linear in nature and the need for trees to be located outside private ownership;
- The introduction of subtle forms of variation in the street to the rear of properties south of Blundell's Road including gaps between buildings, adding semi-detached homes, organising the treatment of building and surfacing materials in acknowledgment to the character areas and street types;
- The introduction of children's play spaces, seating and informal play areas;
- The framing of views within a palette of building, hard and soft landscape materials;
- Appropriate treatment of bin and bike storage; and
- Electric car charging on front drives.

Each element will be dealt with in more detail in the following report.

3.4 Policy S9 of the Adopted Mid Devon Local Plan 2013-2033 seeks high quality sustainable design that reinforces the character and distinctiveness of Mid Devon's built environment, mitigates and adapts to climate change and creates attractive places. Policy DM1 of the same plan requires the design of new development to be of high quality, based upon and demonstrating a clear understanding of the characteristics of the site, its wider context and the surrounding area and making efficient and effective use of the site. Development proposals should make a positive contribution to local character including any heritage or biodiversity assets, and create safe and accessible places that encourage sustainable modes of travel such as walking and cycling. Visually attractive places should be well integrated with surrounding buildings, streets and landscapes without adverse impact on privacy or amenity for proposed or existing properties. Policy DM1 also requires suitably sized rooms and overall floorspace to Nationally Described Space Standards, which allows for adequate storage and movement within the building together with external space for recycling, refuse and cycle storage as well as adequate levels of daylight to amenity spaces and principal windows.

3.5 The Adopted Masterplan SPD sets out a number of guiding principles in relation to design and are relevant to this application. Guiding Principle:

A relates to character;

B to urban design;

C to movement and transport;

D to landscape, open space and recreation;

E to social equality; and

G energy and resource efficiency.

A guiding principle to the Adopted Masterplan SPD is the establishment of a garden neighbourhood with landscape integrated into development as a defining feature.

- 3.6 The Tiverton EUE Design Guide supports the Adopted Masterplan SPD to ensure a seamless, coherent delivery of well-connected routes and buildings across land ownerships and land parcels regardless if they are built over a phased period of time. It develops the concept of the garden neighbourhood and of character areas based on a 'centre-to-edge' concept linked through a hierarchy of green routes and open spaces. The Tiverton EUE Design Guide supports and supplements the guiding principles as set out in the Tiverton EUE Adopted Masterplan SPD.
- 3.7 A key landscape feature of the proposed development is the east west nature corridor incorporating new tree planting, wildlife rich meadow planting, informal 'play-on-the-way' space, pedestrian and cycle ways and wildlife corridors as a means to support the principle of a garden neighbourhood. This will integrate with the open space associated with the spine road (21/00374/MARM) that as a green boulevard incorporating species-rich native hedge banks and hedgerows, species rich meadow grassland, native scrub and tree planting forms a key landscape feature. Similarly, the cycle and pedestrian links, community spaces including gathering spaces and trim trial associated with the spine road will integrate with this application as a means to provide a comprehensive form of development.
- 3.8 The proposed dwellings are organised into a pattern of streets and perimeter blocks defined by buildings and public spaces. The internal road layout has been designed to allow emergency and refuse vehicles to access the site with adequate turning facilities provided in appropriate locations. The nature corridor and its integration into the spine road application is pivotal to the continuity of this development. This proposal seeks to ensure a strong built frontage on to the nature corridor and on to the layout of streets within the development. The Design Review Panel raised concerns relating to the frontage of development on to the spine road – that there should be a clear sense of this also being a 'street' rather than simply a 'vehicular corridor'. Whilst Officers acknowledge these concerns, the retention (and extension where proposed through the spine road application) of the north south hedgebank and TPO trees on the eastern boundary of this application site provides some limit to the achievement of this. As such, properties on the eastern boundary of the application site have been designed to either front on to the spine road (Plot No.s 53-56) or provide a clear sense of surveillance through building design without loss to the established hedgebank and TPO trees. Through negotiation Officers have ensured the introduction of the north south green space fronting the apartment block at the centre of the development. This offering a focal point on the street located to the rear of properties south of Blundell's Road, to provide enhanced setting to the apartment block and as a means to develop this part of the development as a specific character area.
- 3.9 South of Blundell's Road a single 2.5 storey apartment block of eighteen units is proposed. Proposed for construction in an L shape, the nearest 2.5 storey elevation (Plots 32-41) will

be 18m in length, located 83m from the nearest rear elevation of existing dwellings, with intervening road, private front garden, proposed dwellings (Plot No.s 13-15), private rear garden (9m in length), buffer landscape strip (1.5m in length) and private garden (47m). The scale and massing of the 2.5 storey apartment block is considered acceptable without loss of light or privacy to existing properties while its location supports established urban design principles including the integration of affordable housing with open market housing. The remainder of units south of Blundell's Road are two storey in height. The total site area covers 7.38 hectares. The net density of this development equating to 22.5 dwellings per hectare. This accords with the Adopted Masterplan SPD. Further, in the achievement of sustainable development, it accords with the NPPF requirement (para 8) for the 'effective use' of land.

3.10 The Adopted Masterplan SPD promotes a hierarchy of streets with the Design Guide developing the concept in the form of character areas to provide a richer and more legible townscape. The proposal establishes six character areas:

- Northern Gateway Hub
- Green Boulevard
- Western Green Edge
- Nature Corridor
- Neighbourhood Hub
- Neighbourhood Core

The net density of each character area is as follows:

- Northern Gateway Hub: 46 dwellings per hectare
- Green Boulevard: 16 dwellings per hectare
- Western Green Edge: 24 dwellings per hectare
- Nature Corridor: 18 dwellings per hectare
- Neighbourhood Hub: 46 dwellings per hectare
- Neighbourhood Core: 28 dwellings per hectare

The Adopted Masterplan SPD (Chapter 4.1) identifies a net density at the neighbourhood centre of 40-50 dwellings per hectare reducing outwards to densities of 15-20 dwellings per hectare. Many of the intermediate housing areas comprising residential streets to have densities of 25-40 dwellings per hectare. Representations received make reference to the density of housing being excessive; particularly the density of development on the street proposed to the rear of properties south of Blundell's Road. This street falls within two character areas – the neighbourhood hub and the neighbourhood core. This application area is identified as 'residential core' within the Tiverton EUE Design Guide (Chapter 3c1)

for highest density residential development. The net densities accord with the Tiverton EUE Design Guide. More generally, the proposed density of development varies across the development site responding to the centre-to-edge concept with detailed landscaping proposals supporting the establishment of character areas. It is for these reasons that Officers advise that the proposed density of development is acceptable and accords with the Adopted Masterplan SPD and Tiverton EUE Design Guide.

- 3.11 The application scheme proposes a dwelling mix of 3 bed dwellings (x No. 31), 4 bed dwellings (x No. 95), 1 bed affordable dwellings (x No. 2), 1 bed affordable flats (x No. 9), 2 bed affordable dwellings (x No. 8), 2 bed affordable flats (x No. 9) 3 bed affordable dwellings (x No. 10) and 4 bed dwellings (x No. 2). As a Reserved Matters application, the S106 agreement to application 14/00881/MOUT (Schedule 1, Part 1, para 1.1 – 1.6.6) establishes the requirement for 22.5% affordable units. This translates to 37 units; the applicant offering 40 units. The proposed tenure mix is 60% affordable rent and 40% intermediate and is compliant with the requirements of the S106 agreement. All house types meet Nationally Designed Space Standards with private gardens. The two apartment blocks north and south of Blundell's Road whilst not providing dedicated communal amenity space are set within managed areas of green space with close access to other areas of planted public open space with associated outdoor play and health facilities. There are nineteen (x No. 19) house types proposed across the scheme. Supporting documents indicate that the range of housing has been based on arts and crafts details on an understanding that they will reflect the local vernacular. The building types remain standard designs rather than house types that distinctly reflect the character or qualities of those within Post Hill or the wider area; a concern raised by those submitting representations. However, the materials (brown / red brick, natural coloured mortar, white rough cast render, and occasional use of timber with grey / brown roof tiles) will not be out of keeping. Brick details found throughout the wider area are to be reflected in the proposed dwellings including voussoir headers, soldier courses, arrow slots and diamond features. Also to a lesser extent finials, red hung clay tiles and timber larch cladding at gables and bay windows. Windows will be multi paned and side opening in uPVC. Projecting bay windows form part of the design of some house types. Hipped roof lines are introduced to add definition, features that are evident both in immediate area and elsewhere around the town. On balance, the design of the proposed dwellings is considered acceptable.
- 3.12 Parking standards across the proposed development meet those required by Policy DM5 and the Provision of Parking in New Development SPD. All properties are provided with on-plot parking (259 spaces in total). In addition to spaces within parking courts this represents an excess of provision (Policy DM5, Adopted Mid Devon Local Plan). Whilst representations relating to tandem style parking are acknowledged, it is generally accepted as a suitable parking solution. Electric vehicle charging points are provided (8 north of Blundell's Road and 18 south of Blundell's Road) representing an excess in provision in Policy terms (Policy DM5 of the Adopted Mid Devon Local Plan). An additional 32 detached garages are provided on-plot in addition to 69 integral garages. Twelve visitor parking spaces are provided. The introduction of greenery (being a mixture of tree planting, ornamental planting or amenity grass) to separate parking is beneficial to the detailed design and layout.

- 3.13 Boundary treatments in the public domain will be a screen wall. Durable high quality boundary treatments ensure the long term design integrity of the scheme whilst supporting the principle of a garden neighbourhood. The topography is such that there is a minimal need for retaining walls and where required are designed such that there will not be a loss of amenity value to existing or proposed residents and are acceptable.

Buffer Strip

- 3.14 The Adopted Masterplan SPD Illustrative Framework Plan (2018) identifies a buffer to the rear properties south of Blundell's Road and additionally in the Adopted Masterplan SPD (2014) to the rear of properties west of Pool Anthony Drive. Neither Masterplan of 2014 or 2018 specify the design or depth of the buffer area. Accordingly they do not require it to be 5m wide. Similarly, the Design Guide does not make any specific reference to the depth of the buffer. With the recent provision of revised plans, a 3m off-plot landscaped buffer has been identified to the rear of properties south of Blundell's Road. However, due to the nature of the site boundary, three existing properties (Long Meadow, Barns Hollow and Sweethayes) have a reduced depth of buffer to their rear; this being associated with the greater length of garden attached to these properties. Nonetheless, a new hedgeline is proposed along the length of the 3m buffer strip to the rear of properties south of Blundell's Road with additional tree planting to supplement existing.
- 3.15 Chain link fencing is proposed as the means to enclose the rear gardens of Plot No.s 1-21 as adjoining the proposed buffer. This has been a considered decision and reflects the approach taken to new development adjoining Fairway, Post Hill. A visual connection to it will ensure garden debris is not discarded into the space or used for anti-social activities. Whilst officers are mindful of the Design Review Panel querying the requirement for the buffer zone due to the risk of this leftover space being used in an anti-social manner, Officers are also mindful of the expectation for the provision of this buffer and have made efforts to ensure a solution is provided to its management. This is to be part of the area covered by a management company as a managed landscaped area. The intent is to ensure that it is remained, managed and that it is not absorbed into private gardens over time.
- 3.16 Properties south of Blundells Road benefit from long rear gardens; gardens vary from 31-50m in length, which are separated from new dwellings by an existing hedge and in parts mature TPO trees. The new dwellings (Plot No.s 1-21) will be set back from the rear boundary of the existing properties by the 1.5-3m buffer and minimum garden lengths of 8.5m. It is considered that these combinations of garden length, existing and proposed planting and landscaped buffer will ensure an acceptable relationship between the existing and new properties in planning terms, with particular regard to privacy and amenity.
- 3.17 The Adopted Masterplan SPD (2014) similarly identified a buffer to the west of properties on Pool Anthony Drive. A drainage easement along the length of this boundary to Pool Anthony Drive restricts new planting to those with shallow growth roots. This is reflected in the revised detailed landscape design drawings that identify a new hedgeline (to supplement the existing) and grass. Officers have ensured that proposals are in place for its ongoing management (via a management company) and it is to be retained as a

landscape buffer as set out on the Adopted Masterplan (2014). A chain link fence is again identified along the boundary of Plot No.s 162 and 163. It is acknowledged that the parking court to apartment block (Plot No.s 150-158) does not benefit from such a clearly defined landscape buffer adjacent to the existing property in Poole Anthony Drive. However, the detailed landscape drawings identify the retention of the existing hedgebank, hedgebank trees and understorey vegetation, supplemented by additional tree planting. Management of this area will fall within the management of the apartment block. Nearest properties (Plot No.s 162 & 163) are separated from Poole Anthony drive by a mature hedgeline boundary. The side elevation to Plots 162 and 163 will be sited some 13m from the nearest existing property on Poole Anthony drive. The 2.5 storey apartment block (Plots 150-158) are some 55m from the nearest existing elevation on Poole Anthony Drive, separated by a car park, proposed and existing planting. The combination of private garden, existing and proposed planting and retention of mature hedgerow are considered to ensure an acceptable level of amenity, privacy and outlook is retained for existing residents.

Urban Form – streetscape and character areas

- 3.18 The Adopted Masterplan SPD represents the quantitative framework within which the Tiverton EUE will be developed. The Tiverton EUE Design Guide sits within this framework providing a range of solutions which will ensure the quality with which these objectives are met. Together the documents establish the principle of a Garden Neighbourhood. This goes beyond an aesthetic plot-by-plot and house scale quality to a strategic and structural approach to the layout of the whole of the urban extension. Representations raise concerns that the proposal does not reflect the Adopted Masterplan concept of a garden neighbourhood or the Tiverton EUE Design Guide 'centre-to-edge' concept.
- 3.19 The Tiverton EUE Design Guide establishes the 'centre-to-edge' principle with the centre attributed to higher density development and green boulevards to the outer edges attributed to low density residential development feathering into the rural landscape. The centre-to-edge concept requires clear connections throughout; connecting residential development to the neighbourhood centre and vice-versa (Chapter 3a, Tiverton EUE Design Guide). A hierarchy of streets derived from this structure will inform 'character areas' that will aid legibility, navigation and a sense of place.
- 3.20 This application site is referenced within Chapter 3b5 and acknowledges the sites' visibility from the eastbound carriageway of Blundell's Road and its important relationship with Blundell's School and the setting of the conservation area. The site is also identified as residential core for the highest density residential development (Chapter 3c1, Tiverton EUE Design Guide).
- 3.21 The character areas plan that supports this application identifies 6 character areas across the application site. Set within the strategic landscape features of the Green Boulevard and Nature Corridor are the northern gateway hub, the neighbourhood core, the neighbourhood hub and western edge. The concept of character areas has been consistently developed and reviewed throughout the emerging scheme following Officer and Design Review Panel contributions. In establishing character areas the form of development, use of materials (buildings and streetscape) and planting regime have been refined; subtly aiding legibility,

navigation and sense of place within the proposed scheme. This has included, adjacent to West Manley Lane, the retention of the existing hedgerow, without breaches, to maintain the ambience of a country lane with a single point of pedestrian and cycle access. Proposed development is also set back approximately 10m behind a planted landscape buffer as acknowledgement of the setting to Blundell's School and the conservation area. Representations question the location of the neighbourhood hub south of Blundell's Road, more specifically the 2.5 storey apartment block. Its location on the junction of an east-west and north-south axis, supplemented by a north-south corridor of public open space with tree planting supports the principles of a legible townscape whilst providing a socially inclusive and comprehensive form of development. Representations also question the 'northern gateway' as a visually unattractive arrival to Tiverton. Officers have negotiated amendments throughout the application process seeking enhanced tree planting and green space (as an extension to the green boulevard south of Blundell's Road) and amendments to the building types, scale, massing and positioning to ensure strong urban form is achieved on the frontage of this principle route into Tiverton; whilst acknowledging it is a short transition from the A361 to a residential area with neighbourhood centre.

- 3.22 Other more specific amendments introduced into the emerging scheme have been to the form and building line of the street (Plots 1-21 to the rear of properties south of Blundell's Road). Whilst the number of units proposed has remained unchanged, the mix of house types has been amended as a means to introduce a more staggered building line to soften and introduce more informality to the layout. This has also been supported by amends to the Land Ownership Plan to ensure the street trees are within the adoption of a private management company ensuring their retention as features within the public realm. Shared private drives are demarcated by a change in material (block paving).

- 3.23 A representation makes reference to the introduction of a neighbourhood hub character area north of Blundell's Road. Whilst a dedicated character area has not been introduced into this part of the scheme Officers have secured amendments to the scheme including a change in street surface materials and enhanced street planting in proximity to Plots 117, 118, 137 & 149 as a means to enhance the character of the street and sense of place.

- 3.24 The proposed location of the principal point of access from this application site on to the spine road (21/00374/MARM) has not changed throughout the emerging scheme. The proposed scheme seeks to deliver 'perimeter blocks' (Tiverton EUE, Design Guide, p.32) with adequately sized private gardens (Adopted Mid Devon Local Plan, Policy DM1); this to ensure legible streets, with active frontages and informal surveillance. Relocation of the principal point of access would compromise the area of land available as a nature corridor and key landscape feature. Further, the TPO Trees within the hedgeline boundary on the eastern boundary of the application site would likely be compromised. A buffer zone to the rear of properties south of Blundell's Road has been facilitated with the principal point of access as identified. On balance, the retention of the principal point of access on to the spine road, in the location identified, secures a satisfactory scheme in planning terms.

Energy Consumption and Co2 Emissions

- 3.25 The government has set a commitment (June 2021) to cut emissions by 78% by 2035 as a means to meet net zero by 2050. Achieving sustainable development is a commitment enshrined in the NPPF.
- 3.26 The NPPF confirms that the purpose of the planning system is to contribute to the achievement of sustainable development (para 7). Achieving this means the planning system has three overarching objectives:
- An economic objective – building a strong, responsive and competitive economy;
 - A social objective – supporting vibrant and healthy communities by ensuring a sufficient number and range of homes; and
 - An environmental objective – protecting and enhancing the natural, built and historic environment including making effective use of land.

Planning policies and decisions should play an active role in guiding development towards sustainable solutions and in decision-taking. This means approving development proposals that accord with an up-to-date development plan (NPPF, para 11); or more specifically policies S1, TIV1, TIV5, DM1 and DM2 of the Adopted Mid Devon Local Plan 2013-2033. The outline planning permission with signed S106 was granted in June 2017. This Reserved Matters application responds to the timing and contents set out in the outline planning permission.

- 3.27 In 2015, the Secretary of State for Communities and Local Government confirmed that changes to the 2008 Climate Change Act would mean local authorities in England could no longer require code level 3, 4, 5 or 6 as part of the conditions imposed on planning permissions. Energy requirements for dwellings would instead be set by the Building Regulations which would be changed to the equivalent code Level 4. The dwellings proposed for construction through this reserved matters application will comply with Building Regulations Part L. Part L requires 10% of the energy to be used in the development to come from onsite renewable / low carbon sources. This application seeks to achieve more than the minimum requirements as set out in Part L1A of the Building Regulations, as detailed in the Low Emissions Strategy submitted in support of this application. Accordingly, the development proposes the following measures;
- Achieving the target emission rate - as calculated in accordance with the Standard Assessment Procedure (SAP) that is accounted for and measured at the design stage;
 - Limits on design flexibility – adopting a ‘fabric first’ approach; well insulated and air tight building fabric, inclusion of energy efficient heating and lighting;
 - Limiting the effects of solar gain in summer – giving consideration to elements such as orientation, cross-ventilation;
 - Building performance – giving consideration to thermal bridging and air leakage;

- Energy efficient operation
- Design out energy demand – designing out the need for energy use

The Low Emission Strategy confirms that the calculated performance of the dwellings will exceed the requirements of Part L without requiring low carbon or renewable energy systems to offset unnecessary emissions (Low Emission Strategy, para 4.3).

- 3.28 In addition to the Low Emission Strategy, the Site Waste Management Plan set out other aspects in the Site Waste Management Plan including targets for reuse, recycling, and recovery of waste arising through the development. Conditions are recommended in consultation with DCC Waste Planning, to ensure compliance and with these conditions, the proposed development is considered to meet policy requirements as endorsed in the recently Adopted Mid Devon Local Plan and national regulations.
- 3.29 Overall, the general scale, massing and layout of the development proposal is considered acceptable. Key landscape features form the basis for the proposed scheme, with associated public open space and equipped play that is well fronted by development providing informal surveillance. This ensures the green landscape features form a real asset to the development providing opportunities for health, fitness and play. Whilst the scheme uses standard house types the proposal has sought to respond to the concerns raised at the Design Review Panel introducing informality to the streetscape. The proposal introduces a landscaped buffer to existing properties north and south of Blundell's Road. The density of development accords with the Adopted Masterplan SPD and Tiverton EUE Design Guide. Properties will be built to current Building Regulation requirements and up-to-date local plan policy.
- 3.30 For these reasons, the application is considered to comply with policies S1, S9, DM1, DM2, DM5, DM26, TIV1, TIV3 and TIV5 of the Adopted Mid Devon Local Plan 2013-2033 and with the principles set out in the Adopted Masterplan SPD and Tiverton EUE Design Guide.

4.0 Public open space and green infrastructure

- 4.1 The NPPF (Para 127) states that planning decisions should take maximum opportunity to accommodate and sustain an appropriate amount and mix of development including green and other public space and create places that are safe, inclusive, accessible and which promote health and well-being. Paragraph 91 of the NPPF confirms that planning decisions should achieve high quality public space that encourages active and continual use.
- 4.2 Policy S5 requires new housing developments to provide at least 23.5 square metres of amenity green space per dwelling along with children's play areas, parks, sport and recreation grounds, allotments and teenager youth space with safe and convenient access on foot or cycle. Policy TIV3 of the Adopted Local Plan 2013 – 2033 relates to environmental protection and green infrastructure. It requires areas of equipped and laid out public open space including children's play, sports pitches and allotments. It requires design solutions to respect the character and setting of heritage assets within and adjoining the site. This application site is within the defined setting of Knighthayes Court which is on the national register of historic parks and gardens. The development proposed will be

required to have appropriate regard to the character and setting of all heritage assets affected. Policies S9 and DM26 seek to provide a network of green corridors with recreational, visual and biodiversity value, including sustainable drainage. The requirements for open space and green infrastructure are set out more fully in the Adopted Masterplan SPD.

- 4.3 Within this application a nature corridor integrating pedestrian, cycle and 'play on the way' informal equipped play space is provided. This is integrated with areas of proposed green space along the eastern boundary of the application site that in turn supplements and integrates with the spine road green boulevard (21/00374/MARM).

Also proposed is the West Manley Lane buffer, retaining the existing hedgerow and setting development back from the country lane. Full details regarding the management and future maintenance of the open space areas are provided in the Landscape Management Plan (March 2021) with other matters being conditional on planning consent. The proposal presented provides 2.2 hectares of public open space (or 133sqm per dwelling) in accordance with Local Plan requirements. This provision is also to be considered in conjunction with the spine road permission (21/00374/MARM) which provides an additional 0.5 hectares of public open space with trim trial, seating and other gathering spaces directly adjacent to this application site.

- 4.4 An Arboricultural Impact Assessment (March 2021), prepared by Arboricultural Consultants, has been submitted in support of the application. It identifies key arboricultural features including those trees most recently awarded TPO status south of Blundell's Road. Two trees north of Blundell's Road (an oak, T35 and an ash, T38) are proposed for removal due to limited life expectancy. Tree groups G1 (Ash) and G5 (Ash) in the southern land parcel are also proposed for removal to facilitate the construction of access roads and footways. Some hedgerow will be lost to facilitate the construction of roads, footways, drainage and/or the occasional dwelling (see Tree Retention & Removal Plan, BHA_651_03 Rev D). Their removal is not considered to have a significant adverse impact, with new mitigation planting being proposed through the Detailed Landscape Design to substitute their loss. No trees or hedgerow directly adjoining existing properties north or south of Blundell's Road are proposed for removal. Root protection areas are identified on Drawing No. BHA_651_03 Rev D within the Arboricultural Report. Representations received make reference to incorrect measurement data associated with tree heights and root protection spread within the Arboricultural Impact Assessment. Officers understand that this relates specifically to the TPO trees on the rear boundary of properties south of Blundell's Road. Amendments have been introduced to the proposed planning layout including a greater depth to the landscape buffer, changes to the house types and building line and removal of detached garages. These amendments enhance the space awarded to the trees. The Arboricultural Report identifies those trees for crown lifting and pruning.
- 4.5 For the reasons outlined above, it is considered that the proposal complies with policies S5, S9, TIV3, DM1 and DM26 of the Adopted Mid Devon Local Plan 2013 – 2033 ensuring an appropriate delivery of public open space and green infrastructure.

