

# Public Document Pack

**Committee Administrator**

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

Join Zoom Meeting

<https://zoom.us/j/99329770755?pwd=VXI6Y3diY3M4R2VNZk16QTVsVUVBUT09>

Meeting ID: 993 2977 0755

Passcode: 692609

One tap mobile

08000315717,,99329770755#,,,\*692609# United Kingdom Toll-free

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## **MID DEVON DISTRICT COUNCIL**

### **PLANNING COMMITTEE**

**A MEETING** of the **PLANNING COMMITTEE** will be held in the Phoenix Chamber, Phoenix House, Tiverton on Wednesday, 16 June 2021 at 2.15 pm

A special meeting of the Committee will take place on Wednesday, 23 June 2021 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

### **STEPHEN WALFORD**

Chief Executive

8 June 2021

**Councillors:** Mrs F J Colthorpe (Chairman), G Barnell, E J Berry, S J Clist, L J Cruwys, Mrs C P Daw, C J Eginton, P J Heal, D J Knowles, 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     **HYBRID MEETINGS PROTOCOL** *(Pages 5 - 12)*  
Members to note the Hybrid Meetings Protocol
- 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     **PUBLIC QUESTION TIME**  
To receive any questions relating to items on the Agenda from members of the public and replies thereto.  
  
Note: A maximum of 30 minutes is allowed for this item.
- 5     **MINUTES OF THE PREVIOUS MEETING** *(Pages 13 - 20)*  
Members to consider whether to approve the minutes as a correct record of the meeting held on 26<sup>th</sup> May 2021
- 6     **CHAIRMAN'S ANNOUNCEMENTS**  
To receive any announcements the Chairman may wish to make.
- 7     **ENFORCEMENT LIST**  
To consider the items contained in the Enforcement List.
- 8     **DEFERRALS FROM THE PLANS LIST**  
To report any items appearing in the Plans List which have been deferred.
- 9     **THE PLANS LIST** *(Pages 21 - 42)*  
To consider the planning applications contained in the list.
- 10    **Application 20/01263/MFUL - Allotments, Tumbling Field Lane, Tiverton Devon - Erection of 22 dwellings with parking, landscaping and construction of new access** *(Pages 43 - 122)*  
At the Planning Committee meeting on 14<sup>th</sup> April 2021, Members advised that they were minded to refuse the above application and invited an implications report for further consideration.
- 11    **Application 20/01537/HOUSE - 19 Lower Millhayes Hemyock Cullompton Devon - Retention of timber outbuilding to be used ancillary to the main house, retention of decking and proposed installation of water supply and drainage pipes underground**

(Pages 123 - 138)

At the Planning Committee meeting on 10<sup>th</sup> March 2021, Members advised that they were minded to refuse the above application and invited an implications report for further consideration.

- 12     **MAJOR APPLICATIONS WITH NO DECISION** (Pages 139 - 140)  
List attached for consideration of major applications and potential site visits.
- 13     **APPEAL DECISIONS** (Pages 141 - 142)  
To receive for information a list of recent appeal decisions.

### Covid-19 and meetings

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

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

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

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

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

Tel: 01884 234209

Fax:

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

Public Wi-Fi is available in all meeting rooms.

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## Mid Devon District Council – Hybrid Meeting Protocol

### 1. Introduction

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

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

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

### 2. Hybrid arrangements – how will they work?

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

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

#### (a) Members (councillors) entitled to vote

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

#### (b) Other Members, Officers and the Public

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

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

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

### **3. Zoom**

Zoom is the system the Council will be using for those attending Hybrid meetings remotely. It has functionality for audio, video, and screen sharing and you do not need to be a member of the Council or have a Zoom account to join a Zoom meeting.

### **4. Access to documents**

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

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

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

### **5. Setting up the Meeting for Zoom attendance**

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

### **6. Public Access and Participation**

#### **(a) Public Access:**

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

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

[Committee@middevon.gov.uk](mailto:Committee@middevon.gov.uk)

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

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

(b) Public Participation (speaking):

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

At public question time, the Chair will ask each registered person to speak at the appropriate time. In the normal way, the public should state their full name, the agenda item they wish to speak to **before** they proceed with their question. Unless they have registered, a member of the public may not be called to speak, except at the discretion of the Chairman.

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

## **7. Arrangements for any person attending meetings at Phoenix House**

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

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

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

## 8. Starting the Meeting

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

The Chair will remind all Members, Officers and the Public attending via Zoom that **all microphones must be muted**, unless and until they are speaking. This prevents background noise, coughing etc. which is intrusive and disruptive during the meeting. The Hosting Officer will enforce this and will be able to turn off participant mics when they are not in use.

## 9. Declaration of Interests

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

## 10. The Meeting and Debate

- (a) For Members and Officers physically present



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

(b) For any person attending via Zoom

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

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

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

## **11. Voting**

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

## **12. Meeting Etiquette Reminder for Zoom attendees**

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

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

There are times when council meetings are not open to the public, when confidential, or “exempt” issues – as defined in Schedule 12A of the Local Government Act 1972 – are under consideration.

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

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

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

Where the Chairman is required to interpret the Council's Constitution and procedural rules and how they apply to remote attendance, they may take advice from the Member Services Officer or Monitoring Officer prior to making a ruling. However, the Chair's decision shall be final.

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

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

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

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

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

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

If the Chairman, the Hosting Officer or the Member Services Officer identifies a problem with the systems from the Council's side, the Chairman should either declare a recess while the fault is addressed or, if the fault is minor (e.g. unable to bring up a presentation), it may be appropriate to move onto the next item of business in order to progress through the agenda. If it is not possible to address the fault, the meeting will be adjourned until such time as it can be reconvened.

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

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

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

Many members, officers and the Public live in places where broadband speeds are poor, but technical issues can arise at any time for a number of reasons. The following guidelines, if followed, should help reduce disruption.

- Join public Zoom meetings by telephone if there is a problem with the internet. Before all meetings, note down or take a photograph of the front page of the agenda which has the necessary telephone numbers. Annex 1 to this protocol contains a brief step-by-step guide to what to expect
- Consider an alternative location from which to join the meeting, but staying safe and keeping confidential information secure. For officers, this may mean considering whether to come into the office, subject to this being safe and practicable (childcare etc.)
- Have to hand the telephone number of someone attending the meeting – and contact them if necessary to explain the problem in connecting
- Officers should have an ‘understudy’ or deputy briefed and on standby to attend and present as needed (and their telephone numbers to hand)

## Phone only access to zoom meetings

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

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

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

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

- **Enter Meeting ID followed by #**

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

- **Press #**

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

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

Wait for the following two messages:

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

**Wait.....**

*"You have now entered the meeting"*

### Important notes for participating in meetings

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

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

## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **PLANNING COMMITTEE** held on 26 May 2021 at 2.15 pm

### **Present Councillors**

Mrs F J Colthorpe, G Barnell, S J Clist,  
L J Cruwys, Mrs C P Daw, C J Eginton,  
P J Heal, D J Knowles, F W Letch,  
B G J Warren and R F Radford

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

E J Berry

### **Present Officers:**

Jenny Clifford (Head of Planning, Economy and Regeneration), Maria De Leiburne (Legal Services Team Leader), Dean Emery (Corporate Manager for Revenues, Benefits and Recovery), Adrian Devereaux (Area Team Leader), Angharad Williams (Area Team Leader), Oliver Dorrell (Planning Officer), Sally Gabriel (Member Services Manager) and Carole Oliphant (Member Services Officer)

#### **1 ELECTION OF CHAIRMAN (CHAIRMAN OF THE COUNCIL IN THE CHAIR) (0.00.06)**

Cllr Mrs F J Colthorpe was duly elected Chairman.

#### **2 ELECTION OF VICE CHAIRMAN (0.03.13)**

Cllr D J Knowles was duly elected Vice Chairman.

#### **3 HYBRID MEETINGS PROTOCOL (0.08.46)**

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

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

#### **4 APOLOGIES AND SUBSTITUTE MEMBERS (0.09.12)**

Apologies were received from Cllr E J Berry who was substituted by Cllr R F Radford.

**5 PUBLIC QUESTION TIME (0.09.52)**

There were no public questions.

**6 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (0.10.08)**

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

**7 MINUTES OF THE PREVIOUS MEETING (0.10.21)**

The minutes of the meeting held on 14<sup>th</sup> April 2021 were agreed as a true record and duly signed by the Chairman.

**8 CHAIRMAN'S ANNOUNCEMENTS (0.11.27)**

The Chairman advised the Committee that there would be two meetings in June on the 16<sup>th</sup> and 23<sup>rd</sup> of the month and that an interim Development Manager was due to start soon.

**9 DEFERRALS FROM THE PLANS LIST (0.12.51)**

There were no deferrals from the Plans list.

**10 THE PLANS LIST (0.12.57)**

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

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

**a) 20/01991/FULL - Erection of an agricultural workers dwelling at Land at NGR 288335 107070, Road from Redyeates Cross to Hayne Cross, Cheriton Fitzpaine.**

The Area Team Leader outlined the contents of the report by way of a presentation which detailed the site location plan, block plan, proposed elevations and photographs of the site.

The Officer informed Members that the farm consisted of about 250 acres and the dwelling was for a full time farm worker who was employed by the business. He stated that the proposal included an extended driveway and neighbouring properties were over 200 metres away.

He explained that policies S14 and DM8 allowed for agricultural/forestry/rural workers dwellings in the countryside where an essential need had been shown and the applicant had stated that a full time worker was required on site for the husbandry of the animals. He confirmed that there were no other buildings on the site which were suitable for conversion. He explained that there was no current policy which dictated the size of proposed tied properties but that Officers felt that 180sqm was acceptable.

There had been no objections from highways or public health and there was a condition which restricted the property to an agricultural dwelling in perpetuity.

In response to Members questions about the wording of condition 4 the Head of Planning, Economy and Regeneration advised that it was standard wording for tied properties which was used by all authorities and was accepted by the Inspectorate.

The Area Team Leader then explained that although the property was large, it incorporated an office and boot room and that its value would be reduced due to it being tied to agricultural workers.

Consideration was given to:

- The amount of land owned and rented by the applicant
- The length of the leases on the rented land
- The agricultural appraisal submitted by the applicant
- The proposed plans to expand the existing building to accommodate more livestock and over wintering of animals
- The agricultural appraisal was based on 53 acres which was in the ownership of the applicant
- The views of an objector who stated that the application did not satisfy the special circumstances of policy S14 and that they disputed the applicant's claims that there would be lambing and calving on the site. That there was affordable housing nearby which could be used by the worker who, in their opinion, did not need to be on site
- The views of the applicant who stated that his business supported local suppliers and that he needed to expand his herds in the next phase of the business. He was trying to ensure succession of the business by the employment of more workers so that it could continue for years to come. That he had rented some of the land for over 25 years
- Members views that condition 4 could be open to abuse
- Members views that the application was sound and in accordance with policies S14 and DM8

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

(Proposed by Cllr P Heal 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, Mrs C P Daw, L J Cruwys, C J Eginton, S J Clist, , P Heal, F W Letch, D J Knowles, R F Radford and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had received correspondence from objectors
- ii.) Cllr Mrs F J Colthorpe declared a personal interest as she knew the applicant and used the farm shop
- iii.) Cllr F W Letch requested that his vote against the decision be recorded
- iv.) Anna Chambers spoke as the objector
- v.) Anthony Thorne spoke as the applicant
- vi.) The following late information was reported:

One additional letter of objection received, with the main grounds of objection summarised as follows:

- They own a holiday cottage which looks towards the development and therefore this will have an impact on the view and therefore impact on the holiday cottage business.
- If approved could lead to other farmers applying for dwellings on green field sites.