5.0 Drainage and Flood Risk

- 5.1 The NPPF requires the planning system (para 148) to support the transition to a low carbon future in a changing climate, taking full account of flood risk. Proposals should take into account the long term implications for flood risk and provide appropriate mitigating measures. When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere (para 163). Where appropriate, applications should be supported by a site-specific flood-risk assessment. Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from the Lead Local Flood Authority, have appropriate proposed minimum operational standards, have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and where possible, provide multifunctional benefits.
- 5.2 Policy S9 the Adopted Mid Devon Local Plan 2013-2033 seeks mitigation measures to ensure development does not increase the risk of flooding elsewhere. Provision for a sustainable urban drainage system to deal with all surface water from the development including provision for future maintenance, is required. The Environmental Statement submitted with Application 14/00881/MOUT contained an assessment of the likely significant effects of flooding for the outline application area and identified mitigation measures to include a sustainable urban drainage system (SUDs) and surface water balancing ponds. The Residential Parcels 1a, 1b & 1C Proposed Drainage Statement submitted with this application has been further amended to address observations raised by the Local Lead Flood Authority.
- 5.3 Policy DM1 of the Adopted Mid Devon Local Plan 2013-2033 LP3 DMP requires appropriate drainage including sustainable drainage systems and arrangements for future maintenance. Policy DM26 of the same plan requires major development proposals to incorporate flood and water resource management.
- 5.4 Within the Adopted Masterplan SPD, Guiding Principle G(5) requires a water management strategy to be put in place to ensure that SUDs and attenuation ponds are provided reducing flood risk and retaining run off within the site. Principle G(7) promotes opportunities to maximise landscape as a means to provide permeable surfacing.
- 5.5 A Residential Parcels Drainage Statement (June 2021) and drainage strategy has been submitted in support of this application making provision to reduce the risk of onsite and downstream flooding and safeguards the quality of water discharged into the Tidcombe Fen SSSI. It proposes the implementation of a surface water drainage system for managing the disposal of surface water runoff. In areas where infiltration is appropriate it is proposed to discharge surface water to ground via infiltration devices using a combination of pervious paving, soakaways, and infiltration basins. For the remainder of the site where the use of infiltration devices is not appropriate, flow balancing methods are proposed, comprising a system of swales and on-line ponds / detention basins, and geocellular storage in order to attenuate surface water runoff to greenfield runoff rates with discharges to the local watercourse and ditch system. These latest details are currently being

considered by the Local Lead Flood Authority and Planning Committee will be provided with an update at the meeting, together with any required conditions. Your officers advise that in approving the Residential Parcels Drainage Statement and securing a Construction Management Plan by condition, Natural England's concerns relating to the SUDs will be addressed.

- 5.6 Subject to the update from the Lead Local Flood Authority, it is considered that the proposal accords with Policies S9 and DM1 of the Adopted Mid Devon Local Plan 2013-2033 and to the Adopted Masterplan SPD.

6.0 Air quality

- 6.1 The NPPF states that planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management and green infrastructure provision and enhancement. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with local air quality action plans.
- 6.2 Policy DM3 of the Adopted Mid Devon Local Plan 2013 – 2033 requires development proposals that would give rise to significant levels of vehicular movement to be accompanied by an integrated Transport Assessment, Travel Plan, traffic pollution assessment and Low Emission Assessment, including mitigation measures to reduce negative impacts on local air quality. Environmental Health Officers are satisfied that in combination with the Low Emission Strategy measures can be satisfactorily addressed within a Construction Management Plan. Similarly, DCC Highway Authority has not raised any concerns.
- 6.3 Subject to securing the mitigation measures through condition, it is considered that the proposal complies with policies S8, TIV2 and DM3 of the Adopted Mid Devon Local Plan 2013-2033.

7.0 Ecology, Landscape and Visual Impact

- 7.1 The NPPF (Para 170) states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services. Development should provide net gains for biodiversity, including establishing coherent ecological networks (NPPF, para 174).
- 7.2 Policy S1 of the Adopted Mid Devon Local Plan 2013-2033 requires net gain in biodiversity. Policy S9 of the same plan seeks high quality sustainable design that reinforces the character and legibility of Mid Devon's built environment and landscape to create attractive places. Policy TIV3 requires measures to protect and enhance trees, hedgerows and other

environmental features which contribute to character and biodiversity and measures to maintain a wildlife network within the site, linking to the surrounding countryside.

- 7.3 The Adopted Masterplan SPD sets out a number of guiding principles to be taken into account in any planning applications for development on the site. Guiding Principle D relates to landscape. It requires that the structure of the development should be shaped around the existing character and features of the landscape, reinforcing those qualities and protecting and enhancing important fauna and flora.
- 7.4 Outline application 14/00881/MOUT Condition 2ii required the submission of a strategy for the management, maintenance, access and use arrangements of all green infrastructure across the development site. A Land Management Strategy (December 2020) was accordingly submitted and approved as a discharge of condition. This application in adhering to the principles of the Land Management Strategy is supported by a Detailed Landscape Design, Landscape Management Plan (March 2021) and a Habitat Assessment and Mitigation Plan (March 2021) including a full suite of surveys for each protected species. Together they seek to establish the principles of bio-diversity net gain associated with the introduction of mixed native tree and shrub planting and species rich meadow grassland and hedging. This is supported by specific mitigation and enhancement measures including the retention and protection of existing hedgerows and trees.
- 7.5 Whilst the RSPB express disappointment at the number of swift boxes to be provided (42), the Detailed Landscape Design and Planting Character Areas provide a diversity of plant species to enhance visual interest and provide a variety of wildlife habitats. The Design Review Panel recognised the central east / west green nature corridor as an asset for open space and biodiversity that will invigorate the character of the development; whilst also integrating with the landscape proposals and green boulevard associated with application 21/00374/MARM for the spine road south of Blundell's Road.
- 7.6 The former outline application (14/00881/MOUT) was supported by an Environmental Statement and provided a landscape and visual assessment of the impact of the mixed use development. This application for 166 dwellings and associated open space, designated within the outline application, mitigates the landscape and visual impacts concluded in the Environmental Statement.
- 7.7 For the reasons outlined above, it is considered that the proposal complies with policies S1, S9 and TIV3 of the Adopted Mid Devon Local Plan 2013 – 2033 ensuring the protection and enhancement of valued landscapes, sites of biodiversity and biodiversity net gain.

8.0 Heritage

- 8.1 Policy DM25 of the Adopted Mid Devon Local Plan 2013 - 2033 states that where development proposals are likely to affect heritage assets and their settings, proposals should be assessed to take account of the significance of those assets. Where proposals would substantially harm heritage assets, public benefit must outweigh that harm. Where proposals would lead to less than substantial harm, the harm should be weighed against any public benefit.

- 8.2 The NPPF requires developers to assess the significance of a proposal's impact on heritage assets and their settings. Where a proposal would lead to substantial harm, planning applications should be refused unless substantial public benefits outweigh that harm and where proposals would lead to less than substantial harm, the harm should be weighed against public benefits (NPPF, para 196). A balanced judgment should be made of the effect of loss of non-designated heritage assets (for example, archaeology), according to the significance of that asset. Developers are required to record and advance understanding of the significance of any heritage assets to be lost and to make this evidence publicly accessible.
- 8.3 Condition 15 of the outline application 14/00881/MOUT does not permit any development until an archaeological investigation has been carried out on the site in accordance with a written scheme of investigation. The Historic Environment team have no in principle objection to the proposed scheme. Whilst they confirm that the programme of archaeological works described in the Written Scheme of Investigation are acceptable this does not represent a discharge of condition. Condition 15 of outline application requiring a Written Scheme of Investigation remains relevant. Historic England have no objection to the application on heritage grounds.
- 8.4 The application is considered to be acceptable and in accordance with policies TIV3 and DM25 of the Adopted Mid Devon Local Plan 2013-2033 and the NPPF.

9.0 Other Matters

- 9.1 A representation has been received relating to lack of public consultation by the applicant prior to this application and references the Urban Design and Architectural Principles document as well as lack of consultation in advance of the submission of this application. Whilst this application is bound by Condition 2 of the outline planning permission that requires the submission of an illustrated Urban Design & Architectural Principles document, it is to be considered on its own merits. Upon receipt of the application, the Council has undertaken a period of public consultation in line with statutory requirements, as well as an additional 14 day period of public consultation following revised information. It is understood that Officers the applicant wrote to each adjoining property to this application site (and the spine road application site (21/00374/MARM) on the 27th April 2021; totalling 13 properties south of Blundell's Road, 3 adjoining Pool Anthony Drive and to Tiverton Town Council. One household responded resulting in changes to Application 21/00374/MARM.
- 9.2 South West Water and other utility companies have not raised an objection to the proposed scheme indicating that there is sufficient capacity to accommodate the proposed number of dwellings and as an allocated Local Plan site with outline planning permission, the principle of development has previously been established.

10.0 Planning balance

- 10.1 This is a Reserved Matters planning application for the construction of 166 dwellings to include public open space, pedestrian, cycle and vehicular links and associated

infrastructure. The application area has previously been the subject of an outline planning application (Application No. 14/00881/MOUT).

- 10.2 The development can be accommodated without an unacceptable impact on the highway network. The proposed development can be served by the necessary infrastructure in a predictable, timely and effective fashion whilst promoting sustainable modes of transport.
- 10.3 The proposed development provides a net density of 22.5 dwellings per hectare and accords with the Adopted Masterplan SPD and NPPF that requires the effective use of land. Whilst building types remain standard designs rather than house types that distinctly reflect the character or qualities of those within Post Hill or the wider area, the proposal introduces materials and features that are evident both in the immediate area and elsewhere around the town. The proposal meets Nationally Described Space Standards and Parking Standards. The public open space and associated landscape details form a key feature of the development. Drainage and flood risk have been fully considered. Affordable housing and other financial contributions are secured through a Section 106 agreement (Application 14/00881/MOUT). The proposed scheme, on balance, is considered to accord with relevant local plan policies as set out in this report and the Adopted Tiverton EUE Masterplan SPD and Design Guide and for these reasons is recommended for approval.

CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
2. Prior to the commencement of any part of the site hereby approved, the Local Planning Authority shall have received and approved in writing a report giving detail on:
 - a) The predicted amount and type of waste generated during the construction, demolition, excavation and occupational stages of the development;
 - b) The method of auditing the waste for the construction, demolition and excavation stage including a monitoring scheme and corrective measures if failure to meet the targets occurs;
 - c) Measures taken to avoid waste occurring during the construction, demolition, excavation and occupational phase of the development; and
 - d) Details of waste disposal during the construction stage.

The recommendations in the report shall be adhered to and the development shall be operated thereafter in accordance with those recommendations.

3. The development hereby approved shall not be carried out otherwise than in accordance with a phasing programme which shall previously have been submitted to and approved by the Local Planning Authority in writing.
4. No external lighting shall be installed on any part of the site unless as part of an external lighting plan that has been previously approved in writing by the Local Planning Authority. The external lighting plan should include all details of external lighting and light levels falling on wildlife habitats and demonstrate how dark corridors will be provided for wildlife.
5. First occupation of any dwelling shall not take place until details of street furniture to be provided within the public areas have been submitted to and approved in writing by the Local Planning Authority. Such details shall include benches or other seating, dog waste and litter bins and handrails where required, together with a timescale for their delivery. Following their provision, such facilities shall be permanently retained and maintained for their purpose at all times.
6. All planting, seeding, turfing or earthworks comprised in the approved details of landscaping as shown on the submitted plans, shall be carried out within 9 months of the substantial completion of the development (or phase thereof) whichever is the sooner; and any trees or plants which within a period of 5 years from the implementation of the scheme (or phase thereof), die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
7. First occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been approved in writing by the Local Planning Authority and constructed and made available for use:
 - a) The access road and cul-de-sac carriageways including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
 - b) The access road and cul-de-sac footways and footpaths which provide direct pedestrian routes to an existing highway maintainable at public expense in any phase have been constructed up to and including base course level;
 - c) The cul-de-sac visibility splays have been laid out in accordance with current approved standards;
 - d) The street lighting for the access road and cul-de-sac and footpaths has been erected and is operational;
 - e) The car parking and any other vehicular access facility required for the dwellings by this permission has/have been completed;
 - f) The verge and service margins and vehicle crossings on the road frontage of the dwelling have been completed with the highway boundary properly defined;

- g) The street nameplates for the access road and cul-de-sacs have been provided and erected; and
 - h) A site compound and car park have been constructed in accordance with a Construction Management Plan to be approved under Condition 4.
8. First occupation of any dwelling shall not take place until the boundary treatments for that dwelling have been installed in accordance with drawing number POST-21-04-04 Rev B. Only such approved boundary treatments shall be installed.
 9. Prior to the occupation of any part of the development hereby permitted, detailed drawings of all play equipment including the form and number shall be submitted to and agreed in writing by the Local Planning Authority.
 10. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared which is subject to the approval in writing of the Local Planning Authority.
- Following completion of remediation measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.
11. No development shall take place on the site except in accordance with the details set out within the submitted Landscape Management Plan (March 2021) and Habitat Assessment and Mitigation Plan (March 2021). The recommendations in the Landscape Management Plan (March 2021) and Habitat Assessment and Mitigation Plan (March 2021) shall be adhered to throughout the construction period and the development shall be operated thereafter only in accordance with the management provisions set out within them.

REASONS FOR CONDITIONS

1. To ensure the timely delivery of an early phase of development in the complex delivery of the Tiverton EUE.
2. In the interest of waste management and proper planning.
3. To ensure the proper development of the site.
4. In order to protect wildlife habitats from light pollution in accordance with the provisions of the National Planning Policy Framework.
5. To provide certainty in the interests of good planning.
6. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with Policies S1, S9, TIV3 and DM1 of the Adopted Mid Devon Local Plan 2013 – 2033.

7. To ensure that adequate access and associated facilities are available for the traffic attracted to the site
8. To ensure a good standard of residential amenity and security for residents.
9. In the interests of good planning and residential amenity.
10. In the interest of public health and safety.
11. To ensure landscape features and habitats are protected and enhanced to provide net gains in biodiversity on the site and to ensure the development assimilates well into the surrounding landscape, in accordance with the provisions of the National Planning Policy Framework and the guiding principles in the Tiverton Eastern Urban Extension Masterplan SPD.

INFORMATIVES

An archaeology Written Scheme of Investigation needs to be formally submitted to the Local Planning Authority as part of a submission to discharge the planning condition. Prior written approval to enable the condition associated with archaeology works for this phase of the development to be discharged prior to any development commencing on site is yet to be issued. The applicant should ensure that the archaeological works are implemented as described.

REASON FOR/ APPROVAL OF PERMISSION/GRANT OF CONSENT

Comprehensive consideration has been given to the overall design, scale and layout of the proposal. The scheme provides well integrated landscaping and public open space providing biodiversity net gain. The development can be accommodated without an unacceptable impact on the highway network with necessary infrastructure able to be delivered in a predictable, timely and effective manner. The design and layout including house types are acceptable meeting Nationally Described Space Standards. For these reasons the proposal is considered to comply with the Adopted Mid Devon Local Plan 2013 – 2033, Policies S1, S3, S5, S8, S9, DM1, DM2, DM3, DM4, DM5, DM25, DM26, TIV1, TIV2, TIV3, TIV5 of the Adopted Mid Devon Local Plan 2013-2033 and with the principles set out in the Adopted Masterplan SPD and Tiverton EUE Design Guide.

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 any more information

Christie McCombe

File Reference

21/00454/MARM

Circulation of the Report

Cllrs Richard Chesterton

Members of the Planning Committee

Application No. 20/01458/FULL

Grid Ref: 295889 : 113746

Applicant: Mr Pradham

Location: Ashdowne Care Centre
Ashdowne House
Orkney Mews
Tiverton

Proposal: Erection of single storey extension to Care Home

Date Valid: 18th September 2020



APPLICATION NO: 20/01548/FULL

MEMBER CALL-IN

Called in by Cllr Ben Holdman, in order to consider the potential impact of the proposed development on highway matters and local amenity, particularly as a result of noise and disturbance for local residents.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

Erection of single storey extension to care home.

The application relates to Ashdowne Care Centre, located within Orkney Mews, a residential part of Tiverton. The care centre comprises two units, Ashdowne House and Pinnex Moor House. The application is made to provide a single storey extension to the front of Pinnex Moor House, which would include a reconfigured lobby, incorporating an enclosed visiting pod, reconfigured office, enlarged kitchen and new treatment room and store. The proposed extension would be constructed using a mix of brick and rendered wall and slate roof to match existing.

NOTE: When this application was first submitted, it included a two-storey extension with additional bedrooms accommodation being provided. The plans have since been amended several times prior to the latest scheme, which omits the two-storey elements and all new bedrooms.

APPLICANT'S SUPPORTING INFORMATION

Site location plans
Elevation and floor plans
Wildlife trigger form
Ecological impact appraisal
Surface water drainage information

RELEVANT PLANNING HISTORY

85/01438/FULL - PERMIT date 10th January 1986

Change of use of Pinnex Moor House to Retirement Home for the Elderly

85/01650/OUT - REFUSE date 16th January 1986

Outline for the erection of a 35 bedroom building as an annexe to proposed Pinnex Moor Retirement Nursing Home

86/00750/FULL - PERMIT date 8th August 1986

Demolition of existing single storey wing and erection of 40 room extension and Matron's flat together with ancillary accommodation, with formation of vehicular access from Pinnex Moor Road

86/00917/FULL - PERMIT date 11th August 1986

Listed Building Consent for alterations and extensions to Pinnex Moor House in association with a proposal to convert house to a retirement home and to erect an extension

87/00702/FULL - PERMIT date 3rd August 1987

Conversion of Pinnex Moor House and outbuildings to Nursing Home together with extensions, alterations and formation of new access to Pinnex Moor Road with ancillary car parking and bridge over Leat (Revised Proposals)

87/00931/FULL - PERMIT date 8th July 1987

Listed Building Consent for the conversion of Pinnex Moor House and outbuildings to Nursing Home together with extensions, alterations and formation of new access to Pinnex Moor Road with ancillary car parking

87/01917/FULL - PERMIT date 16th November 1987

Erection of rest homes plus wardens accommodation and construction of vehicular access

97/00026/FULL - PERMIT date 28th February 1997

Temporary siting of a portable office building

01/01276/FULL - PERMIT date 15th March 2002

Renewal of temporary planning permission 4/52/97/26 for the use of land for siting of portacabin

02/02481/FULL - PERMIT date 18th December 2002

Erection of covered and elevated walkway

03/05496/FULL - PERMIT date 28th April 2004 Erection of two storey extension and conservatory

07/00782/FULL - PERMIT date 13th June 2007

Erection of two storey extension

11/00281/FULL - PERMIT date 15th April 2011

Erection of single storey extension to main building - NON-MATERIAL AMENDMENT GRANTED
17TH AUGUST 2011

17/00714/FULL - PERMIT date 28th June 2017

Erection of single storey extension

19/01640/FULL – PERMIT date 5th February 2020

Erection of a two storey extension (Revised Scheme)

RELEVANT PLANNING POLICY/GUIDANCE

Mid Devon Local Plan 2013-33

S1 - Sustainable development priorities

S9 - Environment

S10 - Tiverton

DM1 - High quality design

DM3 - Transport and air quality

DM5 - Parking

National Planning Policy Framework

National Planning Practice Guidance

CONSULTATIONS

TIVERTON TOWN COUNCIL – 02/03/21 - This is over development which would, if passed, have a detrimental effect on adjacent properties

03/08/21 - Previous comments of non-support remains. Development is too close to neighbouring properties and parking issues remain

HIGHWAY AUTHORITY – 29/09/20 - No comments.

03/03/2021 - I visited the site yesterday, and there are 12 parking spaces and not the 17 stated in the email below, although these are all outside the Care Home and there are none out side Pinnex only a turning head which cars were parked in.

There were many cars parked on the highway leading to this area which does cause concern and may be restricting the width of the carriageway to a point that an emergency vehicle would struggle to negotiate.

I am not sure this would be enough for the County Highway Authority to recommend refusal, but this is very short of Mid Devon District Council Policy DM 5, and I would suggest before they extend the premises further creating more bedrooms, they need to provide adequate parking for the existing approved use.

06/07/21 - The Applicant has put forward a parking plan which shows 15 parking spaces within the car park and two spaces which are in the turning head on the public highway. This turning head is Public Highway and therefore should not have parked vehicles as this area is to be clear to allow for vehicles to turn around.

With the number of staff and the number of vehicles parking in this area for which I have witnessed, clearly the number of spaces are not sufficient for the size of the Care Home. The number of Parking spaces also do not meet the Mid Devon Local Plan Policy DM 5.

Therefore the County Highway Authority would recommend refusal of this extension application without a proposal of more parking being provided as this would create a severe impact on the highway network.

10/08/21 - The applicant has removed the bedrooms from the proposal, although my concerns are still with the car parking facility at the site. The Car Parking Drawing submitted shows 15 Spaces within the site and 2 spaces on the Public Highway turning head. Which is unacceptable.

The car park spaces they have included within their site is where a permanent porta cabin is placed and therefore cannot be used as parking, the County Highway Authority would require the applicant to submit a plan showing the number of parking space, they can achieve within their site and available for use.

Therefore the County Highway recommendation for this proposal is still refusal.

18/08/21 - The applicant has recently removed the bedrooms from this application and which no longer affects the parking as no more parking spaces will be required.

Therefore the County Highway Authority removes the previous recommendation of refusal and has no objection to this application

PUBLIC HEALTH - Contaminated Land: No objection to this proposal. (22.09.20).

Air Quality: No objection to this proposal. (22.09.20).

Environmental Permitting: No objection to this proposal. (22.09.20).

Drainage: No objection to this proposal. (22.09.20).

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 0730 and 1900 hours on Monday to Fridays and 0730 and 1300 on Saturdays.

Reason: To ensure that the proposed development does not prejudice the amenities of neighbouring properties. (22.09.20).

Housing Standards: No comment. (01.10.20).

Licensing: No comments. (22.09.20).

Food Hygiene: No comments. (22.09.20).

Private Water Supplies: Not applicable. (22.09.20).

Health and Safety: No comments. (22.09.20).

06/04/2021 - Further to our initial comments we have now considered some of the matters raised by residents and can provide some advice.

Some concerns have been expressed about existing parking issues, perhaps exacerbated whenever building or maintenance works are taking place. Ideally the residential care home should consider providing additional on-site parking, implementing a staff travel plan and ensuring that all contractors park on site. The main access to this care home is through a residential area and the management should consider how best to ensure that their business does not impact on the amenity of local residents. The residents themselves could perhaps seek the assistance of the town council in reaching an acceptable way forward.

The Construction Environment Management Plan included by condition if approval is granted must include a section on construction traffic and contractor parking to ensure that residential amenity is not compromised. The CEMP or CMP needs to have very clear instruction on deliveries during the build and also parking for contractors. They should be prohibited from parking in the residential roads and an area on site should be set aside for them. That might mean that staff have to park further away for a while. A "wait away" system should be established for all deliveries to ensure that each is called in only when they can get directly onto site. This works really well where access can only be obtained through residential roads. Finally the company should include a commitment to provide copies of the plan to all delivery drivers and contractors.

Any other specific noise or nuisance issues, a tumble dryer was mentioned, should be referred to the public health team so that officers can help to get these matters resolved."

NATURAL ENGLAND – 01/10/20 - No comments.

MDDC TREE CONSULTANT – 24/08/21 - I have had a look at the plans/your photos & can offer the following comments:

- The end part of what appears to be a regularly clipped cypress hedge has grown into a significant size tree, the proposed extension appears to be in close proximity to the tree itself, the proposed extension would potentially impact significantly on the tree roots.
- While a raft foundation is generally shallower than strip foundations it would still require significant excavation, where construction is being considered within the RPA of retained trees a pile type foundation should be considered, to avoid excavation that would damage the root system,
- If the hedge/tree is considered important and ought to be retained/protected because it provides a screening for the building/amenity then an arboricultural survey, impact assessment, method statement and tree/hedge protection plan should be submitted in support of the application, this would be more robust & likely to be more successful than relying on a condition to protect the tree/hedge

- To sum up a raft type foundation is unlikely to provide sufficient root protection and a pile foundation may need to be considered, a starting point should be a BS5837 survey of the tree/hedge to determine the RPA, the impact of the proposals can then be assessed and suitable mitigation measures can be outlined in an arboricultural method statement/tree protection plan.

I trust these comments are clear but please come back to me if you need to, if you feel it would help I can make a site visit, but to reiterate, if the tree is important enough to be considered as a constraint then my advice is that the BS5837 process should be followed in the usual way.

MDDC TREE OFFICER – 07/10/21 - The tree is one that is deemed low quality and would never be afforded protection. As Chris mentioned in his email pile foundation may need to be considered. However, my personal experience of this it that that there is still trenching carried to ensure the pile foundations are level.

The plan provided indicates there is only a small section of the RPA that will be impacted upon and that they will be implementing ground protection to ensure there is less likelihood of ground compaction.

I would recommend that:

- Pile foundation is utilised.
- Hand dig only within the RPA.
- An Arboriculturalist is present to review works in the RPA and provide advice where roots are encountered.
- Ground protection is provided as detailed in the Tree plan.
- Where roots over 2.5cm are encountered that they are suitably pruned back by an arborist.
- Method statements are provided before commencing works to inform how they will carry out the works within the RPA to ensure minimal impact.

If this was a higher quality tree I would have more of an issue.

REPRESENTATIONS

This planning application has been advertised by means of a site notice erected by the applicant, neighbour notification and by advertising in a local newspaper in accordance with the legal requirements for publicity on planning applications, and the Council's Adopted Statement of Community Involvement (October 2016).

Letters of objection have been received from ten local residents in respect to this application. The main areas of concern are summarised below:

- The properties in Orkney Mews, adjacent to Ashdowne Care Home, are retirement properties for over 55 year olds. The proposed development will lead to additional noise and disturbance that will be detrimental to the residential amenity of neighbours. The proposal would also lead to increased vehicle movements and parking requirements that will add to existing parking issues in the area.
- There are existing parking issues as Ashdowne Care Centre does not have enough parking spaces. Many local properties also have no parking spaces, or parking provision below the usual parking standards due to the type of residences in the area i.e. over 55 year olds housing. This results in parking along Orkney Mews, including in the turning head, making it

difficult for larger vehicles such as delivery lorries, refuse vehicles and ambulances, to access the street. The lack of space for turning has also resulted in vehicles having to reverse onto private drives to manoeuvre.

- The identified parking issues have been present even during the coronavirus pandemic, when there have been less visitors to the care home. The situation is expected to be worse following the lifting of restrictions.
- There have been building works carried out to provide a previously approved extension at Ashdowne Care Home, which has caused additional pressure on the on-street parking arrangements.
- There is a need for yellow lines to be provided to restrict parking along the street.
- The proposed development will be closer to existing properties, increasing the likelihood of harm to residential amenity from overlooking, overshadowing and additional noise impact.
- There are ongoing noise issues already, which will be exacerbated by the proposed development. These include the operation of noisy washing machines and dryers, and deliveries and waste collections being carried out, at unsociable hours, in addition to loud noise from staff and residents.
- Orkney Mews was once a quiet, peaceful cul-de-sac but is now affected by Ashdowne Care Centre, which has expanded to become a busy and successful business.
- The proposed development would be too close to the boundary hedge, which currently protects the amenity of neighbouring residents. It is likely that building works would damage the hedge and its roots.
- There are concerns about where building materials will be stored, especially if those were to be stored in the car park area, adding to existing pressures on parking space.
- The care home site is already overdeveloped. The proposal will lead to further overdevelopment.
- The recent construction works at Ashdowne Care Home caused many problems, with deliveries being made along Orkney Mews, as well as skips being stored in the car park, and contractor vehicles being parked. There are concerns that these issues would be repeated.
- What will the proposed treatment room be used for? Could it be turned into another bedroom in future?
- It is also asked whether the windows and doors would be double glazed, and if extractor fans would be provided.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main material considerations in respect of this proposal are:

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

1) Principle of development

The proposal is for provision of a single storey extension to the front of an existing care home in Tiverton. The extension includes alterations to the lobby, rearrangement of an existing office, enlargement of a kitchen and provision of a Covid secure visiting pod and a treatment room. When submitted, the proposal included the provision of a two-storey extension with additional bedrooms, however that element of the scheme has been removed due to concerns over the impact on residential amenity and highway safety.

On the basis that this will be providing improved facilities within this existing business, there are no objections in principle to the proposed development. Consideration will of course need to be given

to the acceptability of the scheme in respect to other relevant local and national planning policy and guidance. The key issues are considered further below.

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

Policy DM1 of the Local Plan seeks high quality design that demonstrates a clear understanding of its context. Policy S1 requires good sustainable design that respects local character, heritage, surroundings and materials, creates safe and accessible environments, designs out crime and establishes a strong sense of place. The policy seeks to protect landscapes, visual quality and biodiversity.

Ashdowne Care Centre comprises a former house that has been extended heavily on several occasions, and a detached large building, containing the various residential accommodation associated with this business. It now comprises two separate units, Ashdowne House and Pinnex Moor House. The proposal relates to Pinnex Moor House and comprises a single storey extension to the front, to be finished with brick and render, with slate roof covering, to match the main building.

Overall, the proposal is considered to appropriately respect and relate to the character and appearance of the site and its surroundings.

Concerns have been raised in respect to the proximity of the extension to an adjoining boundary hedge, which offers protection to neighbouring properties amenity. The hedge is an evergreen Cypress hedge, which is regularly clipped other than its western end, which has grown to form a tree. Since the amendments to the proposal, the extension is now further from the hedge and tree. Following comments received from the Council's Tree Consultant at the time, additional information was received in the form of an evaluation of the hedge and associated tree protection plan. This identified the hedge and tree as being of low amenity value, although recognising that there is value in retaining the tree for visual and residential amenity reasons, tree protection measures are proposed. The tree protection plans has been assessed by the Council's Tree Officer and is considered to be acceptable, with only a small amount of the works proposed within the tree's root protection area. With the provision of the identified tree protection measures, along with the other measures, it is considered that there would be no unacceptable impact on the hedge and tree. The Tree Officer has recommended the conditioning of a method statement for works to be carried out within the root protection area to minimise harm.

3) Impact on residential amenity

Policy DM1 e) states that new development should be create "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..."

Following concerns raised about the impact on residential amenity by way of overlooking and overshadowing, as well as highway safety concerns, the original proposal for a two-storey extension with additional bedrooms was omitted from the scheme. The proposal now comprises the provision of additional floor space for ancillary features, including enlarged lobby, visiting pod, repositioned office, enlarged kitchen and a treatment room.

The proposed extension does protrude nearer to the closest properties, of which the nearest is currently approximately 11 metres to the north. The extension will however be separated by the existing hedge and tree, or by the turning head at the end of Orkney Mews. It is considered that there is reasonable separation to avoid harm as a result of noise, and there is also considered to be no unacceptable harm to residential amenity as a result of overlooking or overshadowing following the redesign and noting the position of the boundary hedge. Concerns have been raised about

existing noise issues relating to the operation of Ashdowne Care Home, however these are existing issues that would not be expected to increase as a result of this small-scale proposal. The use of the treatment room has been questioned, however it has been confirmed that this would be used for routine doctor visits and at other times would be used to securely store medication. It has been asked if there would be anything preventing this room being turned into a bedroom in future. It is noted that this is possible, in which case it is considered reasonable to impose a condition preventing any of the accommodation proposed being changed into bed space in the future.

While it is not considered to be strictly relevant to this application, the Council's Environmental Protection Officer is currently working with local residents and the applicant to try and resolve the existing issues.

In addition to the above, it is recognised that the construction works would have the potential to cause disturbance to local residents, if not properly controlled. It is noted that there were problems identified by residents during recent construction works at Ashdowne Care Home. As such, it is considered appropriate to impose a pre-commencement construction and environmental management plan (CEMP) condition. The Council's Environmental Protection Officer has recommended that this include special attention to construction worker's parking, and deliveries to the site. The applicant has formally agreed to the imposition of such a condition.

It is also considered appropriate to withdraw permitted development rights for the addition of any new extraction or ventilation equipment, which could have the potential to generate noise.

With the suggested conditions, it is considered that the proposal will be acceptable and not unacceptably harm the amenity of local residents, either as a result of the proposed extension, or during construction.

4) Parking and access

Policy DM3 of the Local Plan requires development to ensure safe access to the transport network. Policy DM5 relates to parking standards for new development.

It is recognised that there are parking issues within Orkney Mews. The estate comprises housing for over 55 year old residents, and contains reduced off-street parking provision than would usually be expected for residential development. It is also noted that Orkney Mews is of restricted width with limited on-street parking space. The private car park for Ashdowne Care Centre is also well below the policy requirements of DM5, which requires 1 parking space per bedroom. There are currently 60 bedrooms within the care homes, with a requirement of 60 spaces. At present there is only space for 15 parking spaces within the car park. With this being the existing situation, any additional development that would increase the need for parking space would be considered unacceptable. While the scheme included additional bedroom space, the Highway Authority did object, resulting in the omission of the new bedrooms. The facilities included within the proposed extension do not now result in a need to provide additional parking spaces, in which case while recognising ongoing issues with parking along the street, it is not considered reasonable to refuse planning permission on these grounds. Noting that there is no requirement for parking provision relating to the additional space proposed, the Highway Authority have withdrawn their previous objection.

As such, the proposal is acceptable and considered to have no adverse impact on highway safety in accordance policies DM3 and DM5 of the Mid Devon Local Plan.

SUMMARY/REASON FOR APPROVAL

The proposed development is considered to be acceptable, adequately respecting the character and appearance of the building and its surroundings, and causing no demonstrable harm to the amenity or privacy of nearby residents or to highway safety. The proposal therefore accords with policies S1, S9, DM1, DM3, DM4 and DM5 of the Mid Devon Local Plan (2013-2033) and the aims and objectives of the National Planning Policy Framework.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Before 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. This may include the establishment of a 'wait away' system for all deliveries;
 - (h) hours during which no construction traffic will be present at the site;
 - (i) the means of enclosure of the site during construction works;
 - (j) Details of the amount and location of construction worker parking, including measures to avoid parking on the adjoining residential streets;
 - (k) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site; and
 - (l) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

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

4. Before the commencement of development, a method statement detailing how works will be carried out within the root protection area (RPA) identified on submitted Tree Protection Plan (Ref: D14 455 P1) shall be submitted to and agreed in writing by the Local Planning Authority. This shall include measures such as:
 - The utilisation of pile foundations
 - Hand dig only within the RPA
 - The presence of an arborist to review works in the RPA and provide advice where roots are encountered.
 - Where roots over 2.5cm are encountered that they are suitably pruned back by an arborist.

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

5. For the duration of the development, the submitted scheme of tree and hedgerow protection measures identified in the submitted Tree Protection Plan (Ref: D14 455 P1), shall be installed and shall remain implemented in their entirety for the duration of the construction of the development and may only be moved, removed or dismantled following completion of the development hereby permitted, or with the prior consent of the Council in-writing.
6. The additional space provided within the development hereby permitted shall at no time be used to provide additional bedrooms
7. 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 external ventilation or extraction units shall be provided on the extension hereby permitted without the Local Planning Authority first granting planning permission.

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. In the interests of residential amenity, public safety and highway safety, in accordance with policies S9, DM1 and DM3 of the Mid Devon Local Plan 2013 and the aims and objectives of the National Planning Policy Framework. This pre-commencement condition is required to ensure that measures required to protect residential amenity, public safety and highway safety are in place before construction works start.
4. To preserve the health, structure and amenity value of existing landscape features (trees) in accordance with the policies S9 and DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework. This pre-commencement condition is required to ensure that measures required to prevent harm to the adjoining tree and hedge are in place before construction works start.

5. To preserve the health, structure and amenity value of existing landscape features (trees) in accordance with the policies S9 and DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
6. In the interests of residential amenity and highway safety, in accordance with policies S9, DM1 and DM3 of the Mid Devon Local Plan 2013 and the aims and objectives of the National Planning Policy Framework.
7. In the interests of residential amenity, in accordance with policy DM1 of the Mid Devon Local Plan 2013 and the aims and objectives of the National Planning Policy Framework.

INFORMATIVES

1. If you are planning a new development or extending an existing property over, or within 3 metres of public assets you need to contact South West Water.

Note: South West Water will not permit building within 4.5 metres of public water mains, sewage rising mains or sewers on a new development or redevelopment site. For more information please refer to the information on their website:

Clean water – <https://www.southwestwater.co.uk/developer-services/water-services-and-connections/building-near-water-mains/>

Waste water - <https://www.southwestwater.co.uk/buildover>

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 carrying out further negotiations/discussions during the application process in order to attempt to resolve issues raised in the course of the application.

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

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

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

Plans List No. 3

Application No. 21/00152/FULL

Grid Ref: 299895 : 104030

Applicant: Mr & Mrs Schamroth

Location: Gospel Hall
Peter Street
Bradninch
Exeter

Proposal: Change of use from place of worship to residential dwelling together with external alterations

Date Valid: 16th February 2021



APPLICATION NO: 21/00152/FULL

MEMBER CALL-IN

Called in by Cllr Luke Taylor, in order to consider the potential impact of the proposed development on the character of the conservation area, visual amenity of the local area, residential amenity and highway safety.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

Change of use from place of worship to residential dwelling together with external alterations

The application relates to a former Gospel Hall located along Peter Street, at the centre of Bradninch. The proposal is made to convert and restore the building to provide a single residential property. Minimal external alterations are proposed to the existing building, with an existing timber window to bedroom 3 proposed to be replaced with a new timber window of matching design, incorporating emergency escape mechanism. Existing single glazed window panes are proposed to be replaced with slimlight double glazed panes, with the existing frames being retained. It is also proposed to provide a roof garden on the existing flat roof with access via a new stair, covered by a metal framed glazed structure. Glazed balustrading is proposed, with this to be set back for protection of neighbouring amenity.

APPLICANT'S SUPPORTING INFORMATION

Site location plans
Elevation, floor and roof plans
Site line plans
Wildlife trigger form
Ecological appraisal

RELEVANT PLANNING HISTORY

None

RELEVANT PLANNING POLICY/GUIDANCE

Mid Devon Local Plan 2013-33

S1 - Sustainable development priorities
S3 - Meeting housing needs
S9 - Environment
S13 - Villages
DM1 - High quality design
DM3 - Transport and air quality
DM5 - Parking
DM23 - Community facilities
DM25 - Development affecting heritage assets

National Planning Policy Framework

National Planning Practice Guidance

CONSULTATIONS

BRADNINCH TOWN COUNCIL - 09/03/2021 - Bradninch Town Council have considered this application, including the potential parking needs (in the context of the pressure on parking in the town) but consider that this significant building needs preserving and maintaining. The council therefore submit a 'No Objection' comment to this application.

30/06/2021 - Bradninch Town Council has resolved to object to this planning application due to the additional information the revised drawings have provided, and as several concerns had been received from members of the public. The Council feels that any roof structure on this building would not fit within the Conservation Area or with the surrounding buildings. Invasion of privacy into

surrounding resident's homes and gardens has now become more of an issue due to the revised drawings. The building was purposely built to the height it is, and in the style it is, taking into account the surrounding properties, which needs to be seriously considered, and the proposed addition would not fit within the current street scene. Granting an application such as this, in this area, would set an unwelcome precedent.

14/09/2021 - Further to full discussion, and taking into account the many public comments received, Bradninch Town Council resolved to OBJECT to the revised plans for the following reasons -

A) on the grounds of appearance and use as the proposed look of the building would not fit with the surrounding properties and as it was felt that the building would be more suited to non-residential use

B) on parking, as the property has no allocated parking and due to there being no available parking nearby

C) on the importance of not setting a precedent with an eccentric design in a Conservation Area. Should the application be granted, it was felt that it should have rigorous conditions attached regarding construction, traffic and parking due to the area being the most difficult part of the town for vehicle access and parking.

HIGHWAY AUTHORITY - 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 - Contaminated Land No concerns 26.02.21

Air Quality: No concerns 26.02.21

Environmental Permitting: No objection to this proposal 17.02.21

Drainage: No concerns 26.02.21

Noise & other nuisances: No concerns 26.02.21

Housing Standards: A safe layout in respect of fire safety is very difficult to achieve with the current layout. Although there are escape windows on the lower floor for the bedrooms this is not ideal for anyone with mobility issues attempting to get out of a window. The bedroom on the ground floor is an inner room and the only escape route in a fire would be down to the lower floor and out the window. Again this is not ideal and we would suggest not having a door direct from the bedroom into the kitchen living space as indicated. In respect of the upper level although this suggests it will be a studio the layout lends itself to also be used as sleeping accommodation. In a fire it is unlikely the lift would work and therefore some thought on how someone would escape from the top floor needs to be given. 3/3/21

Licensing: No comments 17/02/21

Food Hygiene: No comments 17.02.21

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. 17.02.21

Health and Safety: No comments 17.02.21

COUNTY RIGHTS OF WAY OFFICER – 01/03/21

The Public Rights of Way Team has a duty to assert and protect the rights of the public to the full and free enjoyment of public rights of way and to maintain the network. In addition it is also responsible for the maintenance of recreational trails and unsurfaced roads.

Government guidance considers that the effect of development on a public right of way is a material planning condition (Rights of Way Circular 1/09 - Defra October 2009, paragraph 7.2) and that public rights of way and access should be protected and enhanced with opportunities sought to provide better facilities for users by adding links to existing networks (National Planning Policy framework paragraph 98).

Devon County Council's Rights of Way Improvement Plan policy states that, working closely with LPAs, opportunities will be sought for improvements to the rights of way network through planning obligations where new developments are occurring.

It is also the County Council's policy that a holding objection will be made against any planning application which fails to take account of an existing public right of way until the matter is resolved.

Response

The proposal as submitted does not directly affect Bradninch public paths Nos, 13 and 18, which run either side of the existing building.

However, should planning permission be granted the applicant must ensure that these public paths are kept open and available for the public to use during site preparation and construction. If a temporary closure is required the applicant would need to apply to the County Council for a Temporary Traffic Regulation Order. It should be noted a temporary closure cannot be seen as an alternative to adequate safety measures to mitigate risk to public users, and furthermore, the suitability of other routes would also be a consideration.

Please note that the grant of planning permission does not grant the right to close, alter or build over a right of way or road in any way, even temporarily, this includes, for example, a change in the surface, width or location. Nothing should be done to divert or stop up a public right of way or road without following the due legal process including confirmation of any order and the provision of any new path. In order to avoid delays this should be considered at an early opportunity.

MDDC CONSERVATION OFFICER – 07/04/21 - Thank you for consulting me on the above application. I finally was able to visit the site yesterday.

You will be aware that the building is in Bradninch Conservation area. Section 72 of the 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.

The Court of Appeal has made it absolutely clear that the statutory duty in relation to sections 72 does not allow a local planning authority to treat the desirability of preserving the character and appearance of conservation areas as a mere material consideration to which it can simply attach

such weight as it sees fit. When an authority finds that a development would harm a conservation area, 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 irrebuttable. 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 DM25 of the adopted Mid Devon Local Plan 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.

Bradninch Gospel Hall was built in 1936 and whilst its design is uncharacteristic of the local vernacular, it has a largely benign presence in the conservation area. I do not consider it to be a building which would be identified as a key negative in any review of the conservation area.

The proposal is a proposed change of use which I am happy with in principle, but I have concerns over the external alterations.

I agree with the applicant that its tall brick walls and geometric form do make it rather out of character with the adjoining cottages, but the height of the roof is similar to that of the houses it is viewed with in the street scene. The proposal includes a single storey extension to the east end of the flat roof, over the main entrance, which would add to the overall height of the building such that it would be one storey higher than the adjoining building which would be incongruous and harmful in the street scene. This can be clearly seen in the photo from the roof looking north east.

As such whilst I am supportive of a new use, I do not see that the harmful roof extension is justified and would recommend that the application is refused.

24/05/21 - This appears to be an improvement. Do you think we could ask if they were able to arrange to put say a piece of wood of the height to the roof structure in the position of the front so that we can gauge visibility from the ground? Or they could do a section across the road. I think we would need to go there when they did it.

14/07/21 - The applicant has sought to amend the application to reduce the impact.

Whilst I would accept that this proposal is less visible close to in terms of the roof extension, it remains clearly visible and higher than the surrounding buildings. In my view it is too visually dominate in the street given that it is much higher than the adjoining cottages are two storey.

It is also visible from the west, but the impact here is reduced by the distance, but here I have concerns over the visibility of the handrails and any domestication of the roof such as seats, parasols etc which will look out of place themselves.

I don't consider that this preserves or enhances the conservation area.

27/09/21 - The removal of the large roof extension does improve the matter. The small staircase cover, is a little unusual, but small and appropriate external materials will help it disappear.

The glass balustrade reduces the impact of that, but I remain concerned about domestic paraphilia which may well find its way up onto the roof such as seating, parasols etc. which will be visible and draw attention to the use of the roof effectively as an outdoor amenity area for the dwelling under. You may feel that you can control this by condition.

Overall I find this a balanced decision.

REPRESENTATIONS

This planning application has been advertised by means of a site notice erected by the applicant, neighbour notification and by advertising in a local newspaper in accordance with the legal requirements for publicity on planning applications, and the Council's Adopted Statement of Community Involvement (October 2016).

Letters of objection have been received from six local residents in respect to this application. One letter of support has also been received.

The main points raised in objection are summarised below:

The proposal does not include parking provision and is therefore contrary to policy DM5 of the Local Plan, which requires the provision of two parking spaces. The statement in respect to the previous use is misleading as the congregation was small and most users walked or were dropped off. The use as a dwelling would generate different types of vehicle movements. There are existing parking problems locally that would be increased.

The principle of conversion to a dwelling may be acceptable but the provision of an extra storey and a roof terrace would be unacceptable. The proposal would be out of keeping with the surrounding development, would detract from the character of the building and harm the character and appearance of the conservation area.

The roof would be best used for the provision of solar panels and solar water heating tubes. The proposed roof terrace would harm residential amenity by overlooking neighbouring gardens, as well as introducing additional noise and light pollution.

If approved, thought will need to be given to how contractors will access the building, noting the narrow street and lack of parking.

There is concern that the property could be used as an Air BNB with roof terrace rather than as a home for the applicant.

-

The main points raised in support are summarised below:

This is a beautiful building that has fallen out of service and serves no useful purpose. The proposal would give the building a new purpose rather than becoming disused and fall into disrepair.

The proposal would be sympathetic to the area and will not be intrusive to the close residents.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main material considerations in respect of this proposal are:

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

1) Principle of development

The site is located off Peter Street, towards the centre of Bradninch. It is within the Bradninch defined settlement boundary where small-scale residential development is permitted in principle by policies S1 and S13 of the Mid Devon Local Plan 2013-2033. The development would contribute to meeting the housing needs of the District as set out in policy S3 of the Local Plan.

Notwithstanding the general acceptability of new residential development within the Bradninch defined settlement area, the proposal does relate to the conversion of a former Gospel Hall, which is considered to be a 'community facility'. Local Plan policy DM23 states:

"The development of new community facilities providing a local community benefit or environmental enhancement will be permitted where they are easily accessible by the local community and well related to a settlement. Proposals for the redevelopment of existing community facilities that enables them to modernise, remain viable and continue to be retained for the benefit of the community will be supported.

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. Only in circumstances where the facility is proven to be no longer economically viable, including for alternative community uses, will applications for alternative use be considered acceptable."

The second part of the above policy relates to the loss of existing community facilities, requiring applicant's to demonstrate that these facilities are no longer economically viable, where it is considered that their loss would damage the settlement's ability to meet its day to day needs or result in a total loss of such services to the community. Paragraph 4.71 of the policy supporting text also states that the assessment of viability will require the submission of detailed evidence relating to trading accounts, valuation considerations and the marketing of the business or property at a reasonable price for a minimum of 12 months.

In this case however, such justification is not required. Bradninch is a relatively large settlement well served by a good range of community facilities. In respect to places of worship, there are two other functioning facilities within the town, those being the Parish Church of St Disens and Bradninch

Baptist Church. As such, it is not considered that the loss of this community facility would lead to a total loss of such facilities, or damage the settlement's ability to meet its day to day needs.

As such, subject to assessment of the proposal against relevant site specific considerations, the development of the site for residential purposes is considered to be acceptable in principle.

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

Policy DM1 of the Mid Devon Local Plan 2013-2033 requires designs of new development to be of high quality, demonstrating a clear understanding of the characteristics of the site, its wider context and the surrounding area. Development should make a positive contribution to local character, creating visually attractive places that are well integrated with surrounding buildings, streets and landscapes. In this case, it is considered that the proposed alterations are acceptable, respecting and relating to the appearance of the existing building and its surroundings.

Policy S1 of the Local Plan requires good sustainable design that respects local character, heritage, surroundings and materials, creates safe and accessible environments, designs out crime and establishes a strong sense of place. The policy seeks to protect landscapes, visual quality and biodiversity.