Additional supporting information has been provided by the applicant to support the need for the dwelling, to clarify plans for the site with comments as follows:

‘Livestock management is conducted, of course, at a site remote from the main farm complex and this is the main justification behind the application to build an agricultural worker’s dwelling. I have also reviewed standard labour rates in line with the ABC costings book 89th edition 2019.

The proposal is to expand the number of animals onsite to:

- 60 sheep
- 60 breeding shorthorn beef cows
- Young/followers of those cows being heifers – which are kept for 2 years and sold in calf – and some bulls which are kept for 2 years and sold for breeding. I had estimated these at 45 in number but, in view of the 2 year timescale, am advised that in reality they would number around 100.

In addition, there are some 20 acres, on this site, of drip fed courgettes, beans and calabrese.

This equates to a calculation of:

60 sheep at 3hrs - 180  
60 shorthorn beef cows at 18 hrs - 1,080  
45 <9 month calves (inc. in above)  
25 10-15 month bulling heifers and young bulls at 16 hrs - 400  
30 other followers at 14 hrs - 420  
15% maintenance - 312  
TOTAL 2,392

Note the hours above include relevant field work.

In addition, there are 20 acres of drip-fed vegetables at 280hrs = 5,600

Taking the livestock elements on their own this would equate to 299 standard man days. Clearly the intention is that there will be other employees on site at various times assisting with the 20 acres of vegetables and other duties but the main employment of the individual carrying out this role will be the husbandry of the livestock.

Neil Jory ACIB, ACIS

Business Information Point 21/5/21’



11 **TREE PRESERVATION ORDER- 21/00001/TPO - Bethany, Bell Meadow, Bickleigh, Tiverton (1.04.23)**

The Committee had before it a \*report of the Head of Planning, Economy and Regeneration with regard to an application for a Tree Preservation Order for Bethany, Bell Meadow, Bickleigh, Tiverton.

The Planning Officer outlined the contents of the report by way of a presentation which highlighted the site location plan and photographs of the site and the trees.

The Officer explained that a temporary order had been put in place in January 2021 and that the trees had been inspected by tree consultant acting on behalf of Mid Devon District Council and that both trees had scored enough for the order to be confirmed. The temporary TPO had been put in place due to reports of works taking place to trees in a conservation area.

In response to Members questions he confirmed that the location and size of the trees in relation to nearby dwellings had been considered by the tree surveyor as part of the assessment.

Consideration was given to:

- Members concerns with the species of the fir tree not being confirmed
- Members views that there were acceptable methods available to ensure that the trees did not become a danger to neighbouring properties

It was **RESOLVED** that: the Tree Preservation Order be confirmed.

(Proposed by Cllr Mrs C P Daw and seconded by Cllr L J Cruwys)

**Reason for the Decision:** As set out in the report.

Notes: \*Report previously circulated copy attached to the minutes.

12 **MAJOR APPLICATIONS WITH NO DECISION (1.23.39)**

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

It was **AGREED** that:

21/00276/MFUL – Erection of 13 dwelling at Land at NGR 283084 102432 (Fanny's Lane) Sandford Devon – be brought before the committee for determination and that a site visit take place

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

### 13 **APPEAL DECISIONS (1.29.19)**

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

It was noted that the Higher Town, Sampford Peverell appeal was a public enquiry and not written representations as detailed in the report.

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

### 14 **APPEALS PERFORMANCE (1.31.52)**

The Committee had before it and **NOTED** a \*report of the Head of Planning, Economy and Regeneration providing the Committee with information on the appeal decisions and performance of aspects of the planning function of the Council for 2019/2020, 2020/2021 and 2021/2022

The Head of Planning, Economy and Regeneration outlined the contents of the report and explained that it had been an extraordinary year which had impacted on appeal activity and processing which had rapidly moved to virtual settings.

She explained the Government target for appeal performance which included the speed and quality of decision making.

She provided Members with the appellant's award costs for Higher Town, Sampford Peverell which was £32k exclusive of VAT.

Consideration was given to:

- Members request that information be provided of the percentage of cases overturned at appeal by delegated and non-delegated decisions and the number of appeals for non-determination appeals
- That 93 – 98% of applications were delegated

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

### 15 **DECISIONS CONTRARY TO RECOMMENDATIONS (1.51.02)**

The Committee had before it and **NOTED** a \*report of the Head of Planning, Economy and Regeneration providing the Committee with information on Committee decisions for 2020/2021 which were not in agreement with officer recommendations.

The Head of Planning, Economy and Regeneration outlined the contents of the report and explained that it provided a summary of applications where the Planning Committee had made decisions not in agreement with officer recommendations.

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

## 16 **PLANNING PERFORMANCE (1.52.36)**

The Committee had before it and **NOTED** a \*report of the Head of Planning, Economy and Regeneration providing the Committee with information on Planning and Building Control Performance.

The Head of Planning, Economy and Regeneration outlined the contents of the report and highlighted that there were a range of indicators which monitored the speed and quality of decisions made.

Consideration was given to:

- That timeframes could be extended with an agreement with the applicant for an extension of time
- The intention of the Planning service to put in extra effort to clear the current backlog of applications to ensure that future applications were determined on time without extensive reliance upon extensions of time
- An upturn in the number of applications being received over recent months
- The number of vacant posts in the Planning service and additional resources being put in place
- A new enforcement officer was now in post

The officer explained that the Building Control service had put in new virtual processes to ensure that cases had been considered during the pandemic which had worked well.

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

## 17 **START TIME OF MEETINGS (2.10.32)**

It was **AGREED** that the start time of meetings remain at 2.15pm for the remainder of the municipal year.

(The meeting ended at 4.27 pm)

**CHAIRMAN**

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## PLANNING COMMITTEE AGENDA - 16th June 2021

### Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	21/00374/MARM - Reserved Matters in respect of (appearance, landscaping, layout and scale) for infrastructure associated with initial phases of development, following Outline approval 14/00881/MOUT at Land at NGR 298088 113134 (Adjacent Barnesmead), Blundells Road, Tiverton.

#### **RECOMMENDATION**

Approve Reserved Matters subject to conditions

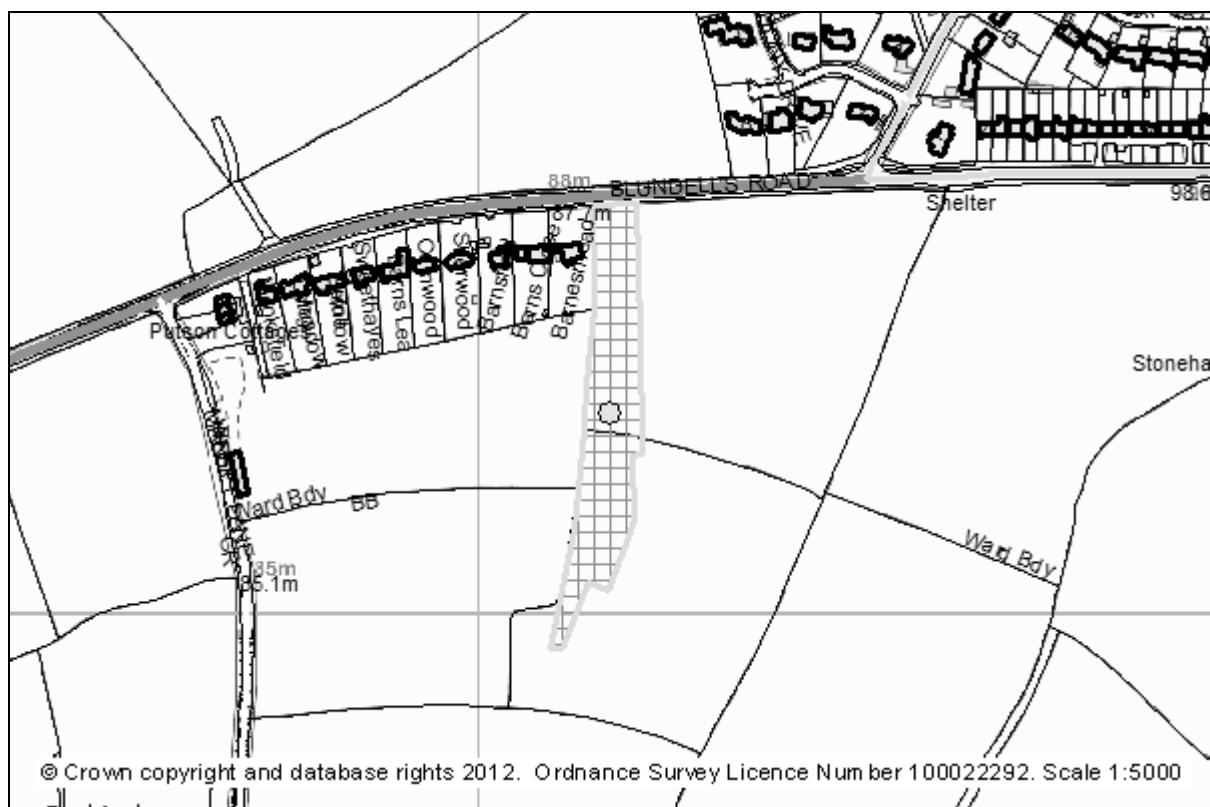
**Grid Ref:** 113194 : 298171

**Applicant:** Cattermole

**Location:** Land at NGR 298088 113134  
(Adjacent Barnesmead)  
Blundells Road Tiverton Devon

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

**Date Valid:** 12th March 2021



## **APPLICATION NO: 21/00374/MARM**

### **RECOMMENDATION**

Grant subject to conditions.

### **PROPOSED DEVELOPMENT**

This is a Reserved Matters application for the construction of a spine road south of Blundells Road. The application site forms part of the Tiverton Eastern Urban Extension (EUE) which is allocated for mixed use development in the Adopted Mid Devon Local Plan 2013-2033.

The application site has previously been the subject of an outline planning application (Application No. 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.

This infrastructure Reserved Matters application relates to a strip of land to the south of Blundell's Road. The spine road proposed through this application will serve as the first part of the principal road that will serve development parcels on the southern part of the Tiverton EUE. The spine road will connect, by means of the approved new junction on to Blundell's Road, to the linking road north of Blundells Road and the new A361 road junction.

At present the application site consists of a rectilinear stretch of land, which crosses two fields separated by an existing hedgerow. The western boundary of the site is lined by hedgerow and trees. Part of the western boundary is adjacent to residential properties which front onto Blundell's Road. The northern boundary of the site adjoins Blundell's Road while the rest of the site is bounded by agricultural land.