The site is also located within the Bradninch conservation area. As such, consideration will have to be given to the impact that the development will have on the significance of these heritage assets. Paragraph 197 of the NPPF advises that "in determining applications, local planning authorities should take account of:

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

The above requirements in respect to heritage assets are echoed in policy S9 of the Mid Devon Local Plan, which includes the requirement that "development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through...the preservation and enhancement of Mid Devon's cultural and historic environment, and the protection of sites, buildings, areas and features of recognised national and local importance, such as listed buildings, conservation areas, scheduled monuments and local heritage assets." Policy DM25 also states that "heritage assets and their setting which are irreplaceable resource accordingly the Council will:

- a) Apply a presumption in favour of preservation in situ in respect of the most important heritage assets
- b) Require development proposals likely to affect heritage assets and their settings, including new buildings, alterations, extensions, changes of use and demolitions, to consider their significance, character, setting and local distinctiveness, and opportunities to enhance them.

- c) Only approve proposals that would be likely to substantially harm heritage assets and their settings if substantial public benefit outweighs that harm or the requirements of the NPPF are met.
- d) Where a development proposal would lead to less than substantial harm, that harm will be weighed against any public benefit, including securing optimum viable use.
- e) Require developers to make a proportionate but sympathetic assessment of the impact on setting as set down in the guidance from Historic England.”

In coming to this decision the council must also be mindful of the duty as set out in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 72 requires the decision to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area, and have given it importance and weight in the planning balance.

In considering the proposal, the external appearance of the existing main building will remain as existing, with the main alterations proposed to replace single glazed window panels with double glazed, while retaining the original frames, and replacing a bedroom window with a similar alternative but one that would provide fire escape. These elements of the proposal are considered to be acceptable preserving the character of the existing building, while also preserving the character and appearance of the conservation area.

The proposal does however include proposals to convert the existing roof into amenity space that would be accessed via a new stair with a glazed structure proposed providing covered access. The scheme originally proposed the provision of a larger room, however the Conservation Officer objected to this on the basis of it causing harm to the character and appearance of the conservation area, while also being out of keeping with the character and scale of adjoining properties, which are largely two-storey. The proposed room was reduced in scale but this was still considered to be unacceptable. The proposal now includes only this relatively modest glazed stair cover. The Conservation Officer has considered these latest plans and raises no objection to the stair cover. While it is considered to be an unusual addition, it is small and set back where it would not be so readily visible in the street scene. The use of appropriate materials would assist in assimilating this element of the scheme into its surroundings. In that regard, it has been confirmed that the cover would be predominantly glazed with matt black aluminium frame and doors.

While no longer objecting to this element of the proposal, the Conservation Officer has registered concern about the use of the roof as amenity space, with particular concern relating to the potential for domestic paraphernalia, such as parasols or other taller apparatus, to be visible from distance, drawing attention to this use. The Conservation Officer notes however that it may be possible to impose conditions that would control such harm, in which case he would not object to the proposed use. It is acknowledged however that this is a balanced decision.

Taking the above into consideration, it is considered that an appropriate condition could be imposed to limit the height of any equipment provided within the proposed roof terrace. This has been discussed with the applicant's agent and it is considered that limiting any domestic paraphernalia or other equipment to a height of 1.3 metres above the finished floor level of the roof terrace would be acceptable. To give this context, it would be only a little higher than the proposed glass balustrading shown on the submitted plans. With the lines of sight available, views would be limited, particularly in close proximity to the building. Further conditions are considered appropriate, including the removal of permitted development rights to extend the building upwards, and the prohibiting the installation and use of external lighting on the roof terrace unless that has first been granted planning permission, which would allow its impact to be considered.

The internal alterations include the subdivision of the western part of the building to provide three bedrooms and bathrooms. The main hall is to remain open, providing a large open plan kitchen and living area, preserving the main features of the building. It is considered that the proposed alterations would preserve the key internal features of this interesting building. The rooms would be well lit by the existing large windows, and the rooms would meet the requirements of the nationally described space standards.

On balance, with the suggested conditions, it is considered that the proposed development would respect and relate to the character of the existing building and its surroundings, and would not cause harm to the character and appearance of the conservation area, in accordance with policies S1, S9, DM1 and DM25 of the Mid Devon Local Plan.

3) Impact on residential amenity

Policy DM1 e) states that new development should be create “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...”

The proposed use of the building does not raise any concerns in respect to residential amenity, however objections have been received regarding the use of the roof as amenity space. Concerns are raised that use of the roof terrace would lead to overlooking of gardens to the south of the property, as well as the introduction of noise and light pollution.

Firstly, in respect to overlooking, the roof level is much higher than the windows of the adjoining properties, in which case it is not considered that there would be unacceptable overlooking of adjoining houses. The position of the gardens of the row of properties to the south is noted, the nearest of which is no. 6 Peter Street. In order to prevent harmful levels of overlooking however, the balustrading surrounding the proposed roof terrace is proposed to be set 800mm back from the edge of the roof, with the use of the roof for amenity space limited to those areas contained by the balustrading. As a result of the height of the roof above the ground level of the gardens, and the setting back of the balustrading, it is considered that the angle of any views would be such that they would not have direct overlooking over this neighbouring amenity space. Conditions could be imposed to maintain this situation and avoid future overlooking occurring.

As mentioned earlier in the report, it is considered reasonable to prohibit the use of external lighting unless it is first approved by the grant of planning permission, thereby controlling light pollution. While the roof terrace would be raised above the normal garden levels, the area is residential in nature and it is not considered that the use of the roof as amenity space would lead to harmful levels of noise that would be detrimental to the amenity of neighbouring residents.

It is also considered to be appropriate to restrict construction hours in the interests of residential amenity.

With the imposition of appropriate conditions, it is not considered that the proposed development would lead to any unacceptable harm to the residential amenity of neighbouring residents, in accordance with policy DM1 of the Mid Devon Local Plan.

4) Parking and access

Policy DM3 of the Local Plan requires development to ensure safe access to the transport network. Policy DM5 of the Local Plan also requires a minimum of 1.7 parking spaces per dwelling, meaning that there is a need to provide 2 parking spaces of the proposed dwelling, for new residential

development. In this case, no parking is proposed, with none currently available to the building, and no space to provide any, with the building being surrounded by roads and public rights of way.

Objections have been received in relation to the lack of parking provision proposed, with it noted that there is limited parking available in Peter Street, with additional pressure on parking also noted in adjoining streets.

Notwithstanding the above, it is noted that this is a building with an existing extant use that also has no parking provision. Comments received suggest that the existing use is not comparable to the proposed residential use as the type and frequency of vehicle movements would be different. While it is acknowledged that the use as a Gospel Hall may have been quite low key, the use as a place of worship falls under Use Class F of The Town and Country Planning (Use Classes) Order 1987 (as amended). Other uses permitted under Use Class F include use of the building as a place for the provision of education, as a museum, a public library or an exhibition hall, uses that would have the potential to generate greater levels of traffic. On the basis that this proposal relates to the change of use of an existing building which could be used for purposes that would generate vehicular movements and parking requirement, it is not considered that the lack of parking would be reasonable grounds to refuse planning permission. It may be necessary to park further afield, however Bradninch is served by a broad range of facilities that could be accessed without the need to use a car. As such, it is considered that the proposed development is acceptable from a highway safety point of view.

5) Other issues

The site is bounded by two public rights of way. The County Rights of Way Officer has commented, advising that they have no objections to the proposal, although note that any closure or obstruction of the rights of way would need require the consent of the County Council. An informative will be added to any consent, reminding the developer of their obligations in respect to the adjoining public rights of way.

An ecological appraisal was submitted in respect to the proposed development. This did not identify any protected species or nesting birds present, assessing the building as having negligible potential for supporting bat roosts. The flat roof was identified as having the potential for nesting birds, particularly gulls, however no use was identified. While it is recommended that checks for nesting birds are carried out where any works take place in the nesting season, no constraints were identified, with the proposal considered to cause no harm to local ecology.

Public Health have commented in regard to the proposed layout of the property, specifically in relation to means of escape. These matters have been mostly addressed through the more recent revisions to the scheme. Furthermore, it is noted, that this is largely a Building Control matter. Any outstanding concerns could be dealt with by rearranging the layout slightly or providing better means of escape. It is not however considered to be a constraint to this application.

There is a requirement to provide planning obligations towards the Cullompton Air Quality Management Area, which will go towards the construction of the Cullompton Relief Road, as identified in Supplementary Planning Document (SPD) on Air Quality and Development (adopted May 2008). These obligations amount to £7500 per dwelling plus monitoring fee. In this case, the obligation has been paid in advance of determination and the necessary deed, in the form of a Unilateral Undertaking, has been signed. As such, there is no requirement for any further Section 106 Agreements to be entered into, should Members of the Planning Committee resolve to approve planning permission.

SUMMARY/REASON FOR APPROVAL

The proposed development comprising the change of use of the Gospel Hall to a single residential unit, is considered to be acceptable. The proposal by virtue of its siting and design will appropriately respect and relate to the character and appearance of the surrounding development, will preserve the character and setting of the adjoining conservation area and would have no unacceptable impact on the private amenities of the occupiers of neighbouring properties. The property created will be of a suitable size for its future occupants, and is not considered to cause demonstrable harm to highway safety. It is considered appropriate to recommend approval with conditions necessary to ensure the success of the development in this location. As such, it is considered that the proposed development is in accordance with policies S1, S3, S13, DM1, DM3, DM5 and DM25 of the Mid Devon Local Plan 2013 and the National Planning Policy Framework.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Construction work shall not take place in respect to any of the development hereby permitted 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.
4. The use of the roof of the building as amenity space shall be limited to the area contained by the balustrading identified on the approved plans, and no other part of the roof beyond the balustrading shall be used as a roof terrace, or as any other area of domestic amenity space.
5. There shall be no structures, furniture, equipment or other domestic paraphernalia with a height in excess of 1.3 metres provided or used on the roof terrace hereby permitted.
6. No means of external lighting or other external illumination shall be installed or operated on the building without the Local Planning Authority first granting planning permission.
7. 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, D, G and H of Part 1 of Schedule 2 relating to the enlargement, improvement or other alteration of a dwellinghouse, enlargement by construction of an additional storey, addition or alteration to the roof, provision of a porch, the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or the installation, alteration or replacement of a microwave antenna, shall be undertaken within the application site without the Local Planning Authority first granting planning permission.

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. In the interests of residential amenity, in accordance with policy DM1 of the Mid Devon Local Plan 2013 and the aims and objectives of the National Planning Policy Framework.

4. In the interests of residential amenity, in accordance with policy DM1 of the Mid Devon Local Plan 2013 and the aims and objectives of the National Planning Policy Framework.
5. In the interests of visual and residential amenity, in accordance with policies DM1 and DM25 of the Mid Devon Local Plan 2013 and the aims and objectives of the National Planning Policy Framework.
6. In the interests of visual and residential amenity, in accordance with policies DM1 and DM25 of the Mid Devon Local Plan 2013 and the aims and objectives of the National Planning Policy Framework.
7. In the interests of visual and residential amenity, in accordance with policies DM1 and DM25 of the Mid Devon Local Plan 2013 and the aims and objectives of the National Planning Policy Framework.

INFORMATIVES

1. Please note that the grant of planning permission does not grant the right to close, alter or build over right of way or road in any way, even temporarily, this includes, for example, a change in the surface, width or location. Nothing should be done to divert or stop up a public right of way or road without following the due legal process including confirmation of any order and the provision of any new path. In order to avoid delays this should be considered at an early opportunity. If a temporary closure is required the applicant would need to apply to the County Council for a Temporary Traffic Regulation Order.
2. Notwithstanding special protection for Barn owls, please note all nesting birds are legally protected. Works involving modifications to buildings which may form nesting sites for birds 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). If works must take place within the bird breeding season, appropriate measures must be taken, such as a suitable survey, to ensure that there is no threat of disturbance or harm to nesting birds. If any nesting birds are discovered, immediately prior to or during the course of the development, works should cease until breeding has finished and fledglings have departed nests.
3. If you are planning a new development or extending an existing property over, or within 3 metres of public assets you need to contact South West Water.
Note: South West Water will not permit building within 4.5 metres of public water mains, sewage rising mains or sewers on a new development or redevelopment site. For more information please refer to the information on their website:

Clean water – <https://www.southwestwater.co.uk/developer-services/water-services-and-connections/building-near-water-mains/>

Waste water - <https://www.southwestwater.co.uk/buildover>
4. 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, THE ABOVE COMMENTS ARE NOT APPLICABLE.

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 carrying out further negotiations/discussions during the application process in order to attempt to resolve issues raised in the course of the application.

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

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

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

Application No. 21/01079/FULL

Plans List No.4

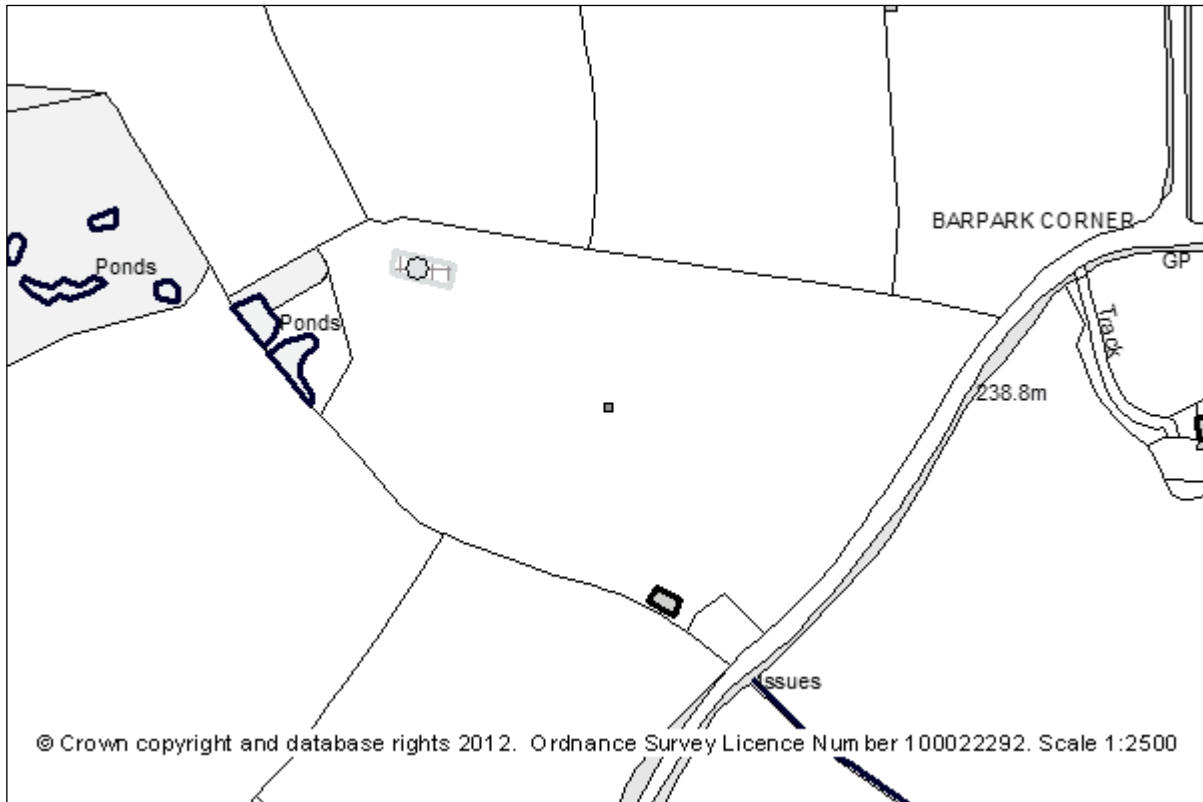
Grid Ref: 116035 : 316325

Applicant: Ms Rachel Fairhurst

Location: Land at NGR 316266 116080 (Poachers Rest) Clayhidon
Devon

Proposal: Change of use of land for the siting of a temporary worker's dwelling (log cabin) for three years (Revised Scheme)

Date Valid: 11th June 2021



REPORT OF THE HEAD OF PLANNING AND REGENERATION

21/01079/FULL - CHANGE OF USE OF LAND FOR THE SITING OF A TEMPORARY WORKER'S DWELLING (LOG CABIN) FOR THREE YEARS (REVISED SCHEME) - LAND AT NGR 316266 116080 (POACHERS REST) CLAYHIDON DEVON

Reason for Report:

- Does the proposal demonstrate the need for a full or part time worker to functionally be living on site?
- Does the business plan and viability report display a firm intent to develop and deliver the perceived enterprise?
- Is the business plan (envisaged), commensurate with the proposed development and does the proposed business display enough financial robustness to sustain the application ask ?
- Have the previous non-acceptance decisions shown that the principle thereof been fulfilled?

RECOMMENDATION(S)

Grant permission subject to conditions

PROPOSED DEVELOPMENT

The site is within the Blackdown Hills AONB with the holding extending to approximately 15 acres (6 hectares) of gently sloping land set out in two fields. The eastern field fronts onto an unclassified public highway, of which the site is accessed. The actual site area is a quoted 480 square metres.

Previous planning history has seen agricultural buildings erected and an equine business established on site both of a commercial nature

This application seeks planning permission for the siting of a log cabin for a rural worker for a temporary period of three years associated with farming and equestrian activity on the land.

APPLICANT'S SUPPORTING INFORMATION

- Site Location Plan
- Cabin Plan and Elevations
- Planning Statement
- Landscape Mitigation Plan
- Landscape and Visual Appraisal
- Foul Drainage Assessment and additional information
- Response to AONB comments submitted in August 2021.
- Sensitive information was submitted around Business Plan and attachments, letter from landlord requiring return of property etc.

RELEVANT PLANNING HISTORY

- 08/01779/FULL - PERMIT date 26th November 2008- Erection of a field shelter
- 09/00320/PE - REC date 5th March 2009- Proposed equine training complex to include 10 stables, wash & grooming bay, tack & feed rooms, staff facilities and all weather riding arena
- 09/01468/FULL - PERMIT date 24th November 2009- Erection of a field shelter (Revised Scheme)
- 17/00796/PNAG - PDA date 13th June 2017- Prior notification for the erection of an agricultural storage building
- 18/01260/FULL - PERCON date 6th December 2018- Change of use of agricultural land to mixed agricultural and equestrian, erection of a timber framed barn and construction of a manege
- 19/00196/FULL - PERCON date 15th May 2019- Retention of change of use of field shelter to workers' rest room, fence and compost toilet
- 19/00868/FULL - PERCON date 13th December 2019- Variation of condition 2 to allow for substitution of plans and condition 3 of planning permission 18/01260/FULL to allow commercial equestrian use
- 20/00373/PNAG - RPA date 1st May 2020- Prior notification for the erection of an agricultural storage building
- 20/01493/PE - CLOSED date 19th October 2020- Regulation 5 of the Electronic Communications Code (Conditions and Restrictions) (Amendment) Regulations 2017 - Installation of 1 x 9m pole, 7.2m above ground (VBN724WW)
- 21/00171/FULL - REFUSE date 9th April 2021- Change of use of land for the siting of a temporary worker's dwelling (log cabin) for three years

OTHER HISTORY

20/01077/PREAPP - ALLOC date 16th September 2020. Proposed change of use of land for the siting of a caravan for three years

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013-2033

Policy S1 -Sustainable development priorities

Policy S2- Amount and distribution of development

Policy S3- Meeting housing needs

Policy S14 – Countryside

Policy DM8 - Rural workers' dwellings

Policy DM27 Protected Landscapes

National Planning Policy Framework

National Planning Practice Guidance

CONSULTATIONS

Clayhidon Parish Council object to this proposal as no LVIA submitted as is required and proposed planting mix no native species. Asked whether justification for temporary workers dwelling had been submitted.

County Highway Authority: Standing Advice

Public Health:

Contaminated Land: No concerns. (28.06.21).

Air Quality: No concerns. (28.06.21).

Environmental Permitting: No comments. (16.06.21).

Drainage: The applicant proposes to use a cess pit temporarily as approval is sought only for a 3 year consent for this caravan. We consider this approach to be reasonable. (28.06.21).

Noise & other nuisances: No concerns. (28.06.21).

Housing Standards: Need to ensure there is sufficient escape from the bedrooms as they are inner rooms to the kitchen/living space. (29.06.21).

Licensing: No comments. (16.06.21).

Food Hygiene: No comments. (16.06.21).

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.

AONB Officer:

The siting and landscape and visual issues remain of concern, as follows:

- The submitted LVA seeks to justify the chosen siting rather than assessing the location more fully, underplays the inherent character of the fields; the simple, open, undeveloped grassland surrounding by hedges is a key component of the surrounding landscape, contributing to the characteristics of the plateau Landscape Character Type.
- Alternative siting highlighted in the officer report is not addressed. A simple temporary structure near the site entrance and within the context of existing buildings/structures would be more typical of such development and contain the extent of built form in this setting
- The limited holding size is reduced further by the creation of a domestic plot, track, planting, mound/hedgebank, which will affect viable stocking numbers.
- The LVA does not address the overall domestication of the site which will change from open undeveloped field to a developed area, also considering provision of services, lighting requirements, domestic clutter and the cumulative effect of previous changes that have not

demonstrated an appreciation of the special qualities of the AONB (fencing, hard standing, structures, hedgebank removal).

Although presented as creation of a hedgebank, this element is essentially an exercise in utilising waste soil. There would be more landscape and ecological value if it were connected to the wider hedgerow network but there appears to be a gap at both ends.

Further, there appears to be no historical context for the subdivision of the field in this way, it would not be typical of the larger field sizes of the plateau and the rationale for the location/route is unclear. Any planting/orchard/meadow creation should be appropriate to soil conditions and could in any event be implemented without the dwelling. If approved, any permission must be conditioned to remove the structure should the business fail/essential need no longer apply.

MDDC Economic Development Officer: Following a lengthy discussion with the applicant's agent on Friday afternoon, I am satisfied that, as far as one can be, that each of the agricultural and equestrian businesses has been planned on a 'sound financial basis'. As to whether either of both of the businesses require 24hr presence on site, I could not come to a definitive professional opinion. My feeling is that the equestrian business, even more than the agricultural business, would benefit from 24hr presence, given the nature of the animals she will be dealing with.

REPRESENTATIONS

Great Garlandhayes Clayhidon Cullompton Devon EX15 3TT objects to this development

Objects: Five objectors to the proposed development

Lower Garlandhayes Clayhidon Cullompton Devon EX15 3TT objects to the application

- Bromfields Farm Rosemary Lane Cullompton Devon EX15 3PG objects to this development
- Hidonfields, Clayhidon, Cullompton, Devon. EX15 3TJ
- Blowiscombe Barn Clayhidon Cullompton Devon EX15 3TL objects to the application

Seven letters of support for the proposed development

- 33 Polham Lane Somerton TA11 6SP supports the application
- Kilve Stores Kilve Bridgwater TA5 1EA supports the application
- 20 Churchills Rise High Street Hemyock Cullompton Devon EX15 3AU supports the application
- 48 Ashleigh Avenue Bridgwater TA6 6AU supports the application
- 8 Allmand Drive Folkestone CT20 3FJ supports the application
- Beech House Brains Lane Sparkford, Yeovil BA22 7LA supports the application
- Rock House Rosemary Lane Cullompton Devon EX15 3PQ supports the application

Neutral observation

Smiths Farm, Clayhidon, Cullompton, Devon EX15 3TJ note application to remove agricultural tie condition submitted nearby under 21/01336/FUL

Reasons for objecting include:

- Application no different from one refused under 21/00171/FULL
- Proposed dwelling would be located in the same location with adverse impact on AONB
- LVIA required but not submitted with application
- Proposed planting involves non-native species
- Home would give rise to drainage issues
- Would set unwelcome precedent encouraging more proposals to build workers homes
- No business case justifying need for agricultural works home
- Insufficient area for sustainability of business not able to use all year round due to it being waterlogged
- DEFRA would have information on this agricultural use
- Several properties within 15km radius of site for rent

Reasons for Support include:

- Proposed workers dwelling modest in scale and suitable for location
- Proposed workers dwelling onto visible from the road
- Need permanent occupation on site for animal welfare and such an occupation would benefit the business.
- New modest but growing business with opportunity to continue to grow

Other:

With regard to 21/01336/FUL, officers can inform Committee that this was granted planning permission to remove the agricultural tie condition. The proposed development is not relevant to this decision and will be determined on a case by case basis.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

Previous Application

The previous application for a temporary workers dwelling was refused under Ref 21/00171/Full for the following reasons:

"1. In the opinion of the Local Planning Authority, it has not been proven that there is an essential need for one or more workers to be present on the land at all times in order to manage the holding bearing in mind the activities undertaken and the proximity of their present home located less than 1 mile from the site. Consequently, the proposal is considered to be contrary to policy S14 and DM8 of the Local Plan 2013-2033, and the NPPF.

2. The siting of the proposed log cabin at the top of one field is considered to have a negative impact and will cause harm to the special beauty or historic interest of the landscape of the AONB. Consequently, the proposal is considered to be contrary to policy S14 and DM27 of the Local Plan 2013-2033, and the NPPF.

3. The Authority is not satisfied that the enterprise has been planned on a sound financial basis, although prospective profits have been shown these are not countered by suitable accounts/receipts to prove that the proposal is or is likely to be profitable and sustainable.

Consequently, the proposal is considered to be contrary to policy DM8 of the Local Plan 2013-2033, and the NPPF."

Since then the applicant have been served with a Notice to quit their nearby Clayhidon property, further details have been submitted with regard to inter alia justification including an updated business plan and landscaping mitigation details. The proposed worker dwelling is proposed to be located in the same land and same part of the land where an agricultural building once stood.

Principle of Development

Policy DM8 supports the erection of a worker's dwelling. Where a rural business is not yet established, the Council will consider granting a temporary mobile home, subject to appropriate evidence of essential need, a firm intention to develop the enterprise and sound financial planning.

A 'firm intention' and sound financial planning might be demonstrated by a combination of measures such as the construction of new buildings; the purchase of stock needed to operate a rural business; appropriate agricultural or rural business training and qualifications; and evidence of sufficient finances to establish the enterprise.

Policy DM8 continues:

"4.32 Where a rural business is not yet established, the Council will consider granting a temporary mobile home, subject to appropriate evidence of essential need, a firm intention to develop the enterprise and sound financial planning. A 'firm intention' and sound financial planning might be demonstrated by a combination of measures such as the construction of new buildings; the purchase of stock needed to operate a rural business, appropriate agricultural or rural business training and qualifications; work experience; and evidence of sufficient finances to establish the enterprise".

The proposed enterprise is split between two elements, one equestrian, and the other agricultural.

It is worth considering the definition of essential as set out in Policy DM8:

"Essential need means a specific management activity or combination of activities which require the ready presence of a worker at most times if the proper functioning of an enterprise is not to be prejudiced and which cannot be achieved by any other practical means such as electronic surveillance. Such need would relate to any particular event or combination of events that could lead to adverse animal welfare, crop or product quality, or health and safety consequences which might threaten the stability and economic well-being of an enterprise. In all cases, these would be events which could not be properly managed within normal working hours"

The applicant has provided in support of the application a notice to quit for the landlord of the current nearby Clayhidon rented accommodation. The owner requires the accommodation for his elderly recently widows mother and as such there appears little prospect of an extension of occupation beyond this notice period for the applicants.

Whilst an objector did point out rental properties available within a 15 kilometre radius, an online search by officers has revealed few properties within a similar distance available for rent as opposed to holiday accommodation. In addition, given the rural location, this would mean in

practicality a journey of significant time to arrive at the site from new accommodation which may not be practical in the case of emergencies with regard to animal welfare, theft or other crime or power failure etc. in addition, this would ensure 12-14 vehicular trips minimum per week over considerably longer distances.

The agent sent in a further report following other conversation with the Council's Economic Development Officer. In this it is stated that the economic development officer acknowledged that the domestic or marital status of the applicant was not relevant to the financial soundness of the business and that many divorced couples continued with joint business interests, i.e. the fact that the applicant and her partner were no longer in a relationship did not impact on the business. The report continues:

"2.4 He (the Economic Development Officer) also agreed that the incubation of chicks necessitated 24-hour supervision that could not be managed off site, due to both animal welfare and financial risk. 2.5 He also agreed that clients would not send horses to a yard that did not provide 24-hour care, particularly horses requiring rehabilitation. Clearly, Mr Bodley-Scott has an understanding of horses, and his grandfather is an equine vet, which enables him to comprehend the distinction between the types of horses that will be at Poachers Rest and 'ordinary' horses."

This is broadly in accordance with the Economic Development Officers consultation response although his response with regard to the essential need for occupation is somewhat less committal. Looking at National Policy Guidance paragraph 80 of the NPPF which advises that planning policies and decisions should avoid the development of isolated homes in the Country unless certain circumstances apply such a limb a:

"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".

With regard to the first reason for refusal, notice has been given by the owner of the local property to vacate, there does not seem to be an abundance of rental accommodation within a 15 kilometre radius as an alternative. The fact that there was this existing accommodation at the time of the refusal of the 21/00171/FULL and has now fallen away would not in itself demonstrate the essential need for a worker to be accommodated on site.

Policy DM8 does explain that such a need would ensure that the proper functioning of a business is not prejudiced. Such prejudice could take the forms of adverse animal welfare, crop or product quality, or health and safety consequences which might threaten the stability and economic well-being of an enterprise which would require management outside of normal working hours.

Along with no longer having their current home in close proximity to the site, the Economic Development Officer could not come to a definitive professional opinion on essential need to be near their place of work. However he did explain that he felt that the equestrian business, even more than the agricultural business, would benefit from 24hr presence, given the nature of the animals the applicant will be dealing with.

With regard to the above, therefore officers are satisfied that the first reason for refusal can no longer be sustained and should fall away with regard to this current planning application.

With regard to functional need the applicant includes three appeals in support of the application. It is noted all of these relate to equestrian activity.

Appeal Ref 3149419 (2016)

Livery for 20 horse, high value horses and horse therapy. No clear reason for occupancy of worker on site but considered preferable. However similar business with no suitable accommodation close to site was granted permission analagous to this appeal and this. In addition, the lack of nearby affordable properties would make out of hours checks more difficult and remote monitoring may not be effective if the response times are too slow due to benign too far away. Inspector concluded that the number of animals, their monetary value and client confidence with having a worker on site all indicate essential need.

Appeal 3153731 (2016)

An Equestrian business of 10 horses and stabling. Extant planning permission for additional stables to be built. The appeal established that 24 hour presence would be beneficial but not essential. The associated farm had security entry and CCTV which would be less effective in a rural location as would depend on the response time of local police which would probably be unlikely to be prompt. Inspector concluded that the lack of proximity to nearby properties, the key element of the appellant's business necessitates a duty of care to other people's animals, as well as their security and welfare satisfied that a presence on site was needed at that stage of the business' development.

Appeal 3250242 (2020)

Here the equestrian business was yet to commence but Planning Practice Guidance (the PPG) states that in the case of new enterprises, the decision maker should consider whether it is appropriate to grant permission for a temporary dwelling for a trial period.

A central aspect of the appellants' case around essential functional need rests on the desire to be within 'sight and sound' of the stable in order to respond to potentially fatal illnesses, such as severe colic. The Inspector questioned whether the monitoring for such illnesses could not equally be provided through alternative means, such as CCTV but acknowledged that the demands of running a livery can lead to long and antisocial hours spent on site, with potential issues arising at any time. A temporary dwelling would allow the fullest opportunity to provide optimal care for the horses and client expectation of an onsite presence. In this context the Inspector was satisfied that this is a logical argument, which credibly translates to an essential functional need for a dwelling arising from the specific demands of the proposed business.

A footnote is that costs were awarded against the LPA as:

"members made their decision on the basis that the proposed equine enterprise at Moorwood has not commenced. However, the Council failed to explain how this situation runs counter to local or national planning policy, both in its written evidence and at the hearing. This is unsurprising as I see nothing in policy to justify the member's position either".

Officers acknowledge that these are cases from different LPAs and each case is dealt with on a case by case basis. The applicant goes on in thier final report to say there are two clients waiting

to send their horses to her for training but they are not able to do so until 24-hour supervision of their horses is available.

Therefore the equestrian numbers are relatively modest at up to four horse but this is for a horse with significant welfare needs. The above appeals are instructive insofar as they have found functional need to be demonstrated where the following are demonstrated:

1. client confidence of onsite occupancy is of clear importance,
2. the rural setting would mean remote surveillances effectiveness may be compromised in effective response to potentially fatal illnesses, such as severe colic and anti-social hours of such a business.

On balance therefore, officers consider that on balance it has been demonstrated that the nature and demands of an existing rural business are such that a full time worker has an essential need to be permanently resident at, or near their place of work so they are available at most times. Secondly, the need cannot be met within a nearby settlement, or by existing housing at or near the site or through the conversion of a suitable redundant or disused rural building at the site.

The size and scale of rural workers dwellings

The size and scale of the dwelling shall be commensurate with the scale of the operation and designed to reflect the location and setting of the proposed site (21/00171/FULL), criterion (c) of Policy DM8. The applicant points out correctly that Policy DM8 does not specify maximum size of dwelling and the Planning Officer's Report accompanying the previously refused application noted its dimensions as being within those of set out under the Caravan Act (20m x6.8m). The officer stated:

"Although the proposed log cabin is a large building, its design is considered to be acceptable in terms of its appearance being rustic and low key and is considered acceptable within the landscape and the AONB".

Whilst there is an addition of a verandah, it is considered that this is incidental to the mobile home and provides some private outdoor space, and as such is considered to be in accordance with Policy DM1 of the Local Plan.

With regard to Policy DM8 its supportive text explains that where a rural business is not yet established a mobile home may be permitted for a temporary period, on the basis of criteria b) and c) above, and evidence of:

- (i) An essential need for one or more workers to be readily available at most times
- (ii) A firm intention and ability to develop the enterprise
- (iii) Sound financial planning

Officers have already accepted the essential need for a worker to be on site and to be readily available at most times. Policy DM8 also explains that permissions for rural workers dwellings will be subject to an occupancy condition and the removal of such a condition will only be permitted where there is clear evidence that there is no need for the condition to remain in place. Therefore, providing (ii) and (iii) are met this condition can provide mitigation to make such a proposal acceptable.

The officer report for 21/000171/FUL said it had been 'indicated' that the agricultural business has been operating small scale for three years and the figures have been based on the current income and profit achieved.

In summation the key points of the business plan are the outgoings associated with:

- Investment in buildings, equipment etc.
- Investment in livestock
- Estimated cost of mobile home
- Cost of purchase of land

The estimated year on year net profits minus the following:

- Return on Investment and Mobile home at 2.5% per annum
- Interests on cost of land purchase
- 1.2 FTE worker in equestrian
- Part time agricultural worker (1274 hours per annum)

By year three there is a demonstrated significant surplus. Like the cases referred to in the appeal decision letters above, the business has an opportunity to grow and as such, is considered to meet the relevant planning policy criteria.

Agriculture

The applicant's state that they commuted to and from their former home to undertake these welfare checks. The applicant has stated their travelling to and from the site six times a day (or every three hours) minimum in order to check the eggs and/or chicks. It is noted that there are limited numbers of chicken units on site which are small, and it is considered that these will not hold large numbers of birds which would be required to facilitate a viable operational unit.

Equestrian

Presently planning permission has been consented for the commercial use relating to the training and rehabilitation of horses which will include horses owned by clients sent to Poachers Rest as well as horses owned by the applicant. The equine business aims to offer a therapeutic foundation for horses and their owners. The horses will come for a number of months based on what their needs are. It would appear that the equestrian side of the business is intended to provide the bulk of any necessary income with the agricultural side, a small percentage of this proposal.

For the previous scheme, it is noted that the rural enterprise has been established for at least three years, is currently financially sound, and has a clear prospect of remaining so. There was no objection to this and the following two years being sustainable however it was considered that with the absence of receipts including incoming and outgoings and without a rural enterprise consultant assessing it that by implication the business plan was of less weight than might be the case.

The Business Plan submitted for this scheme repeated and updated the business plan attached to 21/00171/FULL, but also added additional information. It is considered that the loss of the current residential premises in close proximity of the site is material and the continued growth of the business would be facilitated by on site occupation for issues such as power failures, the lack of

4G reception on site as well as issues such as theft, vandalism and other crime, animal welfare and duties in relation of the two different businesses on site. This has support from the Appeal decision letters summarised above.

On site occupation with regard to reducing the need for trips to and from the site by the workers would also be more sustainable and reduce the potential impact on the local highway network. Whilst the agricultural business remains relatively modest, recent figures suggest that there is clear scope for not only sustaining but also growing the business.

Whilst it is recognised that there is a workers hut on site which benefits from planning permission this would not be used out of hours or during inclement weather.

It is not, given the scale of the business, considered necessary or reasonable to appoint a rural planning consultant to assess the business plan for the proposed development. The economic Development Office has closely studied the business plan and spoke to the applicant and has accepted that the Business Plan and need for a permanent worker on site. Furthermore, this is a temporary grant of planning permission. Consequently, should members approve the application, the applicant would need to remove the dwelling post the temporary time period and re-apply for planning permission should the business have grown further and still require the need for occupation on site.

As such, to update from the previous planning application and the receipt of further information, it is considered that there is demonstrable justification for a temporary rural dwelling with regard to the requirements of Policy DM8 of the Local Plan. It should be borne in mind that a condition to require the removal of the mobile home after a temporary period will be imposed as required by Policy. Given the relatively small scale nature of the proposal a further condition will be imposed requiring the applicants to provide within 5 working days of the date of request access to a financial statement cataloguing the income and outgoings for that year to date. Such a statement should separate the businesses into their constituent parts and provide figures for current and estimated year and gross and net profit figures and current and anticipated man hours required for the work.

Siting and Impact on the AONB, Landscape and Ecology

Policy DM27 requires development proposals affecting the Blackdown Hills Area of Outstanding Natural Beauty, Dartmoor National Park, Exmoor National Park and the North Devon Biosphere to demonstrate that the cultural heritage and the character, appearance, setting and other special qualities of the landscape will be conserved or, where possible, enhanced and secondly biodiversity will be conserved and enhanced where possible through improved linking of habitats, appropriate landscaping and habitat creation. Major developments within or adjoining the Area of Outstanding Natural Beauty and Dartmoor or Exmoor National Parks will only be permitted in exceptional cases.

The AONB officer has outlined several concerns with regard to the siting of the workers dwelling and set them out in their response. The applicant has responded to this in August 2021 as follows:

- That the dwelling would be situated where a former barn site was originally located where the 'plateau characteristics' were less strong. The field hedge pattern narrowed to a point

and was screened on its west side by a wet copse. This was a fairly unobtrusive place to site the barn and remains so for the proposed building. There was no instruction for alternative sites to be considered.

- The operational preferences are not the concern of a landscape and visual impacts report. We were asked to look at the landscape issues relating to the location that the client had selected.
- The site of the previous barn offers advantages in terms of landscape and visual parameters (it is away from public viewpoints and easier to screen with a hedgebank), whereas a building closer to the road would be much more visible.
- The size of the field after construction and including the modest domestic curtilage is similar to that available when the previous barn was standing. The track is also not a new element as it was existing to serve the barn.
- Stock numbers are not a landscape and visual matter.
- It is the case that this development could lead to an increased domestication of the site, however the application is for a temporary structure so any such effects would not be permanent.
- The siting of the building away from public viewpoints and behind a new hedgebank would also mean that any such domestic changes would only be visible to persons on the plot itself, and not from public viewpoints.
- Using waste soil to create a hedgebank seems a very good use of it whereas the alternative would be to truck it to an inert landfill site which seems wasteful. It presents an opportunity to create a valuable wildlife corridor which is in character with its surroundings.
- This hedgebank definitely needs a gap at least at one end or else the field could not be accessed. The gap to its north east end could easily be filled it to achieve better connectivity with the existing hedgebank.
- While the predominant field size in the area is medium to large a look at a Google Earth image shows that there are smaller fields, particularly around some of the dwellings in the area. This is common in many agricultural landscapes where the smaller field facilitates agricultural use and stock control around domestic buildings. The hedgebank used to create the field also has other benefits in terms of screening and habitat potential, which outweigh just keeping it as a fence.
- An orchard does provide an extra layer of screening from public views.
- We believe it meets GLVIA guidelines and should the application go to appeal it would be the Council that would need to provide landscape and visual evidence to support a case for the site being unsuitable.

For the previous refused scheme, the case officer noted that it:

“it is the Authorities view that although of substantial size and not specifically falling within the definition of a mobile unit the use of a log cabin is preferable to that of a more traditional white mobile unit, although this could be tempered by way of conditioning the external appearance. The main concern is the proposed location set at one of the highest and open areas of land associated with the site which would make the proposal very visible within the countryside and especially from Clayhidon public footpath 13”

A preferred location was considered close to the existing welfare building and access given that it would be seen in context with existing structures. The officer concluded that the development will have a negative impact and will cause harm to the special beauty or historic interest of the landscape such that a reason for refusal can be sustained.

In the assessment of the subject application, a site visit was conducted on 10th September 2021. This highlighted that the site benefits for considerable screening at present.

The site is located within the low rolling hills and applicant has submitted visuals which show the proposed siting of the temporary worker’s dwelling from various vantage points.

A Prior Notification granted permission for an agricultural building on the site where it is proposed to erect the temporary worker dwelling. This was a scale of 30 metres by 15 metres. This was erected but destroyed in high winds in late 2018. There remains a track and some hardstanding which will minimise the need for further development to facilitate the proposed development.

In addition, a landscape mitigation scheme involving significant planting will assist in breaking up the site and further mitigating the impact on the AONB and assisting in enhancing biodiversity within the site. The log cabin design and materials employed would also be considered to be in keeping with the surrounding area, rather more so than the agricultural building it is proposed to replace and is smaller in scale.

A condition to implement the landscape mitigation scheme prior to the first growing season after occupation is proposed to be attached should planning permission be granted.

Officers accept that the proposed development will have an impact on the character, appearance, setting and other special qualities of the landscape. Whilst an alternative site may be potentially less impactful and closer to the business uses as suggested by the AONB officer, officers note that the degree of existing screening, the siting of an agricultural building on this plot of land and the potential to enhance biodiversity through a landscape mitigation plan providing potential for enhanced habitat creation is considered to on balance accord with the aims and objectives of Policy DM27. Accordingly, this reason for refusal is not sustainable and should along with the other two reasons for refusal attached to the decision notice for MDDC Ref 21/0171/FULL fall away.

Drainage

It is proposed to use a cesspool given the temporary nature of the development and this is considered acceptable by the Council’s Public Health Officer.

Highways and Access

There is no objection from the County Highway Authority and existing access and tracks are to be utilised. Initially a temporary worker home may result in a reduction in private vehicle trips to the site at least initially and therefore no issues with highways safety, impacts on local highways safety or access are anticipated.

PLANNING BALANCE/CONCLUSION

In conclusion it is considered that the applicant has, through the provision of additional information and through change in domestic circumstance beyond their control, demonstrated that the three reasons for refusal have been overcome to the satisfaction of officers. As such it is recommended that planning permission be granted for a temporary workers dwelling subject to conditions as set out at the head of this report.

The applicant satisfactorily demonstrates that there is an established and sustainable business use on site requiring an agricultural workers dwelling on site and that a permanent replacement of the proposed scale and design is acceptable.

As such it is considered that the proposed development accords with Policies S1, S2, S3 S14 DM8 and DM27 of the Mid Devon Local Plan 2013-2033

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 use of the land for the siting of a residential dwelling shall be permanently discontinued, the caravan hereby approved removed, and the land restored to its former state within three years from the date of this permission hereby granted.
4. The dwelling hereby approved shall be occupied only by a person solely working in relation to the agriculture use at Poacher's Rest and to any associated family members.
5. The approved landscape Mitigation Scheme (Drawing no. SPP07 Rev A), dated 21st April 2021, shall be implemented in full no later than during the first planting season following the date when the development is occupied and thereafter maintained for the lifetime of the development.
6. That within 5 working days of a request in writing by the Local Planning Authority, a business statement for that current financial year shall be produced and made available for inspection by the Local Planning authority. Such a report would include separate statements for the different business(es) in situ at the application site and the current gross and not profit and/or losses and the year-end forecast of gross and net profit and/or losses. Where it can be demonstrated that the business(es) is no longer viable. The use shall be permanently discontinued, the hereby approved worker's dwelling removed, and the land restored to its former state within 3 months of the date of the said inspection.

REASON 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. Given the essential need relates to a new agriculture venture on the holding a temporary planning in recommended in accordance with Policy DM7 of the Mid Devon Local Plan
4. In accordance with application details and because the site is located outside defined settlement limits in the open countryside, where national and local planning policy would normally restrict new residential development unless there are specific circumstances which in this case is that there is an essential need for a worker to live on the site to manage the proposed activities on the site, and to be in accordance with Policy S9, S14, DM7 of the Mid Devon Local Plan.
5. To ensure that the visual impact of the development is satisfactory, and in accordance with Policy DM1 of the Mid Devon Local Plan
6. Given the essential need relates to a new agriculture venture on the holding a temporary planning in recommended in accordance with Policy DM7 of the Mid Devon Local Plan

INFORMATIVES

Conditional Approval (with negotiation)

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 additional information with regard to the application to enable the grant of planning permission.

Footpath informative

This permission does not carry any approval or consent which may be required under any enactment, byelaw, order or regulation (e.g. in relation to Building Regulations or the Diversion of Footpaths etc) other than Section 57 of the Town and Country Planning Act 1990.

Equality

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

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

In accordance with Paragraph 38 of the National Planning Policy Framework, the Local Planning Authority has worked proactively and positively with the applicant. This has included further negotiations/discussions during the application process to address issues raised.

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

REASON FOR APPROVAL OF PERMISSION

The applicant satisfactorily demonstrates that there is an established and sustainable business use on site requiring an agricultural workers dwelling on site and that a permanent replacement of the proposed scale and design is acceptable.

As such it is considered that the proposed development accordance with Policies S1, S2, S3 S14 DM8 and DM27 of the Mid Devon Local Plan 2013-2033:

Contact for any more information

Myles Joyce, Consultant DM, 07967 179698

Background Papers

Appeal Ref: APP/P1133/W/20/3250242
Moorwood, Moor View, Ipplepen,

Newton Abbott TQ12 5TP. Decision date
10th December 2020.

Appeal Ref: APP/R2520/W/16/3153731
Oakhill Equestrian Centre, Eagle

Road, Swinderby, Lincoln, Lincolnshire LN6
9HS

APP/P3040/W/16/314919 Brooklands
Stables, Costock Road, Wysall,

Nottingham NG12 5QT

Rushcliffe Borough Council

File Reference

21/01079/FULL

Circulation of the Report

Cllr Richard Chesterton

Plans List No. 5

Application No. 21/00887/FULL

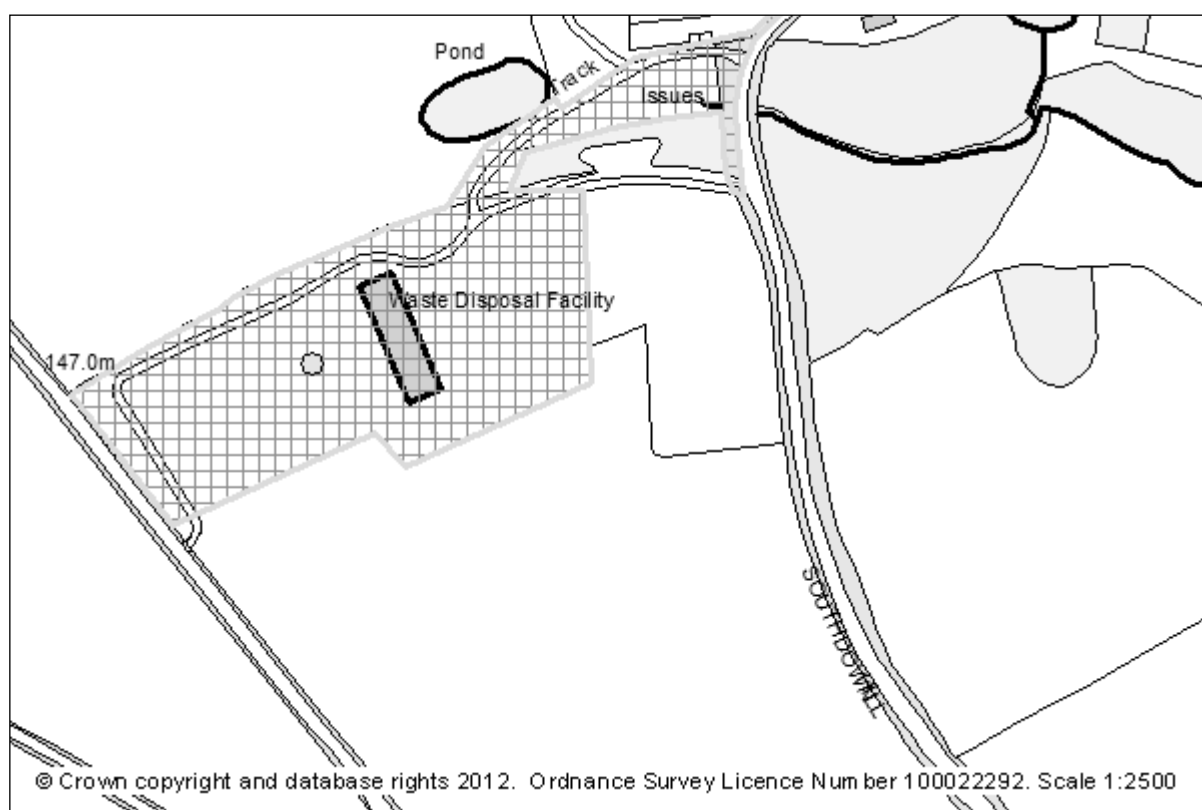
Grid Ref: 278958 : 104397

Applicant: Mr Iain Russell

Location: Land at NGR 278841 104538 (Linscombe Farm)
New Buildings
Sandford
Devon

Proposal: Erection of 5 dwellings with associated works following demolition of existing agricultural building

Date Valid: 28th May 2021



APPLICATION NO: 21/00887/FULL

Site Visit: Yes

Decision Delayed Reason: To negotiate changes and to be considered at committee

MEMBER CALL-IN Cllr Elizabeth Lloyd

- For the committee to consider whether this is suitable development, or overdevelopment, under the Class Q permitted development
- For the committee to consider whether the carbon reduction, biodiversity and other eco features of the application are appropriate and sufficient betterment

RECOMMENDATION

Refuse planning permission

PROPOSED DEVELOPMENT

Erection of 5 dwellings with associated works following demolition of existing agricultural building. The application site is on land at Linscombe Farm, Newbuilding, Sandford. There is an existing spine road on site leading onto the main highway (Southdown Hill; to the east). Essentially, the site lies east to west between Southdown Hill and Spirelake Hill.