This application will provide access to residential development parcels to the west. A separate planning application has been submitted for the development of land to the west of this application site (Application No. 21/00454/MARM) and is undetermined. To the east of this application site is land identified for a future neighbourhood centre. It is the intention that the spine road provided through this application would continue, to the south, connecting to future phases of residential development.

Surface water drainage is to be managed 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**

Site Location Plan  
Surface water Connection  
Section 104 Plan  
Section 38 Plan  
Cross Sections  
Adoptable Drainage Details  
Construction Details

Longitudinal Details  
Swept Path Analysis  
General Arrangement Plan  
Planning Layout  
Detailed Landscape Design  
Waste Audit Statement  
Road drainage Statement  
Habitat Assessment and Mitigation Plan  
Design and Access Statement and Statement of Community Involvement  
Covering Letter  
Arboricultural Impact Assessment  
Application Form

## **RELEVANT PLANNING HISTORY**

### **13/00056/SCR** - 1st March 2013

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

### **14/00881/MOUT** – PERMITTED 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

### **18/01147/DCC** – DCC PERMITTED date 11th September 2018

DCC/4070/2018 - Regulation 3 application in relation to a new 420 place primary school and 70 place nursery unit to be built within the area identified on the masterplan as the 'Neighbourhood Centre'

### **21/00374/MARM** - Pending

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** - Pending

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

### **21/00765/PE** - Pending

Regulation 5 of the Electronic Communications Code (Conditions and Restrictions) (Amendment) Regulations 2017 - Installation of 6 x 9m wooden poles (7.2m above ground) (Reference: WTC929WW)

### **21/00689/ADVERT** - Pending

Advertisement Consent for the display of 2 free-standing advertising boards

### **13/00054/SCR** - 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** - PERMITTED 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** - PERMITTED 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** - PERMITTED date 14th February 2017

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

**16/01759/FULL** - PERMITTED 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** - PERMITTED date 4th November 2020

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

**13/01199/SCR** - 7th October 2013

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

**13/01616/MOUT** - PERMITTED 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** - PERMITTED 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** - PERMITTED 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

## 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

## **DEVELOPMENT PLAN POLICIES**

### **Mid Devon Local Plan (2013-2033)**

S1 Sustainable Development Priorities  
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

### **Tiverton Eastern Urban Extension Masterplan Supplementary Planning Document (2018)**

### **Tiverton EUE Design Guide (2016)**

### **National Planning Policy Framework**

## **CONSULTATIONS**

### **HISTORIC ENVIRONMENT TEAM – 23<sup>rd</sup> March 2021**

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

Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>.

### **PUBLIC HEALTH -29<sup>th</sup> March 2021**

Contaminated Land: No concerns. (19.03.21)

Air Quality: No concerns. (19.03.21)

Environmental Permitting: No comments. (15.03.21)

Drainage: No concerns. (19.03.21)

Noise & other nuisances: No concerns. (19.03.21)

Housing Standards: No comment. (29/3/21)

Licensing: No comments. (15.03.21)

Food Hygiene: No comments. (15.03.21)

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. (15.02.21)

Health and Safety: No comments. (15.03.21)

### **HIGHWAY AUTHORITY – 29<sup>th</sup> March 2021**

This is a Reserved Matters Application the Highway Authority has no objection to the proposed, 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.

### **NATURAL ENGLAND – 29<sup>th</sup> March 2021**

Designated sites - no objection subject to mitigation

#### **Nationally Designated sites: Tidcombe Lane Fen Site of Special Scientific Interest (SSSI)**

This application site is within 300m of the Tidcombe Lane Fen SSSI and has triggered Natural England's Impact Risk Zones<sup>2</sup> including discharges to surface water. The SSSI is notified for its fen, marsh and swamp communities. Further information on the SSSI and its special interest features can be found at [www.magic.gov.uk](http://www.magic.gov.uk) 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 indicates that the proposed SuDS 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. Based on the information provided and subject to the SuDS being secured via condition, 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.

We would also recommend securing best practice measures during construction for pollution prevention control through a construction environment management plan; and that management of the SuDS is included in an ecological management plan as maintenance of these features is key to a properly functioning system.

### **Biodiversity Net gain**

Development provides opportunities to secure a net gain for nature as outlined in paragraphs 170 and 174 of the revised NPPF<sup>3</sup> (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<sup>4</sup> (under Section 40 NERC Act, 2006). Biodiversity metrics<sup>5</sup> 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.

### **Soils and Land Quality**

Based on previous applications covering the site, the proposed development affects agricultural land classified as 'best and most versatile' (Grades 1, 2 and 3a land in the Agricultural Land Classification (ALC) system). Agricultural Land Classification information is available on the Magic website on the Data.Gov.uk website. 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.

### **Protected species**

We have not assessed this application and associated documents for impacts on protected species. Natural England has produced standing advice 6 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.

### **TIVERTON TOWN COUNCIL – 30<sup>th</sup> March 2021**

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.

### **DEVON CORNWALL & DORSET POLICE – 1<sup>st</sup> April 2021**

Police have no objections to the proposal. With the prevention of crime and disorder/anti-social behaviour in mind, should the intention be to provide bus stops within the location, these must be sited to allow for natural surveillance, supported by a suitable lighting scheme. This is considered to be the most effective type of surveillance, however, this can be affected by future incorrect placement of advertising boards, solid walls or fences, which obstruct natural lines of sight. In

addition, any shelters provided for customers should be made of a transparent material (which should be vandal resistant).

If shrubbery is to be used as a boundary and landscaping treatment, it should be slow growing and when fully mature must not have foliage between 1.0m and 2.5m as this gap allows for unobstructed views through.

#### **LOCAL LEAD FLOOD AUTHORITY – 7 April 2021**

At this stage, we object to this planning application because we do not believe it satisfactorily conforms to Policy S9, specifically part (c), of Mid Devon District Council's Local Plan 2013 to 2033 (Adopted 2020), which requires developments to include sustainable drainage systems. The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

It is understood that the runoff from the proposed road will drain into the two basins to the west of the site known as basins C1B and C1A but we would require the model outputs to be submitted for this application. The drainage design should take into consideration the requirement for long term storage.

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.

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.

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

#### **LOCAL LEAD FLOOD AUTHORITY – 26 May 2021**

Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage.

#### **Observations:**

Following my previous consultation response FRM/MD/00374/2021, dated 07/04/21, the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

- Spine Road Drainage Statement R402 - FN04 Rev A
- Spine Road Surface Water Connection R402/29/Rev B

The applicant has proposed a feasible surface water drainage strategy for the spine road which is compliant with the strategy (and discharge rates approved at outline).

Please note that any connection into the existing ditch may require a Land Drainage Consent from DCC FCRM Team but this is not a planning requirement.

## **REPRESENTATIONS**

Five objectors with objections summarised as follows:

1. The shared surface roundabout design (drawing No. re402/21) is totally unsuitable for the rural type environment and heavily trafficked road that it is planned for. Implementation would be against Government instructions.
2. The design of the shared surface roundabout is discriminatory against the partially sighted, hard of hearing, the elderly, those with mobility issues and families with young children.
3. There are no shared surface roundabouts elsewhere in Devon or the West Country resulting in a lack of familiarity. Its construction would be a dangerous experiment for vulnerable people's safety.

4. Shared surface roundabouts require on-going maintenance at high incremental cost.
5. The new road junction on to Blundells Road (regardless of the form it takes) cannot be considered in isolation to all its approaches, to those modes of transport (pedestrian / cycle / traffic) using it and proposed traffic calming measures along the greater length of Blundells Road and Post Hill.
6. A separate Reserved Matters application should be submitted for a T junctioned crossroads pending the construction of the roundabout including a redrafting of Condition 12 (Application 14/00881/MOUT).
7. Points of access (Drawing No. R402/21) off the spine road (south of Blundells Road) presupposes the design and layout of development south of Blundells Road. This application should not be considered in isolation to the wider development.
8. The preamble to the application outlines that development will be green and garden like with green buffer zones to existing homes. These details are not included.
9. 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.
10. Existing trees and their roots will be impacted by the proposal. The proposal represents a disregard to wildlife and the landscape.
11. Housing neighbouring Blundells School and the associated increase in traffic will have a detrimental impact on the school.
12. There is a lack of capacity at the sewage works within the town.
13. Existing cycle and pedestrian access along Blundells Road is inadequate if not non – existant. This is a golden opportunity to create safe and direct access that does not involve car travel.
14. Tree works are proposed on trees that are not in the developer's property ownership.

One comment summarised as follows:

1. Please ensure homes have electric charging points and ground source heat pumps or photo voltaic cells. Also that broad band speeds are updated.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

This application site has previously been the subject of an outline planning application (Application No. 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. The planning permission granted was a hybrid planning permission. It granted outline planning permission for all aspects of the development save for the access which was granted full detailed planning consent. Application 14/00881/MOUT gave full planning consent for access onto Blundells Road by way of a roundabout junction.

Prior to application 14/00881/MOUT, full detailed planning permission (14/00667/MFUL) was given for the left-in-left-out (LILO) junction on the A361 and 'linking road' (the road linking the LILO junction to Blundells Road). This planning permission has not been implemented. It is by means of application 16/01759/FULL, as a variation of condition to relocate the acoustic fence, that the A361 road junction works have been constructed. It terminates the linking road with a T junction on to Blundells Road. Your officers can therefore confirm that the linking road has planning permission to be constructed, terminating in a T junction on to Blundells Road.

The Adopted Tiverton EUE Masterplan SPD sets out the ambition for a roundabout as the means to terminate the linking road north of Blundells Road and the spine road south of

Blundells Road. However, Application No. 20/001787/NMA to amend Condition 12 of Application 14/00881/MOUT confirms that it is not until a minimum of 150 dwellings are occupied (Application 14/00881/MOUT) that a roundabout on to Blundells Road can be required and that no more than 200 dwellings can be occupied until the roundabout has been constructed and made available for public use. Whilst this provides the certainty sought in one of the representations which is concerned about when the construction of the roundabout can be expected, your officers can confirm that construction of both of the linking road and spine road will, in the first instance, be constructed with a temporary cross-road junction that has been safety audited. Drawings presented through this application terminate the spine road in a T junction – the roundabout identified for construction at a future date being outside the red line boundary of the application area. In this manner, relevant representations have been addressed.

The future construction of the roundabout will require detailed design in consultation with DCC Highway Authority through a Section 38/278 Agreement which will include safety audits. The Section 38/278 Agreement will ensure the construction of the roundabout is built to the correct standards, policy and specification before it is adopted by Devon County Council. Highway safety concerns raised in representations are therefore to be addressed via a separate safety audit process. The Section 38/278 Agreement will ensure that the future construction of the roundabout will be to the standards required for adoption by DCC Highway Authority. Full account of its means of construction and on-going maintenance will be taken into consideration during approval of the Section 38/278 Agreement. The Highway Authority has not raised an objection to this application.