Most recently, it is understood that the site was used for growing organic salad vegetables. The western area of the site was used for siting poly-tunnels (for growing the vegetables) and the agricultural building (for storage).

Prior to this the site was a quarry. The site lies within open countryside, about a mile north of New Buildings. The site is elongated (along W-E axis) piece of land and is enclosed by banks and trees, hedges on all sides with a steep bank (due to former quarry use) south of the site. On all sides beyond the site boundary, is agricultural land.

Proposal

Planning is sought for:

- (i) Demolition and removal of existing agricultural building(s) and associated paraphernalia;
- (ii) Widening/improvement of existing access (access via Southdown Hill);
- (iii) Erection of 5 x no. detached two-storey dwellings; together with associated landscaping and parking provisions.

Each dwellinghouse has a (GIA 241sqm) and is comprised of: (i) Ground floor accommodation (GIA 156sqm; not including carport): entrance hall, larder, coats & boots, utility room, garage(18.36sqm), carport, siting, study, kitchen, dining and living; and (ii) first floor (GIA 85sqm): landing/hall, family bathroom and 4 no. bedrooms including a master bedroom with en-suite facilities.

APPLICANT'S SUPPORTING INFORMATION

Plans

Planning Statement

Ecological Impact Statement

Foul Drainage

RELEVANT PLANNING HISTORY

03/00068/FULL - PERMIT date 30th April 2003- Use of land for the siting of an agricultural workers mobile home

03/00613/PNAG - NOBJ date 7th April 2013 - Proposed development

05/02756/FULL - PERMIT date 20th February 2006 - Erection of 2 no. horticultural polytunnels

06/00209/FULL - PERMIT date 24th March 2006 - Erection of 2 no. horticultural polytunnels

06/02317/OUT - REFUSE date 22nd January 2007 - Outline application for the erection of an agricultural dwelling to replace existing temporary accommodation

08/00618/PNAG - NOBJ date 28th April 2008 - Prior Notification for the erection of an agricultural storage shed

18/01717/PNCOU - APA date 13th December 2018 - Prior Notification for the change of use of agricultural building to 3 dwellings under Class Q

19/01589/FULL - PERCON date 3rd December 2019 - Erection of 3 dwellings and garages, associated works and landscaping following the demolition of agricultural building and polytunnel

21/00003/FULL - PERMIT date 4th March 2021 - Erection of an agricultural storage building and associated hardstanding

OTHER HISTORY

19/00586/PREAPP - ALLOC date 24th May 2019

Removal of agricultural building and poly tunnels and erection of 3 dwellings, associated works and landscaping (alternative to change of use of agricultural building to 3 dwellings under Class Q 18/01717/PNCOU)

20/02122/PREAPP - CLO date 15th February 2021
Proposed residential development of 6 dwellings

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan Review 2013 – 2033

Mid Devon Local Plan 2013-2033

Policy S1: Sustainable development priorities

Policy S2: Amount and distribution of development

Policy S3: Meeting housing needs

Policy S4: Ensuring housing delivery

Policy S9: Environment

Policy S14: Countryside

Policy DM1: High quality design

Policy DM2: Renewable and low carbon energy

Policy DM3: Transport and air quality

Policy DM5: Parking

National Planning Policy Framework (2021)

National Planning Practice Guidance

CONSULTATIONS

Sandford parish Council

No Objection

Highway Authority (initial comments received)

The site is accessed off an unclassified County Route which is restricted to 60 MPH although observed traffic speeds are considerably lower. The number of personal injury collisions which have been reported to the police in this area between 01/01/2016 and 31/12/2020 is one slight accident on 17th September 2020 involving 2 vehicles and 2 casualties, this was in the location of the proposed access on Southdown Hill. The Applicant has not submitted a drawing showing the proposed access into the site showing this is a safe and suitable access. Therefore a drawing will be required to show the access and the visibility splays which should be 2.4 metres back from the carriageway edge and 43 metres in both directions. These visibility splays should be either in the applicants control or in the public highway. There also should be no obstruction over 600 mm within the visibility splay. The number of trips this development could generate will not be a severe effect on the Highway. The County Highway Authority cannot put forward a recommendation until this information has been received.

Highway Authority (further comments received)

The Applicant has submitted Drawing Number 508.1.11A which shows the visibility from this access to be safe and suitable for the speeds in this area. Therefore the County Highway Authority has no objections to this application.

DCC Education

Devon County Council has identified that the proposed increase of 5 family type dwellings would generate an additional 1.25 primary pupils and 0.75 secondary pupils which would have a direct impact on Copplestone Primary School and Queen Elizabeth's School. In order to make the development acceptable in planning terms, an education contribution to mitigate its impact would be requested. This is set out below:

DCC have forecasted that there is currently capacity at Copplestone Primary and Queen Elizabeth's for the number of pupils likely to be generated by the proposed development and therefore a contribution towards education infrastructure will not be sought.

DCC will however require a contribution towards primary and secondary school transport costs due to the development being further than 1.5 miles from Copplestone Primary and 2.25 miles from Queen Elizabeth's. The costs required are as follows:

1.25 Primary pupils

£11.66 per day x 1.25 pupils x 190 academic days x 7 years = £19,384

0.75 Secondary pupils

£3.34 per day x 0.75 pupils x 190 academic days x 5 years = £2,379

All contributions will be subject to indexation using BCIS.

The amount requested is based on established educational formulae (which related to the number of primary and secondary age children that are likely to be living in this type of accommodation) and the costs of transporting children from the development to Copplestone Primary and Queen

Elizabeth's. It is considered that this is an appropriate methodology to ensure that the contribution is fairly and reasonably related in scale to the development proposed which complies with CIL Regulation 122.

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

Public Health

Contaminated Land

The proposal site is situated on land formerly used for horticulture, and within an old quarry. Although contamination from the horticulture use is not expected, there is potential for waste to be encountered associated with the quarrying activities. We therefore recommend that the unexpected contamination condition is included on any approval (19.06.21).

Air Quality: No concerns (19.06.21).

Environmental Permitting: No objections to this proposal (03.06.21).

Drainage: There is no mains foul sewer in the vicinity or within 150m of the site. The applicant proposes a package treatment plant to serve all 5 properties, and that this will drain to a watercourse. The outfall will require a permit from the environment agency. We have no concerns regarding this proposal (19.06.21).

Noise & other nuisances: No concerns (19.06.21).

Housing Standards: No comment on proposed layouts (10.6.21).

Licensing: No comments (02.06.21).

Food: No comments (03.06.21).

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.
07.06.21

Health and Safety: No objection to this proposal.

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 (03.06.21).

Natural England

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-getenvironmental-advice>.

REPRESENTATIONS

The application was advertised via site notice and by neighbour notification. An advert was also placed in the local paper.

Four (objection) representations were received, commenting as follows:

1. Five four bedroom houses in the quiet part of a peaceful lane will add significant traffic and is a disproportionate increase in the amount of road traffic in this idyllic area.
2. It is a disproportionate increase relative to the size of the agricultural building.
3. The access should be off Spirelake Hill to the western end of the site. Access from this direction is off a wider road and would mean no additional traffic onto Southdown Hill
4. The design of the buildings are not in keeping with the local surroundings and local housing designs. The row of houses stick out and don't fit into the surrounding fields and countryside. They blot the landscape and don't blend in.
5. There is a well-developed vibrant wildlife habitat around South Down Hill and this will be disturbed with the development. There are a number of Bat roosting sites on South Down Hill
6. Looking at the plans the house design seems to be somewhat "Croydon Box" rather than the Mid Devon distinctive design and appearance. Hopefully the term Eco house will also be enforced as we can all call a house Eco.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

The key issues for consideration in this application are:-

- (i) Principle of development

- (ii) Character and Appearance
- (iii) Neighbouring Amenity
- (iv) Housing Supply
- (v) Standard of accommodation
- (vi) Car Parking and Amenity space
- (vii) Impact of possible ground contamination

Principle of development

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

The site is located in the open countryside where local plan policy S14 requires that development will preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. In terms of residential development, S14 provides in principle support for; affordable housing to meet local needs, gypsy accommodation, replacement dwellings, housing essential to accommodate an agricultural or forestry worker and accommodation ancillary to a dwelling. Similarly paragraph 80 of the NPPF states that planning policies and decisions should avoid the development of isolated homes in the countryside except in exceptional circumstances.

The development is for the provision of five open market dwellings in a countryside location which does not fulfil any of the exceptions to development in isolated countryside locations set out by S14 or paragraph 80 of the NPPF. Therefore, a key issue in consideration of the proposal relates to the principle for the development of open market dwellings outside of recognised settlement limits, being countryside in policy terms.

Accordingly, it is also relevant to consider the planning history of the site, and as noted above, the site has been subject to Class Q approval under permitted development rights. A Court of Appeal decision *Mansell v Tonbridge and Malling BC* concluded that a fall-back position could be considered whereby permitted development rights such as 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. The decision discusses the need to demonstrate that there is a “real prospect” of a fall-back position being implemented. Essentially the LPA need to be satisfied that any relevant permitted development rights which could achieve residential development would be relied upon if an application for planning permission for the construction of the new dwellings was refused. The most recent previous application for the erection of three dwellings on the site gave weight to the fall-back position established by the previous class Q prior approval given that it was considered to offer betterment to the previous Class Q approval. This also saw provision of three units which was to essentially replace the three existing structures on site (that being the existing barn and 2 polytunnels). This permission remains extant as the developer has until 13/12/2021 to complete the works.

The *Mansell Case* established that permitted development rights could be relied upon as a fall-back position and the LPA is entitled to give weight to this as a material consideration. Case law does not make it clear how much weight should be applied, this is a matter for the decision maker to interpret on a case-by- case basis. Any proposed scheme submitted in this respect needs to provide a real and positive enhancement to the scheme allowed under Class Q.

The Town and Country Planning (General Permitted Development) (England) (GPDO) Order 2015 (as amended), Schedule 2, Part 3, Class Q allows the change of agricultural buildings to dwelling houses.

The GPDO 2015 (as amended) Class Q stipulates that one can have Smaller Dwelling houses or Larger Dwelling houses or a combination. Smaller Dwelling houses are up to 100sqm and larger ones are between 100sqm and 465sqm. One can have 3 larger properties as long as the area converted does not exceed 465sqm. One can have up to 5 smaller properties of up to 100sqm each. The maximum possible combination is 865sqm (i.e. one unit of 465sqm and 4 units of 100sqm).

The subject proposal entails the erection of 5 dwelling houses with cumulative Gross Internal Area (GIA) amounting to 1205sqm (i.e. 5 x 241sqm) which is far in excess of maximum threshold of 865sqm under GPDO 2015 Class Q/ associated fall-back position. Clearly, the proposal exceeds the quantum of development that can potentially be achieved via the fall-back-position mechanism. Arguably, one may seek additional floor area (i.e. beyond the 865sqm threshold) if this is appropriate and will provide betterment. The principle of acceptability of residential development at the site has been established by planning permission 19/01589/FULL. However, by reason of massing, size and the change of use of further land to provide for the development goes far beyond what can be achieved by fall-back-position mechanism and consequently is the proposed 5 dwellings is considered unacceptable.

As such, the proposed development is not considered to be appropriate in respect to establishing a 'fall-back position' in light of the GPDO – nor is it considered acceptable in respect to Local Plan Policy and is not appropriate development within the open countryside. Therefore an open market development for 5 dwellings in the countryside having a detrimental impact on the environment would be contrary to policies S1, S9 and S14 of the Mid Devon Local Plan 2013-2033.

Character and appearance

The NPPF gives great importance to the design of the built environment, stating good design is a key aspect of sustainable development and should contribute positively to making places better for people. It stresses the need to plan positively for the achievement of high quality and inclusive design for all development. While it states that local authorities should not impose architectural styles or particular tastes, it reinforces that it is also important to consider local character and distinctiveness.

In addition to the specific NPPF requirements set out above, paragraph 39 stipulates that applicants will be expected to work closely with those directly affected by their proposals to evolve designs that take account of the views of the community. Proposals that can demonstrate this in developing the design of the new development should be looked on more favourably.

The application form at question 23 indicates that pre-application advice or assistance has been sought from the Council. The NPPF from paragraph 39 extols the virtues of applicants engaging in pre-application discussion with the council to resolve any issues that may arise to help applicants avoid any unnecessary delays and costs.

Local plan policy S14 urges developments to create local character by responding to the site's immediate and wider context and local character to spaces and buildings which draw on the best of that local character without stifling innovation.

Members should note that the fall back position for a residential development on site is based on 18/01717/PNCOU - Prior Notification for the change of use of agricultural building to 3 dwellings

under Class Q on Land at NGR 278865 104542 (Linscombe Farm), New Buildings, Sandford and not that of planning permission 19/01589/FULL which was allowed as a fallback scheme providing betterment to the Class Q scheme. Under 18/01717/PNCOU, this notification applied to the entire building /gross area of 459 square metres delivering larger dwellinghouses of 181, 120 and 119.5 square metres respectively.

Planning Permission 19/01589/FULL allowed for the erection of 3 dwellings and garages, associated works and landscaping following the demolition of agricultural building and polytunnels. This approved proposal would result in the replacement of the agricultural building which is subject to Class Q permitted development rights and the removal of poly tunnels in the area to the west of the site, to be replaced with three detached dwellings and the creation of a new wildflower meadow in the existing area of hardstanding to the east of the agricultural building providing a net benefit for biodiversity on site. It was identified that each dwelling would have 246.25 square metres of accommodation calculated across the two floors. Unit 1 and 2 would overlap the footprint of the poly tunnels to be removed and unit 3 would be stepped into the slope of the site at a lower level overlapping part of the footprint of the agricultural building to be removed.

With planning application 19/01589/FULL which was approved, the case was made that the proposed floor area of the dwellings would be less than the cumulative area of the agricultural building and polytunnels that would be removed. The case for betterment against the scheme allowed under 18/01717/PNCOU was made as:

- The accommodation would be significantly more appealing architecturally and aesthetically than the conversion of the current agricultural building
- The tidying up of the site through the removal of the polytunnels which are in a poor state
- Net biodiversity gain through the provision of a wildflower meadow to the east of the site and new tree and hedge planting across the site.
- A financial contribution of £4326.00 secured through a UU towards the provision of improvements to play area including new adult exercise equipment at Sandford Play Area, Sandford was requested which was in accordance with policy AL/IN/3 at the time.

With respect to planning application 21/00887/FULL now under consideration which is for the erection of 5 dwellings with associated works following demolition of existing agricultural building it has been outlined that each dwellinghouse would have a Gross Internal Area (GIA) of 245sqm, with the dwellings spaced across the entire site. It is worth highlighting that the red edge of the location plan is increased to the previously agreed fall back development, taking in the area previously shown for wildflower meadow.

Hedge and tree planting is shown around and between the development (as was the case for the three dwellings) and the orientation of the dwellings is noted in order to benefit from solar gain. A large part of the biodiversity gain is through the managed planting on the adjoining field to the north which already contains a pond and small wooded area. This therefore represents an expansion to the land previously considered for the fall back development and a substantial increase to the Class Q scheme where the red edge was confined to the agricultural building and a curtilage up to the same footprint.

Whilst the principle of five dwellings may be possible for the site through the conversion of the agricultural building, to be considered in light of the Class Q development, they would need to be smaller units, covering a smaller area than that shown in order to reduce the impact of the built form in the landscape. It is also the opinion of officers that the increased biodiversity enhancements should be located on the site and within the contained area to the east rather than expanding the site further. To allow the proposal in its current form could set a precedent to be

followed by other applicants which would be difficult to defend against and this does not fit comfortably with the Court of Appeal decision [Mansell v Tonbridge and Malling BC] in applying a fall back position and what would be deemed to constitute betterment to the conversion scheme. The development in the form of 5 dwellings across this isolated site in a countryside setting and at the sizes shown is considered to result in a detrimental impact, being contrary to policies S1, S9, S14 and DM1 of the Mid Devon Local Plan 2013-2033.

Neighbouring Amenity

Local plan policy DM1 stipulates details relating to the protection of amenity of neighbouring occupiers. At chapter 12 of the NPPF, the government requires new development to provide a good standard of amenity for all existing and future occupants of land and buildings. It is considered that there is adequate separation distances between the proposed dwellings and the neighbouring dwellings(s) to the northwest. Accordingly, no issue is raised in respect of harm to residential amenities of neighbour(s).

Housing Supply

Following the adoption of the Local Plan last year, it is not considered that the development would make a significant contribution to the Council's housing targets which would weigh in favour of the development; but nonetheless the development would provide a contribution of 5 dwellings. However, as noted above, the site falls within open countryside and is not deemed appropriate given that it does not comply with Policy S14. It is also considered to go beyond the parameters of what would be considered an appropriate fall-back position under the Class Q permission.

Standard of accommodation

Nationally Described Spaced Standards is useful for assessing housing development. No issue is raised in this regard. Essentially all habitable rooms have acceptable sizes and have outlook provision. Therefore this would be consistent with the requirements set out in Policy DM1 relating to accommodation standards for occupiers.

Car Parking and Amenity space

Essential information has been provided to show on-site parking provision and garden area. It is considered that there is sufficient area to each plot to accommodate these functions and comply with policy DM5. Relevant conditions would be suggested in case of approval: (i) car/cycle parking; (ii) garden area; (iii) surface water discharge; (iv) spine road details.

Impact of possible ground contamination

Any impacts arising as a result of possible ground contamination will be prevented through the provision of an unexpected contamination condition.

Other matters

As officers are minded to refuse this application no S106 agreement or unilateral Undertaking has been sought to secure a contribution towards Education infrastructure/travel. As such in the absence of a completed S106 Legal Agreement the proposal fails to mitigate against its direct

impacts to local education provision and does not, therefore, satisfy the provisions with CIL Regulation 122.

SUMMARY

Application proposal entails the erection of 5 dwelling houses with cumulative GIA amounting to 1205sqm (i.e. 5 x 241sqm) which is far in excess of maximum threshold of 865sqm under GPDO 2015 Class Q/ associated fall-back position. The proposal exceeds the quantum of development that can potentially be achieved via the fall-back-position mechanism. The principle of acceptability of residential development at the site has been established by planning permission 19/01589/FULL. However, by reason of mass, size and spread of development which goes far beyond what can be achieved by fall-back-position mechanism, the principle of the as-proposed 5 dwellings is unacceptable. It is also considered that the proposals would be harmful to the openness of the countryside; and is unacceptable and contrary to the local plan 2013-2033 policies S9, S14 and DM1.

INFORMATIVES

In accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2015, Article 35(2). The Local Planning Authority has worked positively and proactively with the applicant to seek solutions to problems arising from the application including seeking amendments and additional information during the application process

REASONS FOR REFUSAL

1. The proposal is not considered to achieve betterment in respect to the already approved application at the site (19/01589/FULL) which provided betterment upon that of the original Class Q (18/01717/PNCOU). The proposed development is not considered to achieve betterment given that it will see the creation of more residential units, but a loss of the improvements sought on landscape and biodiversity achieved under approved application 19/01589/FULL on site. The proposal to provide additional tree planting and biodiversity gain in an adjoining field although considered to be laudable does involve further land to provide for the 5 large dwellings on the area adjacent to the site for the class Q and therefore does not sit comfortably with the Court of Appeal decision [Mansell v Tonbridge and Malling BC] in applying a fall-back position.
2. The development exceeds the prescribed available area and size of development that can potentially be achieved via the Class Q proposal of 4 units of 100sqm and one of 465sqm. As such, by reason of substantial increase in development which goes far beyond what can be achieved by fall-back-position mechanism, the principle of the as-proposed 5 dwellings is considered unacceptable in this circumstance due to the scale, mass and footprint of the proposed relative to that of the class Q conversion. It is also considered that the proposals for five detached dwellings across the entire site which includes land not previously outlined for development would be harmful to the openness of the countryside; and is unacceptable, being contrary to policies S1, S9, S14 and DM1 of the Mid Devon Local Plan 2013-2033.
3. In the absence of a completed S106 Legal Agreement the proposal fails to mitigate against its direct impacts to local education provision and does not, therefore, satisfy the provisions with CIL Regulation 122.

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. 21/01764/TPO

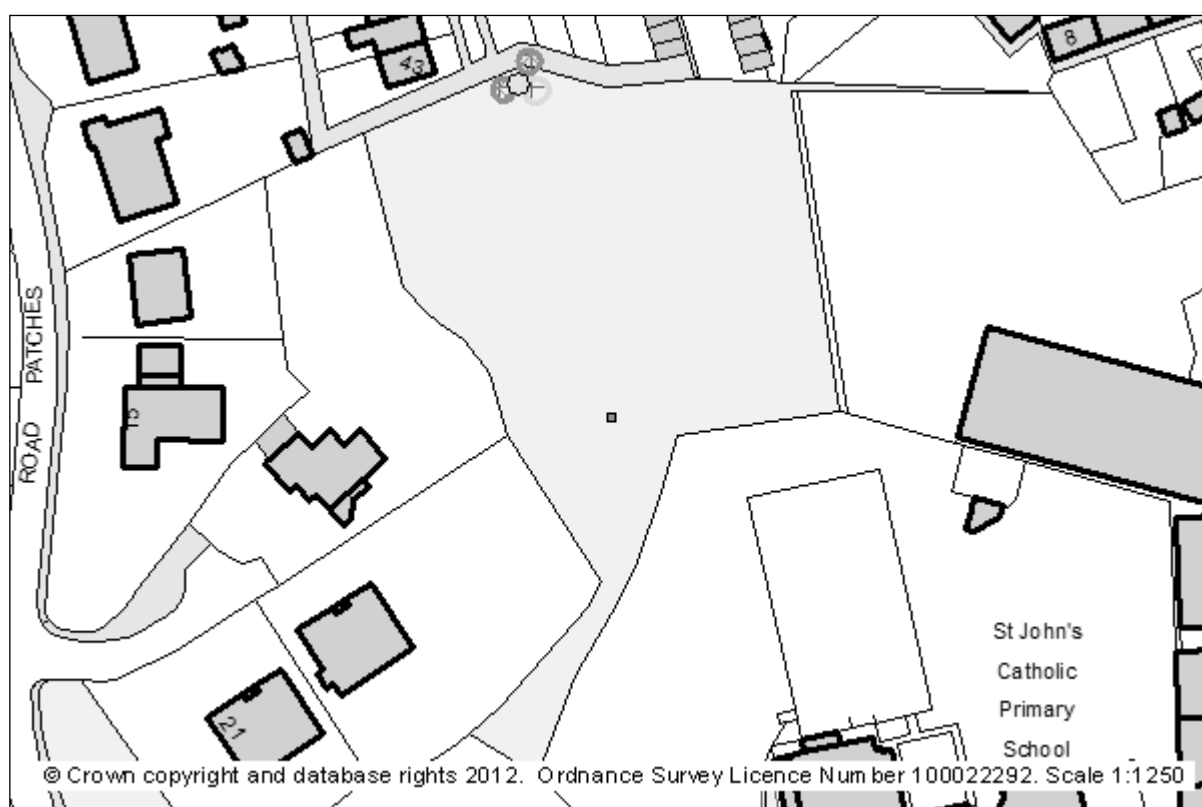
Grid Ref: 294835 : 112898

Applicant: Mr Steve Scriven

Location: Land at NGR 294817 112951
(South Of 45 Derick Road)
Patches Road
Tiverton

Proposal: Application to reduce height by 3m and canopy spread on north side by 2m of 1 beech tree (T1) and fell 2 ash trees (T2 and T3) protected by Tree Preservation Order 80/00001/TPO

Date Valid: 6th September 2021



APPLICATION NO: 21/01764/TPO

RECOMMENDATION

Grant consent

PROPOSED DEVELOPMENT

The application is to reduce the height by 3m and canopy spread on north side by 2m of 1 beech tree (T1) and fell 2 ash trees (T2 and T3) protected by Tree Preservation Order 80/00001/TPO on land at NGR 294817 112951 (South Of 45 Derick Road), Patches Road, Tiverton.

APPLICANT'S SUPPORTING INFORMATION

Complete application, location plan and supporting statement

RELEVANT PLANNING HISTORY

89/01825/TPO - PERMIT date 30th November 1989 Topping and thinning of trees subject to TPO 4.52.80.TP1

06/01770/TPO - REFUSE date 16th October 2006 Application to fell trees protected by Tree Preservation Order 1/1980

10/01315/TPO - PERMIT date 11th October 2010 Application to fell 1 Sycamore and carry out works to 2 Holm Oak trees protected by Tree Preservation Order 80/00001/TPO

15/01133/TPO - PERMIT date 27th August 2015 Application to pollard to 3m 1 Holm Oak tree protected by Tree Preservation Order 80/00001/TPO

17/01184/TPO - REFUSE date 9th November 2017 Application to fell 2 Sycamore trees and shorten back side of 1 Sycamore tree to second and third order branches protected by Tree Preservation Order 80/00001/TPO

DEVELOPMENT PLAN POLICIES

None applicable to this application

CONSULTATIONS

Tiverton Town Council – 5th October 2021

Support

REPRESENTATIONS

This application has been advertised by means of a site notice posted on or near the site, 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.

No letters of representation were received

MATERIAL CONSIDERATIONS AND OBSERVATIONS

This application is to reduce height by 3m and canopy spread on north side by 2m of 1 beech tree (T1) and fell 2 ash trees (T2 and T3) protected by Tree Preservation Order 80/00001/TPO which is located in woodland to south of 45 Derick Road, Tiverton.

Description of works

T1 is a mature beech, the proposed works are as follows:

1. To reduce the height of the tree by 2-3m to suitable growth points.
2. To reduce the canopy spread of the tree on the north side by up to 2m.

The reason for these proposed works is in order that it will reduce the strain on the main included bark junction at 1.5-3.5m and reduce the probability of failure, this will potentially prolong the life of the tree and preserve the amenity it provides, noting that previous crown reduction has been undertaken.

T2 and T3 – semi mature ash trees, the proposed works as follows:

1. Fell to ground level

The reason for works is that both trees are showing significant signs of ash dieback disease (ADD) and are within falling distance of a greenhouse of a neighbouring property.

Assessment

With respect to this type of application relating to Tree Preservation Orders and for trees in conservation areas, the Planning Practice Guidance outlines that when determining applications for consent under an Order, the authority may grant consent unconditionally; grant consent subject to such conditions as it thinks fit; or refuse consent. The authority must decide the application before it, so it should not issue a decision which substantively alters the work applied for. The authority could, however, grant consent for less work than that applied for. The authority should make absolutely clear in its decision notice what is being authorised. This is particularly important where the authority grants consent for some of the operations in an application and refuses consent for others.

The findings and conclusions of the Council's Arboricultural Officer to the proposals were as follows:

'The two ash trees in question that are to be removed. One does have ash die back and has quite significantly die back (approx. 50%). The other ash tree is only noted with minor ash dieback but is a heavily suppressed woodland edge tree. As a result their crown is imbalanced and biased over an access path and garden property. There has been historic issues of the crown spreads impacting on a garden greenhouse. Removal of these two trees is deemed the most prudent action in order to resolve the current conflict and remove the risk of branch failure damaging the greenhouse due to ash die back. With the immediate area there are more significant trees present that provide notable amenity value to the local landscape and more than compensate the removal of the two low quality ash trees.'

The proposed works to the beech tree, a 2m reduction of the side crown aspect that extends over the garden is viewed as minor works and will not notably impact the tree. Due to this being a woodland edge tree the crown spread is biased over the gardens spaces. The works if carried in accordance with BS3998:2010 shall improve the overall asymmetry of the tree and reduce conflict

with the gardens spaces and potentially reduce interference with the TV reception for a number of dwellings.

Whilst out on site a number of residents came out to discuss their concerns/issues with the trees. The works would be welcomed by them.'

Therefore in terms of the arboricultural justification, the Council's Arboricultural Officer concludes that the proposals will provide for an improved relationship between the management of the woodland and the adjoining residential properties. The works are therefore justified to improve the reasonable enjoyment of the properties.

CONDITIONS

1. The works hereby permitted shall be carried out within two years of the date of this consent.
2. The works shall be carried out in accordance with BS3998:2010 Tree Work – Recommendations

REASONS FOR CONDITIONS

1. To ensure the works carried out remain appropriate to the conditions of the tree and in the interests of visual amenity.
2. To ensure the works are carried out in accordance with best Arboricultural practice.

INFORMATIVES

BREEDING BIRDS. Nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended) and if discovered must not be disturbed. If works are to be carried out during the breeding season (from February to August, possibly later) then the tree(s) should be checked for nesting birds before work begins.

BATS. The applicant and contractors must be aware that all bats are fully protected by law under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Natural Habitats and Species (Amendment) Regulations 2012, also known as the Habitat Regulations. It is an offence to intentionally or recklessly damage, destroy or obstruct access to structures or places of shelter or protection used by bats, or to disturb bats whilst they are using these places.

Trees with features such as rot holes, split branches or gaps behind loose bark, may be used as roost sites for bats. Should a bat or bats be encountered while work is being carried out on the tree(s), work must cease immediately and advice must be obtained from the Government's advisers on wildlife, Natural England (Tel. 0845 1300 228). Bats should preferably not be handled (and not unless with gloves) but should be left in situ, gently covered, until advice is obtained.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The specified works constitute good management of the tree in its location with no objection raised by the Council's Arboricultural Officer on this proposal, confirming that the specification appears appropriate for the species and setting of the beech tree and for the removal of the two ash trees.

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

This page is intentionally left blank

Appendix A

Please note these documents refer to 21/01079/FULL - Change of use of land for the siting of a temporary worker's dwelling (log cabin) for three years (Revised Scheme) at Land at NGR 316266 116080 (Poachers Rest), Clayhidon, Devon.



Appeal Decision

Site visit made on 22 November 2016

by Amanda Blicq BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 December 2016

Appeal Ref: APP/R2520/W/16/3153731

**Oakhill Equestrian Centre, Eagle Road, Swinderby, Lincoln, Lincolnshire
LN6 9HS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Miss Vicky Allen against the decision of North Kesteven District Council.
 - The application Ref 16/0220/FUL, dated 8 February 2016, was refused by notice dated 17 June 2016.
 - The development proposed is temporary siting of caravan.
-

Decision

1. The appeal is allowed and planning permission is granted for temporary siting of caravan at Oakhill Equestrian Centre, Eagle Road, Swinderby, Lincoln, Lincolnshire LN6 9HS in accordance with the terms of the application, Ref 16/0220/FUL, dated 8 February 2016, subject to the following conditions:
 - 1) The use hereby permitted shall be for a limited period being the period of 3 years from the date of this decision. At the end of this period the use hereby permitted shall cease, all caravans, buildings, structures, materials and equipment brought onto, or erected on the land, or works undertaken to it in connection with the use shall be removed, and the land restored to its condition before the development took place.
 - 2) The occupation of the caravan shall be limited to the person solely or mainly working, at Oakhill Equestrian Centre, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: PF02 Proposed Site Plan; PF10 Site Location Plan.

Procedural Matters

2. For clarity I have used the address given on the decision notice in the heading above.
3. The Council has cited the emerging Central Lincolnshire Local Plan (CLLP) in its reasons for refusal; as this is in the examination phase I give its policies only moderate weight.
4. The Council's reasons for refusal also cite saved Policies C2 and DC2 of the North Kesteven Local Plan 2007 (LP). LP Policy DC2 tests the erection of rural

workers' dwellings against both a functional and financial test which is not entirely consistent with the requirements of Paragraph 55 of the National Planning Policy Framework (the Framework). This states only that there should be an essential need demonstrated. However, although Paragraph 215 of the Framework notes that due weight should only be given to relevant policies in existing plans according to their degree of consistency with the Framework, I consider LP Policy DC2 provides more detail in relation to how essential need should be assessed. It is also consistent with emerging policy CLLP Policy LP55 which sets out similar criteria to use as functional and financial tests when considering new dwellings in the open countryside.

5. Saved LP Policy C2 permits development within the open countryside subject to a number of criteria. These include the maintenance or enhancement of the environmental, economic and social value of the countryside, the protection of countryside character, the possibility of location within or near a settlement, and issues around sustainable transport. This policy is broadly consistent with Paragraph 55 of the Framework with regard to isolated dwellings in the countryside, and I give it full weight.

Main Issue

6. The main issue is whether, with regard to local and national policies, there is an essential need for a temporary dwelling in the countryside.

Reasons

7. The appellant runs an equestrian centre in open countryside between Swinderby and Morton. I noted on my visit that the site currently comprises paddocks, stabling for 10 horses, with associated office accommodation and storage for horse boxes and feed. The stables are located a short distance from the lane along a surfaced track which also gives access to Park Farm. It is visible from the lane, and there are no other dwellings in the immediate vicinity. At my visit, there were a few ponies in the stables and other horses and ponies grazing in the nearby paddocks.
8. The appellant has planning approval to build additional stables to enable expansion of the equestrian business¹, and argues that there is a need for a presence on the site in order to provide care for the horses, and to prevent theft and damage. The granting of permission to enable expansion indicates to me that the Council considers this to be an appropriate location for an equestrian enterprise.
9. The Council notes that their consultant's report² has concluded that the enterprise does not have an essential need for a 24 hours presence, although it also notes that such presence would be beneficial. However, there is no supporting text to outline how this conclusion has been reached. The report notes that there were 11 livery horses on the site at the time of their visit, but does not give a threshold above which a permanent site presence would be justifiable.
10. With regard to site security, I noted on my visit that the gated Park Farm access beside the appeal site has coded entry. This indicates to me that farms and businesses in the area have security issues. Furthermore, there are no

¹ 15/1415/FUL and 15/1398/FUL

² Landscape Land and Property Ltd, May 2016

nearby dwellings to provide informal surveillance of the appeal site. Whilst the consultant's report notes the presence of CCTV cameras, their effectiveness, even if operational, would depend on the response time of local police which in a rural area such as this would probably be unlikely to be prompt.

11. Although a financial test is not required under Paragraph 55 of the Framework, emerging CLPP Policy LP55 requires evidence that the business is an ongoing concern, through the submission of business accounts or a detailed business plan. The financial evidence before me indicates that the net profit for year ending 2015 was sufficient to pay a full-time agricultural wage as well as a return on the capital required for both the proposed stables and the caravan. Although I appreciate that the financial information provided is not a full business plan it nonetheless outlines income and expenditure over a three year period and generally shows that turnover is increasing over that period.
12. As such, I am satisfied that the financial information provided indicates that the business is financially sustainable and that there is no significant conflict with emerging CLPP Policy LP55 or saved LP Policy DC2. Although the consultant's report reaches a different conclusion and states that the income is insufficient to demonstrate financial viability, again, there is no explanation as to the basis upon which this conclusion was reached. As such, I give the conclusions of this report limited weight in this regard.
13. Given that a key element of the appellant's business necessitates a duty of care to other people's animals, as well as their security and welfare, as well as the evidence of local security issues, I am satisfied that a presence on site is needed for the business in its current stage of development. As such, in the light of the above I conclude that there is an essential need for a dwelling on site, and that the business has demonstrated financial sustainability.
14. I appreciate that the appellant has not provided evidence to demonstrate that there would not be locally available housing. However, the appeal site is situated in open countryside between the village of Swinderby and the hamlet of Morton. Even if accommodation was available, the dwellings would not be within sight or sound of the equestrian centre. Moreover, I noted on my visit that dwellings in the vicinity were relatively large and I am mindful that the area is within easy commuting distance of Lincoln. As such, I see no reason to disagree with the appellant's statement that an agricultural wage would be insufficient to finance the purchase, or rent, of such a local property.
15. Consequently I find no conflict with the provisions of Paragraph 55 of the Framework, as outlined above. Furthermore, Paragraph 28 of the Framework states that planning policies should promote the development and diversification of land-based rural businesses. The Council has clearly done this by allowing the future expansion of the stables, but the evidence before me indicates that the future growth and prosperity of the business is at least partly dependent on the safeguarding of property and horses at the current time, and that this requires a presence on site.
16. The Council has not raised any concern in relation to visual amenity, trees and landscape, or highway safety or transport issues. Furthermore, the approval of the extension to the stables indicates that the business is considered to maintain or enhance the economic value of the countryside. In addition, the development would reduce the number of journeys to the site made by the appellant. As such, the only point of LP Policy C2 that is relevant to this appeal

is whether the dwelling could be located within or adjacent to a settlement. Given the need to be on the appeal site and the distance to the nearest settlement, I give this argument limited weight and consequently find no conflict with saved LP Policy C2.

Conditions

17. I have considered the conditions put forward by the Council against the requirements of the national Planning Practice Guidance and the Framework. In respect of the plans, I have imposed a condition specifying the drawings upon which I have based this appeal, as this provides certainty.
18. I have also imposed a condition restricting occupancy of the caravan to ensure it remains connected with the ongoing business need of the equestrian centre, as well as a condition ensuring that the use is temporary in view of the stage the appellant is at in establishing the business, to ensure the local planning authority is able to reassess the need at a later date, and because its construction renders it unsuitable for permanent retention.
19. Where necessary and in the interests of clarity and precision I have altered the conditions to better reflect the relevant guidance.

Conclusion

20. For the reasons given above and taking all matters into account, I conclude that the development would not be contrary to the relevant policies of the Council's Local Plan and emerging Core Strategy and that therefore the appeal should be allowed.

Amanda Blicq

INSPECTOR

Appeal Decision

Hearing held on 4 October 2016

Site visit made on 4 October 2016

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28th October 2016

Appeal Ref: APP/P3040/W/16/3149419

Brooklands Stables, Costock Road, Wysall, Nottingham NG12 5QT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr D Walsh against the decision of Rushcliffe Borough Council.
 - The application Ref 11/01316/FUL, dated 15 August 2011, was refused by notice dated 29 October 2015.
 - The development proposed is the siting of a mobile home in connection with a livery use.
-

Decision

1. The appeal is allowed and planning permission is granted for the siting of a mobile home in connection with a livery use at Brooklands Stables, Costock Road, Wysall, Nottingham NG12 5QT in accordance with the terms of the application, Ref: 11/01316/FUL , dated 15 August 2011, subject to the following conditions:
 - 1) The use hereby permitted shall be for a limited period being the period of 3 years from the date of this decision. The building hereby permitted shall be removed and the land restored to its former condition on or before 31 January 2020 in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Number MSP 620/001 (site layout plan); Drawing number MSP 620/002 (site location plan); and Drawing number MSP 620/003 (elevations).
 - 3) The occupation of the dwelling shall be limited to a person solely or mainly employed in connection with the operation of the equestrian business at Brooklands Stables, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.

Main Issue

2. The main issue in this appeal is whether there is an essential need for a rural worker to live permanently on the site.

Reasons

Background

3. The appellant has been engaged in running a livery business on the site for a number of years with planning permission for the livery use being granted in 2010. The livery business can accommodate up to 20 horses in an American style barn and two smaller sets of external loose boxes. A horse walking machine and riding arena are also present at the stables along with open paddocks. It was stated at the hearing that this is operated on a full livery basis where the appellant has complete responsibility for the welfare and exercise of the horses.

Policy Context

4. Whilst the planning officer's report refers to Policies 1, 5 and 10 of the Rushcliffe Local Plan Core Strategy 2014 and Policies GP2, EN19, EN20, HOU4 and HOU5 of the Rushcliffe Borough Non-Statutory Replacement Local Plan 2006 (NSRLP), the reason for refusal refers solely to Policy HOU5 of the NSRLP. This policy deals specifically with temporary dwellings in association with farming activities or other activities that are appropriate in open countryside. The NSRLP has been adopted by the Council for development management purposes but is not a formally adopted development plan. However, the policies in the NSRLP have been subject to formal examination and consequently significant weight has been given to them in determining planning applications and appeals.
5. Policy HOU5 predates the publication of the National Planning Policy Framework (the Framework) and was written within the context of earlier national guidance¹. The consistency of the Policy HOU5 with the framework was discussed at the hearing. It was agreed that the basic thrust of Policy HOU5 is to restrict new housing in the countryside except where there are special circumstances and this is consistent with the guidance in Paragraph 55 of the Framework. Substantial weight can still therefore be given to Policy HOU5. It is therefore necessary to consider whether there is an essential need for a rural worker to live permanently at or near their place of work in the countryside and whether there is clear evidence of both a firm intention to develop the enterprise and that it has been planned on a sound financial basis.

Essential need

6. The business provides a full livery service where the appellant is wholly responsible for the care, welfare and exercising of the horses accommodated on the site. At the hearing, the appellant also stated that an element of training is also carried out. The business caters for high value horses and the intention is also to expand into providing equine therapy services which would require horses to be brought to and cared for on the site.
7. Medical conditions such as colic can onset suddenly in horses and require urgent action and treatment. It was confirmed by the appellant that, from a welfare perspective, relatively common conditions such as colic can, if not swiftly attended to, lead to serious health issues and mortality.

¹ Planning Policy Statement 7: Sustainable Development in Rural Areas

8. It was suggested that by living on site and within sight and sound of the stables, the appellant is more likely to be aware of an animal in distress and treatment can be given sooner and, in addition, periodic checks can be more easily carried out. Evidence was submitted with the appeal that horse owners are disinclined to stable animals if there is no on site supervision and that the appellant is unable to obtain veterinary referrals for equine therapy due to not living on site which is hampering expansion of the business.
9. Reference has been made by both parties to a number of appeal decisions for similar livery stable operations. In some cases it has been considered that a worker living on site is essential and in others it has not. There is no clear pattern in the decisions provided. It was however, agreed that in most cases it was regarded as preferable for a worker to live on the site.
10. More compelling is the reference made by the appellant to a planning permission granted in 2013 by the Council for establishment of new equine business with a temporary dwelling at Widmerpool Lane, approximately 3 and a half miles from the appeal site. From the evidence this business appears to be essentially similar to that carried out at the appeal site and it is similarly located in the countryside but near to settlements. In this case it was accepted that there were no suitable properties nearby and a temporary dwelling was permitted. This case is almost directly analogous to the current appeal and the Council were not able to indicate any circumstances that would differentiate it from the appeal proposal.
11. Whilst the Council provided evidence of a large number of properties for sale in the area, the majority of these are some distance from the appeal site, making periodic checks in the evenings and night time less efficient to carry out. Due to relatively high property prices in the close vicinity of the appeal site there are also affordability issues for the appellant. Although there is internal video monitoring of the barn, this is not capable of being monitored remotely. The building alarms do sound remotely, although the appellant advised at the hearing that, when these have been triggered by intruders, in the time it took to travel to the site, property had been stolen and the intruders had left. Remote audio and video monitoring of the facility for welfare rather than security purposes has not been seriously considered by the appellant. However, whilst this is technically possible, it would not overcome the need to travel from a remote location to address welfare issues which could require regular and swift attention.
12. It was not considered that the use of temporary sleeping accommodation such as a touring caravan to monitor known welfare issues was a solution as the need would be too frequent, and would not necessarily be acceptable to the Council.
13. On this basis, I consider that the number of animals, combined with the higher monetary value of the horses and related concerns regarding client confidence indicates that the nature of the enterprise demonstrates an essential physical need for a worker to live permanently on the site.
14. The livery business has been operating for a number of years now. The Council had questioned whether there was sufficient security of tenure for the business to justify a dwelling on the site. At the hearing, a copy of a lease was provided which shows that the appellant has security of tenure until March 2039. The appellant has built up the business since it was established in 2010 and it was

stated verbally at the hearing that in the event that the appellant were able to reside at the site, the business would be developed further to include equine therapy. From this, I consider that there is a clear intention to develop the business, which would meet the first part of the test in Policy HOU5.

15. Various sets of business accounts have been submitted. Whilst there is some question as to whether these include the wages of the employees of the business, and the appellant was unable to confirm where in the accounts staff wages were incorporated, they do nonetheless show a year on year profit and that this has increased over the time that the business has been established. The test in Policy HOU5 is that the business has been planned on a sound financial basis. The business has successfully operated for more than five years and has made a profit each year. This is sufficient evidence to show that there is an adequately sound financial basis for the business to justify a temporary building.
16. The business meets the tests set out in Policy HOU5 and also meets the requirement of Paragraph 55 of the Framework. I therefore conclude that there is a need for a worker to live permanently on the site and that the proposed temporary building would meet the requirements of the Policy.

Other matters

17. It is common ground between the parties that the proposed mobile home would not cause harm to the character and appearance of the area and would not have any adverse effect on the living conditions of the occupiers of nearby residential properties. It is also common ground that the proposal would not cause harm to road safety in the vicinity of the appeal site and that adequate drainage can be achieved. From the evidence before me, and from what I saw on the site visit, I have no reason to disagree with this position.

Conditions

18. I have had regard to the conditions that have been suggested by the Council. It was agreed at the hearing that should planning permission be granted, as the proposal is for a mobile home, it is necessary to impose a condition limiting the time that the mobile home can be retained on site due to the temporary nature of the building. I have also included a short period of time following removal of the building to allow for reinstatement of the site. In order to provide certainty as to what has been granted planning permission, I have imposed a condition specifying the approved drawings. It is also necessary to restrict the occupation of the mobile home to a person employed at the stables as the building is required in connection with the livery stable business.

Conclusion

19. For the above reasons the appeal should be allowed and planning permission granted in accordance with the conditions discussed above.

John Dowsett

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mike Sibthorp	Mike Sibthorp Planning
Richard Bacon MBA, BSc	Equine Business Consultant
Darren Walsh	Appellant
Rebecca Lovatt-Walsh	Appellant
Derek Lovatt	Landowner

FOR THE LOCAL PLANNING AUTHORITY:

Joe Mitson	Planning Officer
Andrew Coobe MRICS, FAAV	Sangham Agricultural Planning Limited

INTERESTED PERSONS:

Greg Sharman	6 Yew Tree Close, Rockcliffe on Trent
--------------	---------------------------------------

DOCUMENTS SUBMITTED AT THE HEARING

1. Statement of Common Ground
2. Lease between Derek Lovatt and Darren Walsh, dated 18 March 2014
3. List of properties for sale in the area, dated 3 October 2016



Appeal Decision

Hearing Held on 2 November 2020

Site visit made on 2 November 2020

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2020

Appeal Ref: APP/P1133/W/20/3250242

Moorwood, Moor View, Ipplepen, Newton Abbott TQ12 5TP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs Jon Clyne against the decision of Teignbridge District Council.
- The application Ref 19/01877/FUL, dated 24 September 2019, was refused by notice dated 25 February 2020.
- The development proposed is the temporary siting of a log cabin for 3 years to serve as a key worker supervisory dwelling to meet the needs of an equestrian enterprise.

Decision

1. The appeal is allowed and planning permission is granted for the temporary siting of a log cabin for 3 years to serve as a key worker supervisory dwelling to meet the needs of an equestrian enterprise at Moorwood, Moor View, Ipplepen, Newton Abbott TQ12 5TP in accordance with the terms of the application, Ref 19/01877/FUL, dated 24 September 2019, subject to the conditions in the attached schedule.

Application for Costs

2. Before the hearing an application for costs was made by Mr and Mrs Jon Clyne against Teignbridge District Council. This is the subject of a separate decision.