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

- 1. Policy background and principle of development**
- 2. Transport Infrastructure: strategic delivery in a timely manner**
- 3. Safe and Accessible Places**
- 4. Design and layout**
- 5. Drainage and flood risk**
- 6. Air quality**
- 7. Ecology, Landscape and Visual Impact**
- 8. Heritage**
- 9. Planning balance**

**1.0 Policy background and principle of development**

- 1.1 The high level policy considerations relevant to this application site were considered at outline application stage (Application No. 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. This Reserved Matters application seeks planning permission for highway infrastructure associated with the initial phases of development related to application 14/00881/MOUT. An application for the first phase of residential units has also been submitted (Application 21/00454/MARM) and has yet to be determined. Representations relating to detailed residential development matters fall outside the scope of this application.
- 1.2 The Adopted Mid Devon Local Plan 2013-2033 sets out the sustainable strategy for growth across the District, to achieve positive social, environmental and economic objectives. Tiverton is identified within the Adopted Mid Devon Local Plan as a secondary focus for new development; the primary focus for development being

Cullompton. Accordingly, Policy S2 of the Adopted Mid Devon Local Plan 2013-2033 focuses development in and around the main settlements of Tiverton, Cullompton and Crediton 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 through provision of housing to meet the needs of all sectors of the community, providing access to education, jobs, community facilities and public transport and reducing the need to travel by car whilst conserving and enhancing the natural environment and meeting the challenge of climate change.
- 1.4 Policy S3 sets a target for the provision of new market, custom and self-build and affordable housing. Tiverton is identified as providing a minimum of 2,358 dwellings over the 2013-2033 plan period.
- 1.5 Policies S5 and S8 seek to ensure that development is served by necessary infrastructure in a predictable, timely and effective fashion. Developers will be expected to contribute to, or bear the full costs of, new or improved infrastructure and facilities where it is appropriate for them to do so.
- 1.6 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.
- 1.7 Policies TIV1 –TIV 5 set out the site allocation for the Tiverton Eastern Urban Extension (EUE), of which this application site forms part of. The policies set out the criteria for the development of this allocation to meet strategic growth requirements. TIV1 allocates 153 hectares of mixed use development to include up to 1830 dwellings, a proportion of affordable housing (subject to viability), a minimum of 5 Gypsy and Traveller pitches and 30,000sqm of commercial floorspace. The policy includes provisions in respect of transport, environmental protection, community facilities, carbon reduction and air quality, phasing and masterplanning.
- 1.8 Policies TIV2 to TIV5 set out specific requirements for the delivery of the urban extension in respect of transport (TIV2), environmental protection and green infrastructure (TIV3), community facilities (TIV4) and phasing (TIV5).
- 1.9 The Adopted Mid Devon Local Plan 2013-2033 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 and DM4 Pollution. Policy DM23 community facilities provides for local community benefit and environmental enhancement while DM25 seeks to preserve or enhance all designated heritage assets and their setting. Policy DM26 seeks to ensure that all major development proposals demonstrate the inclusion of green infrastructure in the proposed development. Each of these policies are relevant in the determination of this planning application.
- 1.10 Following the allocation of the site under the former adopted Allocations and Infrastructure Development Plan Document, the Tiverton Eastern Urban Extension 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.
- 1.11 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.

- 1.12 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. This application should not be considered in isolation to the development of the wider Tiverton EUE.

## **2.0 Transport Infrastructure: strategic delivery in a timely manner**

- 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. 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 Policy S8 Infrastructure of the Adopted Mid Devon Local Plan 2013-2033 seeks to ensure new development is served by necessary infrastructure in a predictable, timely and effective fashion. Policy DM1 of the same Plan requires development to create safe and accessible places.
- 2.3 Policy TIV 2 of the Adopted Mid Devon Local Plan 2013-2033 allocates the urban extension subject to provision of transport infrastructure to ensure appropriate accessibility for all modes and includes provision of a new grade separated junction on to the A361, traffic calming measures and environmental enhancement between Heathcott Way and Putson Lane including Blundells Road. It also requires a network of streets, pedestrian and cycle routes linking to the public highway to reduce reliance on private vehicles as well as implementation of Travel Plans and bus service enhancements. Such measures are reflected in the Adopted Masterplan SPD with a view to delivering infrastructure strategically. Policy TIV 5 of the Adopted Mid Devon Local Plan 2013-2033 requires infrastructure to come forward in step to minimise the impact of development on surrounding areas.
- 2.4 The former outline application 14/00881/MOUT granted planning consent for ingress and egress into the development parcels south of Blundells Road at the location identified in this reserved matters application. The capacity of the highway network was established at outline planning application stage. The principle of 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 reserved matters application, including a new road junction on to Blundells Road, has not therefore been considered in isolation to Blundells Road, other modes of transport (pedestrian and cycle) or traffic calming measures proposed for Blundells Road and Post Hill. The spine road proposed through this reserved matters application will connect with the approved new junction on Blundells Road and to the new approved A361 road junction and linking road to the north of Blundells Road. It will provide the arterial route to residential development parcels to the east and west and to the neighbourhood centre to the east. To the south it will continue; to connect to later phases of residential development. This application complies with the principles of the Adopted Masterplan SPD seeking to ensure that infrastructure and

phases of development are co-ordinated. In so doing it establishes the principal of a network of streets, pedestrian and cycle routes for development south of Blundells Road, linking to the existing public highway as required through Policies TIV2 and DM1. It has therefore not been planned or assessed in isolation. Identifying a point of access off the spine road to the development parcel to the west provides certainty for the next phase of development but without presupposing the design and layout of the next development phase.

- 2.5 The Highway Authority has no objection the proposed scheme, confirming that the highway layout is satisfactory subject to approval of final details to be required by condition. The greater part of the road layout proposed through this application will be 6.5 metres wide and able to satisfactorily accommodate public transport. Footway provision will be on both sides with provision for cycle's on-street. The landscape details specify how the spine road will be lined by footpaths, amenity grass and trees to the east and west, creating a green boulevard. It is this 'green infrastructure' that is expected to extend across and through the southern part of the Tiverton EUE so that it will appear seamless across the development parcels. The green infrastructure will provide the 'glue' that will tie together the different phases of development. In so doing, it will also encourage healthy lifestyles helping to connect people to the locality with clearly defined sustainable routes.
- 2.6 The development proposed can be accommodated without an unacceptable impact on the highway network. It will ensure that future phases of development will be served by the necessary infrastructure and that it will be coordinated to improve accessibility whilst promoting the use of sustainable modes of transport. The proposed development is considered to comply with policies S8, TIV2 and TIV5 of the Adopted Mid Devon Local Plan 2013-2033 and with the requirements of the Adopted Masterplan SPD and Tiverton EUE Design Guide ensuring an integrated and comprehensive approach to development.

### **3.0 Safe and accessible places**

- 3.1 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.
- 3.2 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 also encourage and enable sustainable modes of transport such as walking and cycling.
- 3.3 Policy TIV 2 allocates the urban extension subject to the provision of appropriate transport infrastructure including appropriate accessibility for all modes of transport comprising provision of bus, pedestrian and cycles; creating an attractive, permeable network for non-car modes travelling within, into and out of the area.
- 3.4 The Adopted Masterplan SPD requires transport infrastructure to link development south of Blundells Road to Blundells Road and the A361 road junction. This application proposal seeks to achieve that comprehensive approach to development with junction arrangements that prioritise traffic passing along Blundells Road. Details of the proposed new access are shown on the submitted plans and are acceptable to the Highway Authority. The detailed design of the proposal also seeks to offer a

genuine choice of transport modes with footways provided on both sides of the proposed highway and cycle provision made on-street. Both will connect directly with existing provision on Blundells Road. The detailed landscape design confirms how the highway will be lined by amenity grass and trees to the east and west including pedestrian pathways, trim trail and gathering space. The proposal seeks to encourage walking, cycling and public transport ahead of car use; reinforcing the principles of the Adopted Masterplan SPD of a walkable neighbourhood. Provision is made with the intention, as later phases of development come forward, for connection into a number of strategic pedestrian and cycle routes including the railway walk, Grand Western Canal, Blundells Road and nearby public rights of way as means to create a safe and accessible development.

- 3.5 Representations makes specific reference to the lack of suitable pedestrian and cycle provision along Blundells Road. The detailed design of the proposal seeks to offer a genuine choice of transport modes including integration with existing provision. The outline application 14/00881/MOUT makes provision for contributions towards traffic calming which will include enhancement of provision on Blundells Road. The delivery of those enhancements are dependent on later phases of development.
- 3.6 The proposed scheme makes provision for safe and accessible alternatives to the private car that will be available to later phases of development complying with Policies S8, TIV2 and DM1 of the Adopted Mid Devon local Plan 2013-2033 and the Adopted Mid Devon Local Plan SPD and Tiverton EUE Design Guide.

#### **4.0 Design and layout**

- 4.1 The NPPF (para 124) states that the creation of high quality places is fundamental to what the planning and development process should achieve. 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.
- 4.2 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. It should make a positive contribution to local character including any heritage or biodiversity assets, and create safe and accessible places. 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.
- 4.3 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 place making and quality design;  
C to Movement and transport;  
D to Landscape;  
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 the phases of development as a defining feature. The proposal presented introduces the principle of a green boulevard as a key landscape feature that will extend through the southern part of the Tiverton EUE and future phases of development. It will connect into the existing network of hedgerows adjacent to the application site with the creation of a species-rich native hedge bank and hedgerow, species rich meadow grassland, native scrub and tree planting. A hoggin surfaced path will meander through this area of open space providing a gathering space with seating and trim trail equipment towards the southern end.

- 4.4 Detailed Landscape Design (Drawing No. edp 6162\_d016d) introduces a landscape strip on the north western edge of the proposed spine road. This will introduce native scrub planting and grass adjacent to the closest existing dwelling (Barnesmead) whilst retaining existing trees, hedgebank and understorey vegetation. Revised plans (Detailed Landscape Design (Drwg No. Edp 6162\_d016d) indicate that the hedgebank alongside Barnesmead will be extended and the sub-station relocated and set behind hornbeam hedging to mitigate visual impact. Detailed Landscape Design and Arboricultural Impact Assessment provide adequate protection for existing trees and their tree roots. The Arboricultural Impact Assessment identifies works to trees including crown lifting, but no proposed removal.
- 4.5 The proposed design takes advantage of existing character and landscape features to enhance the overall design proposal. It is designed such that landscape defines and enhances the proposal ensuring it will integrate into later phases of development. It will establish a guiding principle of the Adopted Masterplan SPD for a strong integrated green link with future phases of development. Officers consider that the proposal complies with Policies S9 and DM1 of the Adopted Mid Devon Local Plan 2013-2033 and with the Adopted Masterplan SPD and Tiverton EUE Design Guide.
- 4.6 This application does not propose any residential development. Representations relating to detailed residential matters are therefore outside its scope.

## **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 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 systems 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. A surface water drainage plan has been

submitted in support of this application making provision for discharge rates commensurate with the expectations of the wider site area outlined in the Environmental Statement submitted with application 14/00881/MOUT.

- 5.3 Policy DM1 of the Adopted Mid Devon Local Plan 2013-2033 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 Drainage Statement has been submitted in support of this application dealing with on-site surface water drainage. It outlines measures 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. This is acceptable to the Local Lead Flood Authority. In approving the Drainage Statement and securing a Construction Management Plan by condition (outline permission condition 14), Natural England's concerns relating to the SUDS will be addressed.
- 5.6 It is for the reasons outlined above the proposal complies 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 content that measures to be implemented through the Construction Management Plan will satisfactorily address air quality issues arising both from the construction of the road and construction traffic movements. Similarly, the Highway Authority has not raised any concerns. The submission of a Construction Management Plan is secured by

condition 14 on the outline permission and does not need to be replicated on this application.

- 6.3 Subject to securing the mitigation measures required by condition your officers consider 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 by establishing coherent ecological networks.
- 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 TIV 3 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 The landscape proposals associated with this application have been designed by a landscape consultant to provide a diversity of plant species to enhance visual interest and provide a variety of wildlife habitats. The application is supported by a Detailed Landscape Design (Drwg No. Edp 6162\_d016d) and a Habitat Assessment and Mitigation Plan. It identifies the proposed works and landscaping proposals to include the creation of a species-rich native hedge bank and hedgerow, species rich meadow grassland, native scrub and tree planting. This facilitates specific mitigation and enhancement design measures including:
- Retention and protection of boundary hedgerows/trees except where access is required.
  - Creation of new species-rich native hedge and hedge bank to the east and west of site.
  - New native scrub planting in three sections along the western boundary and 21 scattered native trees.
  - Seeding of species-rich meadow grass;
  - A range of bat and bird boxes on retained trees; and
  - Five dormouse boxes installed within retained hedgerows along the western boundary.

The detailed landscape design also includes an avenue of 20 Small Leaved Lime trees along both sides of the proposed spine road. As a long lived, large deciduous tree they have high wildlife value and will provide significant visual impact once established, in support of the Adopted Masterplan SPD.

As a site in agricultural use, principally for livestock grazing, the mitigation and enhancement measures proposed confirm a net gain in biodiversity.

- 7.5 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 road infrastructure, designated within the outline application, mitigates the landscape and visual impacts concluded in the Environmental Statement.
- 7.6 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. This reserved matters application does not include a written scheme of investigation. In the absence of this DCC Historic Environment Team recommend refusal of the application. However, the pre-commencement condition on the outline covers this matter and requires that no development should commence until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation. That condition does not need to be repeated on this reserved matters application.
- 8.4 Historic England has no objection to the application on heritage grounds.
- 8.5 The application is acceptable and in accordance with Policy DM25 of the Adopted Mid Devon Local Plan 2013 – 2033 and the NPPF.

## **9.0 Planning balance**

- 9.1 This is a reserved matters application for the appearance, landscaping, layout and scale of infrastructure associated with the initial phases of development following outline approval of Application 14/00881/MOUT. The principle of development has therefore been established and wider impacts such as air quality, traffic management

and traffic calming have been resolved at outline stage. This application is to consider the detailed design of the first section of spine road south of Blundells Road. The spine road proposed through this application will serve as the first part of the arterial road that will serve development parcels on the southern part of the Tiverton EUE. The spine road will connect, by means of the approved new junction on to Blundell's Road. It will ensure that future phases of development will be served by the necessary infrastructure and that it will be coordinated to improve accessibility whilst promoting the use of sustainable modes of transport.

- 9.2 The proposal incorporates sustainable urban drainage features so as to reduce the risk of off-site flooding. The features satisfy the requirements of the Local Lead Flood Authority. Consideration has been given to the overall layout, design and scale of the proposal upon near existing residents. The scheme provides well integrated landscaping and public open space. The spine road has been designed to a standard capable of accommodating the traffic associated with future phases of development as well as larger public transport vehicles.

## **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. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority
3. 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 which ever is the sooner; and any trees or plants which within a period of 5 years from the implementation of the scheme die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
4. Within three months of the commencement of the development hereby permitted, detailed drawings of the form and number of trim trail equipment shall be submitted to and agreed in writing by the Local Planning Authority.
5. Prior to the commencement of the development, a phasing plan showing the timing of the works to completion including the construction of the highway together with associated works to the boundary of the site; shall be submitted to and approved in writing by the Local Planning Authority. Works and their timing shall be carried out in accordance with the approved details.

## **REASONS FOR CONDITIONS**

- 1 To ensure the timely delivery of an early phase of development in the complex delivery of the Tiverton Eastern Urban Extension.



- 2 To ensure that adequate information is available for the proper consideration of the detailed proposal and in accordance with Policies S8 and TIV2 of the Adopted Mid Devon Local Plan 2013 – 2033.
- 3 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.
- 4 To provide certainty in the interests of good planning.
- 5 In the interests of the timely delivery of these highway infrastructure works so as to not prejudice the delivery of wider comprehensive development at Tiverton Eastern Urban Extension.

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

This is a reserved matters allocation for the appearance, landscaping, layout and scale of infrastructure associated with the initial phases of development following outline approval of Application 14/00881/MOUT. The principle of development has been established and wider impacts such as air quality, traffic management and traffic calming have been resolved at outline stage.

This application is to consider the detailed design of the spine road south of Blundells Road. The spine road will serve as the first phases of development south of Blundells Road, serving future phases of development. The spine road will connect, by means of the approved new junction on Blundell's Road.

The proposal incorporates sustainable urban drainage features so as to reduce the risk of off-site flooding. The features satisfy the requirements of the Local Lead Flood Authority. Comprehensive consideration has been given to the overall design, scale and layout of the proposal upon near and existing residents. The scheme provides well integrated landscaping and public open space. The spine road can accommodate the traffic associated with future phases of development as well as larger public transport vehicles; to the satisfaction of the Local Highway Authority. The proposal is considered to comply with the Adopted Mid Devon Local Plan 2013 – 2033, Policies S1, S5, S8, S9, S10, TIV1, TIV2, TIV3, TIV5, DM1, DM2, DM3, DM4, DM25 and DM26 and the Adopted Tiverton EUE Masterplan SPD and 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.





## REPORT OF THE HEAD OF PLANNING AND REGENERATION

### Description of Development:

Erection of 22 dwellings with parking, landscaping and construction of new access at Allotments, Tumbling Field Lane, Tiverton.

Planning reference: 20/01263/MFUL

### REASON FOR REPORT:

At the Planning Committee of 14<sup>th</sup> April, Members were minded to refuse the application and therefore wished to defer the application for an implications report to consider the proposed reasons for refusal that of:

*“Policy DM6 was not applicable, Policy S10 was applicable and the Housing Needs Survey was inadequate.”*

### ORIGINAL OFFICER RECOMMENDATION(S)

Application recommended for approval subject to the signing of a s106 and conditions.

### Financial Implications:

An appeal may require the appointment of planning consultants to assist in the defence of the reasons for refusal. The applicant has advised that they are likely to make an application for costs on any appeal against the Council and such costs claims are made by demonstrating that there has been unreasonable behaviour. That being the case, Members must be able to clearly justify each and every reason for refusal in line with the development plan and all other material considerations.

### Legal Implications:

The report identifies the risks in proceeding with an appeal based on the reasons given by the Committee on 14th April 2021 – both in terms of outcome of an appeal and the risk of a costs decision. The Council will still need to prepare draft planning conditions for the appeal. External legal representation may be required if the appeal proceeds to a public inquiry. The applicant has already indicated that they plan to lodge an appeal should this planning application be refused.

### Risk Assessment:

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

## 1.0 INTRODUCTION:

1.1 At the meeting on 14th April 2021, Members indicated they were minded to refuse the application and therefore wished to defer the application for consideration of an implications report to consider the proposed reason for refusal, that of:

1. *Policy DM6 was not applicable, Policy S10 was applicable and the Housing Needs Survey was inadequate.*

## 2. CONSIDERATION OF THE PROPOSED REASONS FOR REFUSAL

During the committee, Members advised that they considered that Policy S10 ‘Tiverton’ applied to the consideration of the application, and that Policy DM6 was not relevant to the

application, as it was considered that the site was not within what was considered to be a 'rural area'. Furthermore, members also considered that the Housing Needs Survey was inadequate and did not provide sufficient up to date data to evidence that there was a need for this type of development in the area.

As a result of the above, officers conclude that the proposed reasons for refusal would be as follows:

1. That the proposed development of 22 residential units within this location would have a detrimental impact on the green setting as provided by the steep open hillsides, particularly to the west and south of the town, which would be contrary to Policy S10.
2. That the development would be contrary to Policy S14 in that it is not wholly for affordable housing and that it has not been demonstrated that there is a proven local need for the development.

This report seeks to set out the implications of choosing to proceed with a decision to refuse the application on the above grounds.

## **BACKGROUND:**

As Members will be aware, the Local Plan sets out a number of Planning Policies on which all applications are assessed against. The Local Plan is supplemented by a number of Policy Maps which provide an illustrated guide of the constraints of an area, also identifying whether it is within the defined settlement boundary, or outside of a settlement boundary.

As with the National Planning Policy Framework, when assessing an application, it is important that the Local Plan is read as a whole. This is because the Local Plan provides policies as a framework, and as a foundation to all the decisions made within development management. To not consider the plan as a whole, would be to exclude consideration to other relevant matters. For example, the need to apply weight to housing need, or sustainable travel.

At the front of the Local Plan, are the Strategic policies, and these as they imply, form the overall strategy and vision of the Local Plan. The Development Management policies are located further to the back of the plan and seek to deal more directly with proposed developments.

At Committee, members were of the view that Policy S10 applied to the assessment of the application.

As such, the report will now look at assessing the application against the criteria of Policy S10, and will demonstrate that even with the application being assessed against that of Policy S10, the proposal would still be considered acceptable, and therefore is not considered an appropriate reason to refuse the application.

### Assessment of the application against Policy S10

Policy S10 encompasses a range of objectives for the town of Tiverton.

Policy S10 states:

#### *Tiverton*

*Tiverton will continue to develop in a balanced way as a medium sized market town serving a rural hinterland in the central part of Mid Devon and to the north. The strategy will maintain its status as the largest urban area in Mid Devon and increase the self-sufficiency of the town and its area by improving access to housing, employment and services for its*

population and that of the surrounding rural areas. Proposals will provide for approximately 2,358 dwellings, of which 660 will be affordable, and 29,400 gross square metres of commercial floor space over the plan period.

The Council will guide high quality development and other investment to:

- a) Manage the town centre so that economic success and heritage reinforce each other, promoting new homes, shops, leisure, offices and key town centre uses which contribute to vitality and viability, including an additional 7,000 square metres of gross commercial floorspace in accordance with the sequential approach in Policy DM15;
- b) Enhance walking and cycling opportunities and bus services around the town, particularly improving access via these more sustainable modes to the town centre, Tiverton Parkway Station, Exeter and Taunton, and their interchange in the town centre;
- c) Retain the green setting provided by the steep open hillsides, particularly to the west and south of the town and the historic parkland of Knightshayes to the north of the A361;
- d) Protect the importance of Tidcombe Fen, other areas of biodiversity value and green infrastructure, supporting opportunities for enhancement;
- e) Enhance the tourism and visitor role of the town and surrounding area; and
- f) Support measures to reduce flood risk within Tiverton, working with natural processes wherever possible.