Procedural Matters

3. The written evidence of interested parties questions the lawful land use at Moorwood. However, it is not for me to ascertain this matter within this section 78 appeal. That said, so far as is material to this appeal, I consider the site history¹ to indicate a commercial livery land use at the Moorwood site. This was the shared view of the appellants and the Council at the hearing, and I assessed the appeal on this basis.
4. A query was also raised regarding the description of the proposed temporary dwelling as a 'log cabin'. However, the plans submitted with the appeal show a structure with the form and appearance of a static caravan. The appellants consider the structure to fall within the definition of a caravan², which would be easily removed from the site after the three-year period. This was not disputed at the hearing, and I had no reason to reach a contrary view.

¹ Particularly Ref 20/00243/VAR and its condition No 5.

² The Caravan Sites Act 1968 and Social Landlords (Permissible Additional Purposes) (England) Order 2006 (Definition of a Caravan) (Amendment) (England) Order 2006

Main Issues

5. The main issues are:

- whether or not it has been demonstrated that there is an essential need for a rural worker to live at the site for a period of three years; and,
- the effects of the proposal with regard to carbon emissions.

Reasons

Essential need

6. Policy S22 of the Teignbridge Local Plan 2013-2033 (adopted 2014) (TLP) states that development in the countryside will be managed to provide attractive, accessible and biodiverse landscapes, sustainable settlements and a resilient rural economy. Development in the open countryside, such as at Moorwood, will be strictly managed and limited to given circumstances, including, of application here, necessary housing for rural workers.
7. TLP Policy WE9 sets out criteria against which proposals for rural worker dwellings are assessed. In the first instance, there must a) be an essential functional need arising from the business for a full time worker to be housed on the site, and b) the business unit must be of sufficient size to require a full time employee, be economically viable and have clear prospects of remaining so.
8. Whilst the business at Moorwood is yet to commence, I see nothing in these policies which precludes such a circumstance. Furthermore, such scenarios are anticipated by the Planning Practice Guidance (the PPG), which states that, in the case of new enterprises, the decision maker should consider whether it is appropriate to grant permission for a temporary dwelling for a trial period³.
9. A central aspect of the appellants' case around essential functional need rests on the desire to be within 'sight and sound' of the stable in order to respond to potentially fatal illnesses, such as severe colic. However, the illnesses identified would not necessarily exhibit symptoms which residents of the temporary dwelling could be expected to respond to during night-time hours. I am unconvinced, therefore, that the monitoring for such illnesses could not equally be provided through alternative means, such as CCTV.
10. That being said, the demands of running a livery can lead to long and antisocial hours spent on site, with potential issues arising at any time. A temporary dwelling would allow Mrs Clyne the fullest opportunity to provide optimal care for the horses. Within this context, the argument was put to me by the appellants' equine expert that clients would expect a constant onsite presence in order to entrust valuable competition horses into the livery's care. I find this to be a logical argument, which credibly translates to an essential functional need for a dwelling arising from the specific demands of the proposed business.
11. In challenge to this point, I was referred to the existence of liveries in the area which do not have a dwelling. Yet, the individual circumstances of these liveries have not been set out in any substantive detail. Reference is made, second hand, to named equine experts in the written evidence of the interested party Mr Channon, but those experts have not provided submissions to this appeal.

³ Paragraph: 010 Reference ID: 67-010-20190722

12. It was asserted that Mrs Clyne's qualifications, or lack of, would be dissuasive. However, Mrs Clyne clarified that the discussed qualifications are not necessarily expected to be a prerequisite to running a competition livery. The prospect of customers opting not to use the livery due to the standard of care or animal welfare is a matter best tested over the three-year trial run period in any case.
13. Turning to viability, there has been much investment at the site in recent years, above the purchase of the land itself, which indicates the appellants' commitment to establishing this enterprise. Whilst there are other aspirations for the business longer-term, such as a breeding programme, this element of the scheme relates to land off site, the status of which was not made wholly clear. Nonetheless, the appellants' forecasts suggest that the livery at Moorwood alone would create work for just over a fulltime worker and would be viable, generating an annual surplus from the second year on. This contrasts with the detailed forecasts of Mr Channon, which reach the opposite conclusion.
14. During the hearing, Mrs Clyne clarified that it is not her intention to personally drive horses to competition or to provide schooling or rider tuition at Moorwood, with external trainers of appropriate qualification brought in instead. It seems to me that this may well release Mrs Clyne from many of the potential costs forecast by Mr Channon. For the marketing, the appellants intend to largely rely on social media, which seems to me to be a proportionate way to reach out to potential clients in the nascent years of the business.
15. Whilst depreciation is an accounting principle, it would not, as far as I know, have a tangible impact upon the cash flow of the business year on year. Moreover, to thwart the proposal on the basis of depreciation would, in my view, be inconsistent with Paragraph 83 of the National Planning Policy Framework (the Framework), which requires decision makers to support the development of land-based rural businesses. To do so would also fail to appreciate that the development is proposed as a trial run.
16. The viability of the business was also challenged by suggestions that the appellants would need to use some of the available boxes to stable their own horses, and for required isolation. However, I understand that the appellants keep their owned horses elsewhere, and there is an emerging arrangement to utilise the approved fodder store at the site for isolation, when needs arise.
17. Within this content, I find that the greater weight attaches to the written and oral evidence of the appellants with regard to viability. In any event, even if I were to favour Mr Channon's forecasts, Paragraph 79 of the Framework does not require an assessment of viability. As such, any conflict with the viability requirements within criteria b) of Policy WE9 would attract only limited weight, and would not, in this case, cause conflict with Policy WE9 as a whole.
18. I therefore conclude on this issue that there is an essential need for a rural worker to live at the site for a period of three years. The proposal would accord with the relevant aims of Policies S22 and WE9 of the TLP and the Framework.

Carbon Emissions

19. Policy EN3 of the TLP requires proposals to seek to minimise their carbon footprint both during construction and in use, to achieve the carbon emissions target in Policy S7, that being about a 42% reduction from 2009 levels by 2030. Given that the proposal is for a temporary three-year period, its carbon

footprint would be inconsequential within the context of the 2030 target. Whilst the Council has questioned the fate of the temporary dwelling after the three-year period, and therefore its long-term carbon footprint, this matter is beyond the scope of the proposed development and, it follows, my assessment.

20. As such, the proposal would have an acceptable effect with regard to carbon emissions. It would accord with Policies EN3 and S7 of the TLP.

Other Matters

21. Much concern has been raised as to the welfare standards that would be achieved at Moorwood, with reference to the Animal Welfare Act. Similarly, reference has been made to Policy EC5 of the TLP which addresses equine development. However, the proposed development before me encompasses the temporary dwelling, and not the enterprise to which it is intended to facilitate.
22. With regard to the character and appearance of the area, the proposed temporary dwelling would relate well to the existing linear form of buildings at Moorwood and would also be well hidden behind the dense roadside boundary. It would not cause harm in this regard. These matters have not therefore been determinative in my assessment.

Conditions

23. In the event that I was minded to allow the appeal, the Council requested conditions to be applied, which I have assessed with regard to the tests set out in the Framework and the PPG. I have amended them where appropriate for the sake of clarity and precision.
24. In addition to the standard time condition, a condition is needed to define the approved plans in the interest of certainty. Given the limitations to development in the countryside, it is necessary to impose a condition restricting the occupation of the temporary dwelling to one associated with the proposed business at Moorwood. As the proposed development is for a trial period, it is necessary to ensure that the temporary dwelling is removed from the site after three years from the date of its occupation. In the interests of protected species, a condition is needed to make any external lighting subject to further consideration by the Local Planning Authority prior to its installation.
25. It was suggested at the hearing that a condition may be utilised in order to confirm the detailed thermal efficiency of the temporary dwelling in reference to its carbon footprint. However, given my findings in respect of this issue, I do not consider such a condition would be reasonable or necessary in this case.

Conclusion

26. For the reasons outlined above, and taking all matters raised into account, I conclude that the appeal should be allowed, subject to conditions.

Matthew Jones

INSPECTOR

DOCUMENTS SUBMITTED

Document 1	Policy H15 (Rural Workers' Dwellings) of the Teignbridge Local Plan Review (2020 – 2040)
Document 2	Social media content

APPEARANCES

FOR THE APPELLANT:

Mr David Campion MRICS FBIAC	Agent
Ms Sally-Ann Tinsley BSc, LLdip, PgC, AgLaw	Equine Commercial-Legal
Mr John Clyne	Appellant
Mrs Leanne Clyne	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Ms Anna Holloway MRTPI MSc BSc(Hons)	Senior Planning Officer
Ms Taya Cotterill MRTPI MPlan	Senior Planning Officer
Mr Gary Crawford MSc	Planning Officer

INTERESTED PERSONS

Ms Hayley Parker
Mr Rodney Channon BSc (Econ) A.C.A
Cllr Mandy Hutchings (Ipplepen Parish Council)

SCHEDULE OF CONDITIONS

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 0087/09, 0087/10, 0087/11.
- 3) The occupation of the temporary dwelling shall be limited to a person or persons solely or mainly working, or last working, at the equestrian business operating from the land edged blue on the 1:1250 site location plan, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
- 4) The use hereby permitted shall be for a limited period, being the period of three years from the first occupation of the temporary dwelling. The temporary dwelling hereby permitted shall be removed, the use hereby permitted shall be discontinued, and the land restored to its former condition, on or before the expiry of that period of three years from the date of the first occupation of the temporary dwelling in accordance with a scheme of work that shall first have been submitted to and approved in writing by the Local Planning Authority.
- 5) Prior to the installation of any exterior lighting within the site, full details including design, siting and illumination-type shall be submitted to the Local Planning Authority for approval. Only lighting that has been approved in writing by the Local Planning Authority shall be installed.



Costs Decision

Hearing Held on 2 November 2020

Site visit made on 2 November 2020

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2020

Costs application in relation to Appeal Ref: APP/P1133/W/20/3250242 Moorwood, Moor View, Ipplepen, Newton Abbot, Devon TQ12 5TP

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr and Mrs Jon Clyne for a full award of costs against Teignbridge District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for the temporary siting of a log cabin for 3 years to serve as a key worker supervisory dwelling to meet the needs of an equestrian enterprise.
-

Decision

1. The application is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The appellants written submissions contend that the Council has acted unreasonably by refusing the planning application for reasons that do not stand up to scrutiny. They were added to at the hearing with oral submissions that the Council has prevented development which should clearly be permitted, failure to produce evidence to substantiate each reason for refusal on appeal, and made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. Members of planning committees are entitled to reach a different opinion to their professional officers, and indeed often do. In this case, the members considered the proposal to be contrary to Policy WE9, a view at odds with the professional opinions of the appellants' consultants, the planning officer, and the Council's own consultant. It is especially important that when members reach a view which runs contrary to the weight of expert opinion, that they do so for sound planning reasons that can be rationalised in the evidence.
5. The members made their decision on the basis that the proposed equine enterprise at Moorwood has not commenced. However, the Council failed to explain how this situation runs counter to local or national planning policy, both in its written evidence and at the hearing. This is unsurprising as I see nothing in policy to justify the member's position either. Moreover, members would or should have been aware that the PPG identifies the potential for a temporary dwelling to be permitted where an enterprise has not commenced.

6. The other reason for refusal relates to the carbon footprint of the temporary dwelling. Given that the proposed development would be inherently temporary, occurring over a three-year period well before 2030, I see no rational basis for the finding of conflict with Policies S7 and EN3. Furthermore, concerns raised regarding the reuse of the temporary dwelling after its removal from Moorwood are beyond the scope of a reasonable assessment of the appeal proposal.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Teignbridge District Council shall pay to Mr and Mrs Jon Clyne the costs of the appeal proceedings described in the heading of this decision.
9. The applicant is now invited to submit to Teignbridge District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Matthew Jones

INSPECTOR

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	1	10/01/2022	21/02014/MARM	Reserved Matters in respect of (appearance, landscaping, layout and scale) for the area associated with the attenuation pond, drainage infrastructure and related details including level changes required for the initial phases of development, following Outline approval 14/00881/MOUT	Land at NGR 297844 113446 (North of Putson Cottages) Blundells Road Tiverton Devon	Mrs Christie McCombe	DEL	

This page is intentionally left blank

PLANNING COMMITTEE

3 NOVEMBER 2021

REPORT OF ANGHARAD WILLIAMS, INTERIM DEVELOPMENT MANAGEMENT MANAGER.

PLANNING AND BUILDING CONTROL PERFORMANCE

Reason for Report:

To provide the Committee with information updating on the performance of aspects of the planning function of the Council. Building Control performance information is also provided although this is primarily reported to the Building Control Partnership Joint Committee.

Matters for Consideration:

Performance against targets, the Government's performance assessment and resources within the Planning Service.

RECOMMENDATION: For information and discussion.

Financial Implications: Planning performance has the potential for significant financial implications in the event that applications are not determined within 26 weeks or an extension of time negotiated beyond the 26 week date. In that instance if requested, the planning fee is returned. Through the issue of planning permissions for new dwellings the service enables the award of New Homes Bonus money to the Council.

Budget and Policy Framework: None directly.

Legal Implications: The Government monitors planning performance in terms of speed and quality of decision-making. In the event minimum standards are not met, an authority may be designated as underperforming with special measures applied that allow applicants for major development to apply for permission direct from the Planning Inspectorate and bypassing local decision-making.

The speed measure is twofold: firstly, the percentage of major applications determined within 13 weeks as measured over a 2 year period and secondly the percentage of non- major applications determined within 8 weeks as measured over a 2 year period. Accordingly, it is important to continue to meet these targets.

The quality measure is also twofold: firstly the percentage of all major applications determined over a two year period that have been overturned at appeal and secondly, the percentage of all non-major applications determined over a two year period that have been overturned at appeal. The target for both measures is less than 10%. It is important to continue to meet these targets.

Risk Assessment: Financial risk because of fee return and the designation of planning authorities in special measures for underperformance is referred to above. These aspects are actively monitored, to allow priorities to be adjusted as required to reduce the risk. The speed and quality of the determination of major applications has been the subject of Government performance indicators for some time. However, it

should be noted that the application performance data reported does include a significant reliance upon agreeing extensions of time with the applicant. Whilst this is allowed within the performance reporting system requirements of the Government, it is an indication of a service carrying a high number of applications on hand and application assessment being overly protracted.

Equality Impact Assessment: No equality issues identified for this report.

Relationship to Corporate Plan: The effective operation of the planning function of the Planning, Economy and Regeneration Service including the processing of applications is central to achieving priorities in the Corporate Plan.

Impact upon Climate Change: No climate change issues are identified arising from this report on service performance.

1.0 APPLICATION DETERMINATION PERFORMANCE

1.1 The Government uses speed and quality of decision indicators as the main means of assessing planning application performance. These indicators with performance requirements are set out for major and non-major applications as follows:

Speed:

- **Majors: More than 60% of major applications determined within 13 weeks (over 2 year period).** Q1 saw figures of **91%** with figures of Q2 down to **83%** of 2021-22. The figures demonstrate a slight decrease in speed between Q1 and Q2; however this is arguably a result of the issues surrounding staff resource and the negotiations that require significant attention when considering major applications.
- **Non majors: More than 70% of non-major applications determined within 8 weeks (over 2 year period).** Q1 saw figures of **91%** with Q2 now reaching **98%** of 2021-22. The increase demonstrates that almost 100% of non major applications are being considered and decided within the required timescale.

Quality:

- **Majors: for applications determined over a 2 year period, no more than 10% of 'major' decisions to be overturned at appeal.** Q1 reported a figure of **7.1%** with the figure of Q2 being **5.45%** of 2021-22. We are therefore still under the 10% and have decreased since Q1 which is a further positive.
- **Non-majors: This indicator of quality of decision-making is measured over a 2 year assessment period: no more than 10% of 'non major' decisions to be overturned at appeal.** Q1 reported **0.43%** but at Q2 we have a report of and **0%**. This is a positive reduction.

- 1.2 Application determination performance data against national and local indicators over the last few years is attached at **Appendix 1**. The latest performance results for quarter 2 of 21/22 indicates that the national planning performance indicators for the speed and quality of planning application decision making have been met and exceeded by the service. Whilst there is a small decline since the Q1 figures, the performance is still well above the target required. The small decline can be the result of on-going negotiations required in particular with major planning applications and the interest that they generate.
- 1.3 With regard to applications determined within 8 or 13 weeks, members will recall from the previous Q1 report that the performance figures include those where there has been an agreed extension of time. It has been an ambition of the team to reduce the reliance on extensions of time, despite this being a procedure allowable by Government for reporting planning application determinations. The team have successfully cleared a significant backlog of applications and are now in position to receive new applications and start progressing them in a timely manner; however due to issues with staff recruitment, the team is still experiencing a shortfall of team members which despite efforts to recruit, we have not yet received any suitable applications for these positions. Evidently this has a bearing on officer capacity to deal with applications within the required period of time without the reliance of extensions of time. Nevertheless, as a team, we are managing this to the best of our ability and ensuring that we continue to manage officer workload and seek to get a decision made within the required timescale.
- 1.4 Reflecting on Q2, and the continuing challenges that arise with the pandemic, it is a positive news story that the team have continued to get decisions made well within the targets set by Government, and the figures have remained stable despite the challenges the team have faced and continue to face. The service continues to deliver despite the need to still do things slightly differently as a result of the pandemic, and only recently, it is good to see that we have officer presence back within the Council building. Since Q1, we have seen the physical return of our members within the Committee, as well as officers now attending accordingly.
- 1.5 The backlog of applications experienced throughout Q1 has largely been successfully cleared, and this has involved the careful organising of additional planning committees to ensure that each committee has an appropriate number of applications to determine without it taking a considerable length of time. Accordingly, this will have also had an impact on the figures where decisions will have been delayed as a result of having to go to a future planning committee for determination. This has however been successfully managed, with the Q2 figures above reflecting this outcome.
- 1.6 As noted above, it is important to note that the department has for a period within Q2, continued to see a high staff turnover. However, since my appointment as interim Development Management Manager, it is my priority to stabilise the team as well as I can, and ensure their health and wellbeing is a priority and as such, the service sustained. We are continuing to seek other means of recruiting staff, which also includes the most recent agreement to

work closely with an external planning consultancy. This means that the team will benefit from the work of planning professionals on a broader basis than that of recruiting an additional agency member of staff; thereby enabling more capacity within the team to deal with the continuing influx of applications.

- 1.7 The number of applications in hand during Q2 stood at 290, and there has since been a further decrease to 279 at the time of writing. This is a significant decrease which demonstrates how hard the team have been working to reduce the numbers and get application decisions out on time. This is certainly a positive direction to be moving in despite the challenges the team have and are still facing. It should be noted that the pre-application service has now re-opened.
- 1.8 At the time of writing the following vacancies are still present within the department:
- 2 x Principal Planning Officers – we will also see the loss of a further Principal Planning Officer in December when Daniel Rance will be retiring.
 - 1 x Planning Officer Post.
 - 1 x Enforcement Officer Post.

2.0 Planning enforcement

- 2.1 The Local Enforcement Plan was agreed by Council on 21st February 2018. It sets out prioritisation criteria for compliant investigation together with performance standards. Scrutiny Committee considered a report on the enforcement of planning control at the meeting on 14th September 2020 where it was resolved to set up a working group to consider this area in more detail. The working group is currently holding a programme of meetings prior to formulating a report to Scrutiny Committee.

- 2.2 The following table shows stats for enforcement cases:

Details	2019/2020				2020/2021				2021/2022			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Total Initial Site Vists carried out in the Quarter	113	97	94	83	25	73	90	44	34	28		
New enforcement cases registered (in quarter)	109	107	120	73	56	80	65	64	68	65		
Enforcement Cases closed (in quarter)	107	82	128	84	41	63	87	67	47	42		
Committee authorisations sought	1	0	0	0	0	0	0	0	0	0		
Total Outstanding cases at end of Quarter	180	205	197	199	214	233	212	205	216	261		
Enforcement Notices Served				Enforcement Notices Served				Enforcement Notices Served				
Planning contravention notices served (PCNV)	4	4	2	1	1	1	1	0	1	8		
Breach of condition notice	0	0	0	0	0	0	1	0	0	0		
Breach of Condition Notice Section 187A	0	0	0	0	0	0	0	0	0	2		
Section 215 (untidy land)	0	0	0	0	0	1	0	0	0	0		
NOT330	0	0	0	0	0	0	0	0	0	0		
REPNOT	0	0	0	0	0	0	0	0	0	0		
ENFCOU	1	0	0	0	0	0	0	1	0	0		
ENFDEV	1	0	0	0	0	0	0	2	0	0		
TEMSTO		0	0	0	0	0	1	0	0	0		
Total Notices Served	6	5	2	1	1	0	3	3	1	0	0	0

- 2.3 Whilst the table above shows a fall in site visits undertaken even when compared with that of Q1, it is important to note that this may not be reflective of the situation. As members will know, the enforcement team has seen a high turnover of staff with a number of agency staff being recruited to assist in dealing with the number of cases. Unfortunately, this high turnover of staff

means that each new member of staff must be trained up on the systems that we use to ensure that site visits and notes can be documented and the reports which produce the stats generated. The issue with new staff starting and then leaving is that whilst the work is being undertaken, they may fail to import the data correctly, which in turn effects our statistics. As such, members should be aware that a significant number of site visits have been carried out by the current team, and progression being made on a number of cases.

- 2.4 The vacant enforcement officer post is to be re-advertised again following failure to recruit first time around. In the meantime, we have another two enforcement officers recruited on an agency basis to deal with the existing backlog and cases going forward with both of these working part time. As such, our permennant enforcement officer continues to work hard in regard to maintaining the enforcement inbox, and her own caseload, whilst the agency members of staff are picking up urgent cases to ensure these are dealt with in a timely manner.

3.0 BUILDING CONTROL.

- 3.1 Mid Devon's Building Control service operates in partnership with North Devon Council as NMD Building Control. The partnership service has been operational since April 2017 and under normal conditions is delivered from offices in South Molton. A Joint Committee oversees the delivery of the functions of the partnership service. 2020 has seen a continued consolidation realising the benefits of the partnership.
- 3.2 The Building Control service has exceeded the performance target relating to the assessment of full plans applications and applications examined within 3 weeks are not only above target, but have also exceeded the figures reported in Q1.

KPI	Year	2020/21				2021/22	
	Target	Q1	Q2	Q3	Q4	Q1	Q2
Building Regulation Full Plan applications determined in 2 months	95%	98%	99%	99%	97%	100%	97%
Building Regulation Applications examined within 3 weeks	95%	99%	100%	99%	98%	90%	98%
Average time to first response (Days)	10	5	7	7	7	8.5	7.5

Contact for Information:

Angharad Williams Interim DM Manager, Planning, Economy and Regeneration
awilliams@middevon.gov.uk

List of Background Papers:

PS1 and PS2 returns
 HM Treasury 'Fixing the foundations – creating a more prosperous nation' July 2015
 Improving Planning Performance: Criteria for Designation, MHCLG 2020

Circulation of the Report:

Cllr Richard Chesterton
Members of Planning Committee

Planning Service Performance Standards 1 July 2021 – 30 September 2021

Service Standards	Target	Achieved	With EOT
Percentage of Decisions issued within 3 days of Officer recommendation	95%	98%	N/A
Major applications determined within 13 weeks	60%	0%	83%
Non Major applications determined within 8 weeks	65%	32%	98%
Other applications determined within 8 weeks (all development types)	80%	48%	94%
Householder applications determined in 8 weeks	80%	52%	97%
Listed Building determined within 8 weeks	80%	43%	88%
Major applications determined within 13 weeks (over last 2 years)	>60%	21%	86%
Non major applications determined within 8 weeks (over last 2 years)	65%	43%	95%
Major applications overturned at appeal (over last 2 years) 4	<10%	5.45%	N/A
Non major applications overturned at appeal (over last 2 years)	<10%	0.00%	N/A
Major applications overturned at appeal (Quarter) Figures calculated based on appeals overturned/ appeals decided in the Quarter	<10%	0.69%	N/A
Non major applications overturned at appeal (Quarter) Figures calculated based on appeals overturned/ appeals decided in the Quarter	<10%	0.56%	N/A
Determine all applications within 26 weeks (per annum – Government Guarantee)	100%	100%	N/A
Enforcement site visits undertaken within 15 days of complaint receipt	87%	71%	N/A
Building Regulation full plan applications determined in 2 months	95%	97%	N/A
Building Regulation applications examined within 3 weeks	95%	98%	N/A
Delegated decisions	90%	95%	N/A

Service Standards	Target	Achieved	With EOT
Applications over 13 weeks old without a decision	< 45	79	N/A
Speed of major Development 24 months to end of September 2021	60%	21%	86%
Quality of major Development 24 months to end of September 2021	<10%	5.45%	N/A
Speed of non-major Development 24 months to end of September 2021	70%	43%	95%
Quality of non-major development 24 months to end of September 2021	<10%	0.56%	N/A