The supporting text of this policy states:

2.59 Tiverton is the largest settlement in Mid Devon, with the largest economic concentration and level of social and commercial services. It is the focus of a reasonable level of public transport provision. However, the long-term options for Tiverton's growth are constrained by the town's topography, flood plains and the position of the A361. Cumulative traffic impacts on Junction 27 of the M5 must also be considered. While the evidence suggests that improvements to signalisation of the junction have provided capacity for planned strategic development in Tiverton, additional development may require improvements to the junction. Traffic assessments will be required where appropriate to consider impacts on the local and strategic road network.

2.60 As the largest town in the district, there is an expectation that Tiverton will deliver approximately 2,358 dwellings over the plan period. Recent completions and current commitments total over 1,750 dwellings. It is therefore expected that a significant proportion of the town's outstanding housing needs will be delivered as part of the Eastern Urban Extension allocation (TIV1-5), with the remainder provided by smaller allocations. Sites have been allocated in excess of the anticipated development levels to allow for flexibility in the supply of housing and employment, as discussed in paragraphs 2.1-2.16. A contingency site has been allocated within the town, forming part of the strategy for providing flexibility within the plan.

2.61 Retail forecasts identify a need for additional non-food retail floorspace in Tiverton. The Retail Study (2012) recommends that site allocations for retail development include the redevelopment and improvement of the bus station and existing open-air car parks. The area around Phoenix Lane in Tiverton is available, suitable and achievable for a mixed use redevelopment scheme.

2.62 Historically, the take-up of employment allocations in Tiverton has been slow, while the larger urban centres of Exeter and Taunton are established employment destinations and will continue to draw a large number of Mid Devon's working residents. The Employment Land Review (2013) advises on the locations and amounts of development appropriate in the towns. In accordance with this, the Tiverton Eastern Urban Extension is expected to provide 30,000 square metres of employment floorspace, phased to come forward in step with housing development. Employment development in this location, close to the A361, may

*serve to claw back some of the jobs that are currently being lost to other settlements outside Mid Devon.*

On the basis that this Policy applies to the consideration of the application, then it is important to advise how officers consider that the proposal does meet the criteria of Policy S10. This has been set out below for clarity.

a) Manage the town centre so that economic success and heritage reinforce each other, promoting new homes, shops, leisure, offices and key town centre uses which contribute to vitality and viability, including an additional 7,000 square metres of gross commercial floorspace in accordance with the sequential approach in Policy DM15;

The development of the application site will provide additional housing, creating new homes, bringing people to the area. This will promote further economic benefit as well as contribute to the vitality and viability of the town centre, with more people likely to shop there. It is considered that the development would meet this criterion.

b) Enhance walking and cycling opportunities and bus services around the town, particularly improving access via these more sustainable modes to the town centre, Tiverton Parkway Station, Exeter and Taunton, and their interchange in the town centre;

The site is within walking distance of the town centre, as such, this would be a sustainable mode of transport, and will reduce reliance on the use of the private car. The development retains the public right of way adjacent to the site and will also provide a footpath to it. It is considered that the development meets this part of the criterion.

c) Retain the green setting provided by the steep open hillsides, particularly to the west and south of the town and the historic parkland of Knightshayes to the north of the A361.

During the Committee meeting, members were particularly concerned regards the impact of the development on this particular aspect of Policy S10.

The application is supported by a Landscape Visual Impact Assessment. This assessment has looked specifically at the impact the development would have on the immediate and surrounding area. It undertakes a comprehensive analysis of the land form in which the site sits within, in addition to assessing the development from a number of viewpoints in accordance with the Mid Devon's Landscape Character Assessment.

To begin, the assessment outlines that the site falls within a Landscape Character Area of '3C' – Sparsely settled farmed valley floors. This is defined as:

*The Sparsely Settled Farmed Valley Floor (LCT 3C) character is described as consisting of rivers or streams in relatively flat or gently sloping valley bottoms. Characteristics: Low lying flood plains; medium to small scale landscape characterised by relatively narrow strips of gently sloping or level land with a smooth surface topography; woodland pattern tends to be sinuous with scattered deciduous stands; pastoral landscape with locally improved grasslands within a mosaic of generally grazed to rough pasture; landscape has a higher degree of enclosure due to woods and hedges and rising ground as result there are reduced levels of visibility; sparsely populated.*



It is further noted, that the LVIA goes on to state:

*The Zone of Theoretical Visibility is mainly to the NE to SSW-of the site, however actual visibility is limited, due to the position of the site close to the town; the low lying position of the site within the valley at the confluence of the Rivers Exe and Lowman; the well wooded appearance and undulating nature of the landscape, and the predominantly farmed nature of landscape limiting public access.*

As noted in the above text, the site is low level. It sits amongst the urban backdrop of existing housing of Tumbling Field Lane. The site does not steeply rise, and topographically gently slopes to the south with the land levels starting at the far west of the site at +63.17, and moving to +70.21 at the far south/east of the site. The site sits adjacent to an existing housing development and in terms of scale, is only 0.74 hectares. This is a relatively small site and its development on low lying land is not considered to have an impact on the green setting of the open hillsides. The site is not on a hill and views to the site would be seen from the urban backdrop of the existing housing as illustrated below. When on roads near to the site, for example, the A396 or Exeter Hill, the site is screened by the trees and hedgerows that border these roads and as such, the site cannot be seen from the Town Centre of Tiverton either given the various buildings and trees that align the town. The illustration below seeks to demonstrate this with each viewpoint explained.





View point 1 – view into the site from the east, blocked by existing trees and hedgerows. If these trees and hedgerows were not there, then the development of the site with residential units, would read in context with the existing housing just to the north of the field, and to the immediate west.

Viewpoint 2 – Again blocked by trees and hedgerows. Furthermore, the land rises the further south you get, and views to the site would be limited. Any views that were present, would be read in conjunction with the existing housing development as noted under viewpoint 1. Views of Collpriest Road to the west of the site (as indicated by viewpoint 3) are more prominent on the landscape and extend out to the south more so than that of the subject site.

In regards to views from and to Cranmore Caste, the LVIA has looked at this in detail and below extract from the LVIA illustrates that trees and hedgerows block views to and from the site.



Photo A – View looking across the site to Cranmore Castle  
– Indicating the section of the scheduled monument visible from the site, namely the north western boundary which is predominantly tree lined.

It is not considered that the development of this site would impact on the setting or the hillside associated with Cranmore Castle.

Viewpoint 3 – There would be very few glimpses of the site from here, given the existing housing developments that are already featured here. The site is low lying and as such, any buildings in front of the site would block views. The site cannot be said to be encroaching onto the hills of Tiverton, given that the town extends out further than the site from this angle.

Viewpoint 4 – As with the above, any view to the site would be blocked by existing urban development. As the site is low lying, and only gently slopes southwards, (topo levels at the far west of the site start at +63.17 m, with the far south/east of the site at +70.21 m) would be blocked from view by existing development.

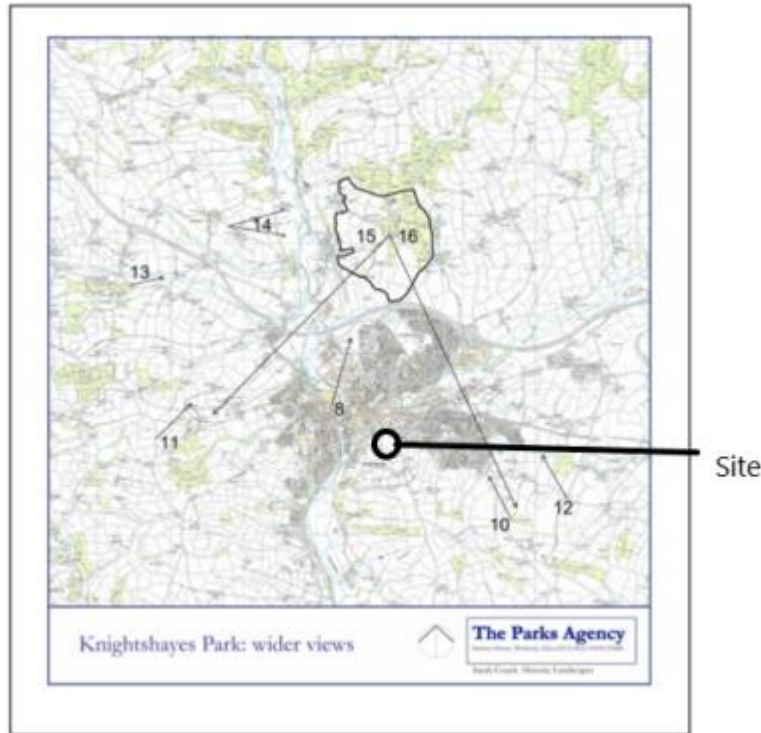
Viewpoint 5 – Views in from the town centre are again blocked by existing buildings, trees and hedgerow. The site is not visible, but the steeply sloping hills behind it are. As such, the development of the site, would not have an impact as the site sits below the hill of which views are apparent.

Given that Members will need to rely heavily upon criterion C for the refusal of the application, it is hoped that the above is clear in demonstrating that to refuse the application for such a reason of impact on the green hills around Tiverton would open the Council up to a likely award of costs and very likely situation of losing an appeal. It would be very difficult to defend the refusal of the application on this ground when evidence as illustrated above would likely demonstrate otherwise.

The submitted LVIA has been appended to this report and contains several images and viewpoints of the site, which further demonstrate that the development of the site, does indeed retain the green setting provided by the steep hills surrounding Tiverton.

Furthermore, officers have considered the impact of the development of the site in the context of the 'Setting of Knightshayes Park and Garden – Historic Landscape Assessment'. This document was prepared for the National Trust in 2007 and forms part of the evidence base for the adopted Local Plan 2013 – 2033.

The study identified that '*given its situation on a south-facing slope backed and flanked by woodland, the southern aspect of the visual envelope is more important. The central feature in the view is Tiverton, but equally important is the skyline of pastoral fields, hedgerows and plantations*'. However, the application site does not fall within any of the 'key views to and from Knightshayes in the wider landscape' that are identified within the study as demonstrated in the image below.



It can be concluded therefore that the development of the subject site is not considered to impact on the setting of the green hills surrounding Tiverton, nor that of any heritage asset.

d) Protect the importance of Tidcombe Fen, other areas of biodiversity value and green infrastructure, supporting opportunities for enhancement;

The Tidcombe Fen, (which lies between Tiverton and the main part of the Tiverton Eastern Urban Extension), is a 10.7ha Site of Special Scientific Interest (SSSI) and is a type of wetland habitat which is rare in Mid Devon. There is a wide variety of plant species unusual in its diversity, and fauna includes rare snail species. The key planning issues relevant to the Tidcombe Fen is the impact of development on the quality and flows of water entering the SSSI, and its water levels. Avoidance of harm to the catchment is therefore vital and where appropriate, contributions should be sought towards continued management of the SSSI and its catchment (the extent of the catchment area is defined in the policies map for Tiverton). Natural England were consulted as part of the application process and did not have any comments.

However, the application site is downstream and located some distance away from the Tidcombe Fen SSSI and its catchment area. In any case, Policy DM1 requires appropriate drainage, including sustainable drainage systems (SUDS) which will ensure appropriate management water quantity, quality, public amenity and biodiversity. The County Council's Flood and Coastal Risk Management team has no in-principle objections to the planning application at this stage, assuming that a number of pre-commencement planning conditions are imposed on any approved permission.





Map to show location of Fen from site – noting the distance.

e) Enhance the tourism and visitor role of the town and surrounding area;

The application will have a negligible impact on this matter. The development of this small scale site will not increase tourism, or visitors, but neither is it considered to have an impact on the attractiveness of Tiverton to tourists or visitors. The development is relatively small scale in nature and as discussed above, is not considered to impact on important views.

f) Support measures to reduce flood risk within Tiverton, working with natural processes wherever possible.

The application has been recommended for approval subject to a number of conditions which includes the need for a comprehensive drainage strategy. The submission of this would be reviewed by DCC Lead Local Flood Team to ensure that the development could be adequately drained prior to its construction. It is considered that this criterion can be met.

As the report has now assessed the application against that of Policy S10, it will now move on to look at the application of Policy DM6, and why officers consider that this policy is relevant in the determination of the application.

#### The application of Policy DM6 – Rural Exception Sites

At the committee meeting, Members considered that the application of Policy DM6 was not applicable to its determination.

Policy DM6 states:

#### Rural exceptions sites

*The development of a site for predominantly affordable or low-cost housing, including self-build housing, to meet proven local need in rural areas will be permitted where:*

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

*b) Each house will be occupied by at least one person with a strong local connection to the parish;*

*c) The site adjoins a settlement and is in a suitable location which takes account of the potential for any visual impact and other relevant planning issues;*

*d) The type and scale of affordable or low-cost housing is appropriate to the proven need;*

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

*The inclusion of a proportion of market housing within exception sites will be permitted where the proportion of market housing will be less than the provision of affordable or low-cost housing and the market housing will be at the lowest level necessary to ensure that the development is deliverable.*

The supporting text to this policy advises that:

*4.22 To encourage the delivery of affordable and low-cost housing in rural areas, exceptions can be made to the normal restrictions on housing development outside defined settlements. Exception sites must adjoin a settlement, which for the purposes of this policy will usually mean one of the settlements defined as suitable for limited development in Policy S13. However, some parishes do not contain a defined settlement but may have an affordable housing need, in which case a broader interpretation of 'settlement' will be appropriate, as long as there would be reasonable access to local services and infrastructure. Isolated sites in the countryside are not considered sustainable locations for new housing even under the exceptions policy.*

*4.23 Affordable and low-cost housing is reserved for those who cannot afford open market housing and have a connection to the local area. The definition of a 'local connection' is kept under review and as such it is appropriate that is contained in supporting guidance rather than determined through a Local Plan policy. In broad terms there should be a long-term residential, family or employment connection to the parish where the housing will be located. The criteria will be operated in a cascade, approved by Mid Devon District Council to ensure those with the strongest connection are considered first. A planning obligation will be required to ensure that the affordable or low-cost housing remains available for local people in perpetuity.*

Officers consider that the application constitutes a rural exception site for the following reasons:

1. The site falls outside of the Tiverton settlement boundary as illustrated on the Policy map below.



Given that the site falls outside the settlement boundary, it is otherwise referred to as open countryside, where Policy S14 applies. This is explained at the front of the Local Plan where it states:

*Countryside – development in countryside areas outside defined towns and villages, including hamlets and other small settlements.*

As such, it should be agreed that the site falls within open countryside but as can be seen from the illustration above, the site clearly adjoins the settlement limit of Tiverton.

Policy DM6 states that “*exceptions can be made to the normal restrictions on housing development outside defined settlements. Exception sites must adjoin a settlement, which for the purposes of this policy will usually mean one of the settlements defined as suitable for limited development in Policy S13*”.

Whilst Tiverton is not a village named under Policy S13, the policy does note that it would only ‘usually’ fall within one of these areas, but this does not exclude the matter that it therefore can fall adjacent to another settlement. In this instance, as illustrated from the above image, the site is clearly adjacent to the Tiverton settlement boundary. Furthermore, if Policy DM6 was to only apply to the villages under Policy S13, then it would make that clear, rather than using the word ‘usually’.

It is therefore concluded that the site, given that it proposes affordable housing which only proposes an element of market housing for purposes of viability (as they are permitted to do under local and national planning policy), can be considered under Policy DM6.

The final supporting text are Policy DM6 advises that:

*“National policy allows for some ‘cross-subsidy’ of affordable housing by market housing. This allows for sites which would not otherwise be viable for affordable housing to come forward, with market housing limited to the minimum level necessary to ensure delivery. Consistent with the overall principle of exception sites, the proportion of affordable housing must always be greater than that of market housing, and developers will be expected to submit evidence to demonstrate that the level of market housing proposed is the lowest level needed to deliver significant affordable housing. Evidence of local need for affordable housing will be required, as for any rural exception scheme. The Council will have regard to any up-to-date local housing need surveys and information from Devon Home Choice.”*

As discussed at the Committee, the application is supported by a viability assessment that explains why cross subsidy of market housing is required on this occasion. The next part of the assessment as outlined in the original committee report, is to demonstrate that there is a ‘need’ for the development which can be assessed against the surveys and information from Devon Home Choice. This leads me on to addressing the next concern of the planning committee which was the matter that the housing needs survey information provided at the time of the planning committee was inadequate.

#### Housing need

The Strategic Housing Market Assessment that underpins the Local Plan concluded that 124 units of affordable housing are needed per year to meet future needs arising (i.e. not including any backlog) in the district. This is equivalent to about 30% of the total housing need for Mid Devon. This is reflected in the affordable housing policy, which requires development to meet this need by providing a proportion of dwellings as affordable. However, the plan recognises that the level of affordable housing supply is unlikely to meet

the anticipated need as not all allocations will come forward or others may be developed for a lower housing number than specified in the policy. For this reason, the local plan includes permissive policy to allow additional affordable housing to come forward as windfalls resulting from Homes England investment, exception sites and delivery of housing on Council-owned land. This follows the approach set out in the National Planning Policy Framework and is a policy mechanism to encourage the delivery of affordable and low-cost housing via an exception to the normal restrictions on housing development outside defined settlement limits. This relates directly to the proposed application.

The application site falls outside of the settlement limit, as evident by reference to the adopted Policies Map for Tiverton. Policy S14 is explicit that 'developments outside the settlements defined by Policies S10 –S13 will preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy'. In respect of housing, detailed development management policies apply, in this instance, Policy DM6, (rural exception sites).

An assessment of the application proposals against the requirements of Policy DM6 was undertaken as part of the Committee Report and is again noted here for ease of reference.

Criterion a) requires that there is up-to-date evidence of housing need. The Housing Manager confirmed as part of the application that there is a need for affordable housing in the area, including wheelchair accessible units. Data from Devon Home Choice indicates a demand for the following:

Band	Housing Type	Housing Needs Requirement Size					
		1BH	2BH	3BH	4BH	5BH	6BH
Total	General needs	110	49	53	22	4	0
	Step free	26	9	3	2	0	0
	Max 3 steps	1	1	1	0	1	0
	Wheelchair	11	3	1	1	1	0
	Grand Total	148	62	58	25	6	0

Criterion b) requires that each house will be occupied by at least one person with a strong local connection to the parish. The Committee Report confirms that this matter can be controlled via the provision of the S106 that will ensure that only individuals with a strong local connection will be able to apply for the affordable homes proposed.

Criterion c) requires that the site adjoins a settlement and is in a suitable location, which takes account of the potential for the visual impact and other relevant planning issues. How the development meets this criterion has already been discussed above and within the Committee Report.

Criterion d) requires that the type and scale of affordable or low cost housing is appropriate for the proven local need. Again, the Committee Report notes that the affordable housing statement submitted has identified a need for the development in Tiverton, and the Council's Housing Manager has agreed that such development is required. Furthermore, four of the units will be wheelchair accessible, which is required within the area and will help secure these much-needed homes for those with this particular need.

Criterion e) requires that the affordable or low cost housing will remain affordable for and available to local people in perpetuity limited to no more than 80% of its market value upon resale. Again, this matter will be controlled via the s106 that will be drafted, agreed and signed by all parties.

Finally, the policy notes that the inclusion of a proportion of market housing within exception sites will be permitted where the proportion of market housing will be less than the provision of affordable or low-cost housing and the market housing will be the at the lowest necessary to ensure that the development is deliverable. In considering whether the level of market housing is the lowest necessary to ensure a deliverable development, the Council commissioned an independent viability assessor to assess the applicant's viability report. The Council's independent advisor concluded that the proposal as submitted for 12 affordable and 10 open market units is considered acceptable.

Accordingly, your Officers consider that the application as submitted could help contribute towards meeting proven local affordable housing needs and meets all necessary tests set out within Policy DM6. On this basis, your Officer's are of the opinion that refusal of this current application based on affordable housing need, and compliance with Policies S10, S14 and DM6 could not reasonably be justified in the context of the available evidence.

Costs/Appeal

## CONCLUSION

This report has been prepared to outline to Members the implications of refusing the proposed development at Tumbling Fields on the grounds of the following:

1. That the proposed development of 22 residential units within this location would have a detrimental impact on the green setting as provided by the steep open hillsides, particularly to the west and south of the town, which would be contrary to Policy S10.
2. That the development would be contrary to Policy S14 in that it is not wholly for affordable housing and that it has not been demonstrated that there is a proven local need for the development.

It is considered that the report has clearly demonstrated that to refuse the application on the above grounds would not be justified and is likely to lead to the loss of an appeal and a potential award of costs.

The application has been assessed against Policy S10 as Members considered it should be, and the analysis has shown that the application would still meet all of the criterion associated with this policy. The report has also explained why officers consider that Policy DM6 applies in this instance, and furthermore, why Policy S14 applies, given the site's location outside of the defined settlement boundary.

The report has then moved on to explore the Housing need data in more detail and it is considered that the development of this site, will indeed contribute to meeting this need within Tiverton and the wider area.

It is therefore recommended that Members approve the application as per the original recommendation, subject to conditions.

Contact for any more information

Angharad Williams, Area Team Leader –  
[awilliams@middevon.gov.uk](mailto:awilliams@middevon.gov.uk)  
Committee report

Background Papers

File Reference

20/01263/MFUL

Circulation of the Report



Attach previous Committee report & Supporting Landscape Visual Impact Assessment

## **Original Report – Planning Committee 14<sup>th</sup> April 21**

**APPLICATION NO: 20/01263/MFUL**

**Site Visit: No**

**Decision Delayed Reason: Required to go to Planning Committee**

**MEMBER CALL-IN**

**RECOMMENDATION**

Grant permission subject to a signed S106 and conditions

**PROPOSED DEVELOPMENT**

Erection of 22 dwellings with parking, landscaping and construction of new access.

**RELEVANT PLANNING HISTORY**

05/00226/PE - REC date Residential development

09/00392/PE - REC date Proposed development

09/01340/PE - CLOSED date 13th April 2016 Residential development

20/01263/MFUL - PCO date Erection of 22 dwellings with parking, landscaping and construction of new access.

**OTHER HISTORY**

19/00154/PREAPP - CLO date 27th October 2020

PROTECT: Proposed residential development

**DEVELOPMENT PLAN POLICIES**

**National Planning Policy Framework**

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

Policies:

S1 – Sustainable Development Priorities;

S3 – Meeting Housing Needs

S5 – Public Open Space

S8 – Infrastructure

S9 – Environment

S14 – Countryside

DM1 – High Quality Design

DM3 – Transport and Air Quality

DM4 – Pollution

DM5 – Parking

DM6 – Rural Exception Sites

DM25 – Development Affecting Heritage Assets

**Draft Tiverton Neighbourhood Plan**

## CONSULTATIONS

### **TIVERTON CIVIC SOCIETY - 27 August 2020**

Tiverton Civic Society wish to record our objection to this Planning Application.

Our principal reasons for objection are:

1. The site is unsuitable because it is located on a steep slope with often waterlogged soils, which have little infiltration and high levels of surface runoff, and the multiple springs on the surrounding hillside result in the many exceedance channels which run across the site. Experience locally of identical geology, hydrology, and soils elsewhere on this north-facing slope has demonstrated that these conditions can lead to soil creep, slumping and subsidence to properties.
2. The more rapid runoff from the impermeable surfaces resulting from this development would add to the risk of flood damage for the properties lower on the slope and in the lower Lowman valley. Severe flooding from the River Lowman has occurred on many occasions in the southern end of St Andrew Street, four properties being severely damaged in 2014.
3. The land in this application is largely in Flood Zone 1, but the access is in Flood Zone 3, which has a high risk of flooding, and, in their consultation, the Environment Agency state this is unacceptable without a full Flood Risk Assessment (FRA).
4. On page 29 of the Proposed Housing, Landscape and Visual Assessment, which is part of this application, it is acknowledged that 'the proposed development will have a permanent adverse effect, placing housing into a greenfield area,' that there will be 'alteration to landscape character' and that there will be 'partial alteration to key features and characteristics giving a noticeable change', necessitating 'high quality buildings and mitigation measures to generate an acceptable scheme to fit into the context of the area.' This is an attractive area of high landscape value and good quality farmland which should never be developed for housing or other urban uses.
5. This land is not designated for housing in the adopted Mid Devon Local Plan Review, there is ample land allocated for residential development elsewhere within the settlement boundary and MDDC have demonstrated that a five year supply of deliverable sites will be maintained over the initial five years and subsequent periods, starting in 2020. No need for this speculative application has therefore been shown.
6. The Draft Tiverton Neighbourhood Plan states that the views of the surrounding landscape from Tiverton are 'a defining characteristic of the area' and that the 'green horizon' visible from locations throughout the settlement is a special feature that the local community are keen to preserve. Policy T7 reads:  
'The Setting of Tiverton contributes greatly to its character. Views of the green horizon out of the town and the main approaches to the town play key roles in its setting. Proposals with significant harmful impacts on the setting of Tiverton will not be permitted'  
A particularly valued view listed in the Neighbourhood Plan is that from Phoenix Lane and the southern part of the town towards Cranmore Castle and the Exe Valley, and the proposed new development would compromise this view of 'rolling farmland and woodland'.
7. The impressive listed 15 hectare Cranmore Castle, is the largest hillfort in Devon in terms of area, and it is a Scheduled Ancient Monument. It dominates the landscape south of the town, and it lies immediately above the proposed development. NPPF Paragraph 134 states that '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.' We consider that, the proposed development represents 'less than substantial harm', compromising the setting of Cranmore Castle, and that the public benefit is of lower value than the harm which would be created.
8. This is a valuable historical landscape on the edge of a historic settlement, and many artefacts have been found in this area including flint scatters. Development of this site should not be considered before a full archaeological investigation has been carried out.

#### **HISTORIC ENVIRONMENT TEAM - 15th October 2020**

I refer to the above application and your recent consultation. Assessment of the Historic Environment Record (HER) and the details submitted by the applicant do not suggest that the scale and situation of this development will have any impact upon any known heritage assets.

The Historic Environment Team has no comments to make on this planning application.

#### **HISTORIC ENVIRONMENT TEAM - 14 January 2021**

The archaeological fieldwork has been completed at the above site. This work has been undertaken in accordance with the approved Written Scheme of Investigation. A report setting out the results of the archaeological investigations has been sent to this office by the archaeological contractor, AC archaeology.

In the light of this new information I would like to withdraw the Historic Environment Teams objection and do not consider that any further heritage mitigation is required.

The Historic Environment Team has no additional comments to make on this planning application

#### **ENVIRONMENT AGENCY - 14/08/2020 - Environment Agency position (Please note further repose on next page)**

In the absence of a Flood Risk Assessment (FRA), we object to this application and recommend that the application is not determined until a satisfactory FRA has been submitted.

The reasons for this position are set out below.

##### **Reasons - Flood Risk**

Whilst the dwellings will be located within Flood Zone 1 (low probability of flooding), the access to the application site lies within Flood Zone 3 defined by the Environment Agency Flood Map as having a high probability of flooding. Paragraph 163, footnote 50 of the National Planning Policy Framework (NPPF) requires applicants for planning permission to submit an FRA when development is proposed in such locations.

Paragraph 7-038 of the Planning Practice Guidance (PPG) and paragraph 160 of the NPPF are clear that access and egress needs to be part of the consideration of whether new development will be safe. Paragraph Reference ID: 7-039-20140306 of the PPG provides further guidance. It is important that an FRA is submitted to assess the risks to the access/egress route.

An FRA is vital if the local planning authority is to make an informed planning decision. In the absence of an FRA, the flood risk resulting from the proposed development are unknown. The absence of an FRA is therefore sufficient reason in itself for a refusal of planning permission.

##### **Overcoming our objection**

The applicant can overcome our objection by undertaking an FRA which demonstrates that the development (including proposals for access/egress) is safe from flooding over its lifetime without increasing risk elsewhere and where possible reduces flood risk overall. If

this cannot be achieved we are likely to maintain our objection to the application. Production of an FRA will not in itself result in the removal of an objection.

The applicant should also prepare a flood plan which outlines how they will respond to a flood. Further advice on this can be found in the following links:  
<https://www.gov.uk/prepare-for-a-flood>

#### Advice to LPA - Access/Egress

The Environment Agency does not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network.

The Planning Practice Guidance to the National Planning Policy Framework states that those proposing developments should take advice from the emergency services when producing an evacuation plan for the development as part of the flood risk assessment.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions. As such, we recommend you consult with your Emergency Planners and the Emergency Services to determine whether the proposals are safe in accordance with the guiding principles of the Planning Practice Guidance (PPG).

Further guidance has been produced by us and ADEPT to support local authority planners in understanding what information they need to ask applicants to provide with their planning applications. This can be viewed at:  
<https://www.adeptnet.org.uk/floodriskemergencyplan>

In the absence of an FRA we are unable to advise you on the likely duration, depths, velocities and flood hazard rating against the design flood event for the development proposals. This does not mean we consider that the access is safe, or the proposals acceptable in this regard. We remind you to consult with your Emergency Planners and the Emergency Services to confirm the adequacy of the evacuation proposals.

#### Advice to LPA - Flood Risk Sequential Test

The dwellings themselves will be located within Flood Zone 1. However given that the primary vehicular access route lies within Flood Zone 3, your Authority will need to take a view on whether it would be appropriate to apply the flood risk Sequential Test. For information, an appeal for a site on land to the rear of Royal Oak House, Fore Street, Bridestowe (Ref. APP/Q1153/A/10/2127030, dated 27 September 2010) has supported the need for the test to be applied in circumstances where a development is within Flood Zone 1 but the access is within Flood Zone 3.

There are also appeals at Treliddon Lane, Downderry (Ref. APP/D0840/W/15/3137961, dated 20 February 2016) and Primrose Dell, Polgooth (Ref. APP/D0840/W/16/3163288, dated 13 March 2017) where it was confirmed that the Sequential Test should be applied even though only a small part of these sites were at risk from flooding.

#### Advice to the LPA

We will maintain our objection until the applicant has supplied information to demonstrate that the flood risks posed by the development can be satisfactorily addressed. We would like to be re-consulted on any information submitted to address our concerns and we will provide you with bespoke comments within 21 days of receiving formal re-consultation.

If you are minded to approve the application at this stage contrary to this advice, we request that you contact us to allow further discussion and/or representations from us.

#### **ENVIRONMENT AGENCY - 12th November 2020**

We have no objection to the proposal but we do have some advice.

##### **Reason**

As the development lies wholly within Flood Zone 1, there are no concerns regards the development itself. However the proposed main access route along Hamblin Road lies within Flood Zone 3 and we would therefore advise the LPA of the following

The Environment Agency does not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network. The Planning Practice Guidance to the National Planning Policy Framework states that those proposing developments should take advice from the emergency services when producing an evacuation plan for the development as part of the flood risk assessment.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions. As such, we recommend you consult with your Emergency Planners and the Emergency Services to determine whether the proposals are safe in accordance with the guiding principles of the Planning Practice Guidance (PPG).

We have considered the findings of the FRA in relation to the likely duration, depths, velocities and flood hazard rating against the design flood event (1 in 100 year plus climate change) for the access/egress route. We agree the levels survey provided indicates that the entrance to the development on Hamblin Road will be "a danger to some people (e.g. the elderly and infirm)"

However, in order to reach the Hamblin Road entrance the emergency service would need to pass through areas of Flood Zone 3 which have not been accessed and could be at a greater hazard than those at the entrance to the site.

The FRA however does suggest alternative access routes.

1. To the north east via a public right of way to the Great Western Way, which is also indicted as being in Flood Zone 2 and
  2. To the East towards Deyman's Hill, which is indicated as being in Flood Zone 1.
- Both of these alternative routes do not appear to provide complete vehicle access.

We would recommend that a Flood Warning and Evacuation Plan is included as part of the FRA identifying flood evacuation routes to areas located within Flood Zone 1 to allow the LPA to access the flood risk.

This does not mean we consider that the access is safe, or the proposals acceptable in this regard. We remind you to consult with your Emergency Planners and the Emergency Services to confirm the adequacy of the evacuation proposals.

#### **Highway Authority - 27/08/2020 - Observations:**

The site is accessed off an unclassified County Route which is restricted to 30 MPH.

The number of personal injury collisions which have been reported to the police in this area between 01/01/2015 and 31/12/2019 is none.

The existing access does have the appropriate visibility requirements for the speeds in this area and looks not to be on any third party lane. This existing area which is proposed to be the access road for the 22 dwellings is a private parking area. At the access point onto the existing public highway is a bank which looks to retain this parking area.

There are footway links to the town centre which all have appropriate crossing points across the A396. The connection to the town centre amenities and bus stops are within the guidance for walking distances.

The proposal shows 40 parking spaces for 22 dwellings which meets with the guidance.

The number of trips 22 dwellings could generate would not be a severe impact on the Highway Network.

Drawing 110 S38 & S278 Highways Layout, shows the internal Surface Water drainage pipes to be adopted by Devon County Council. The Drainage calculations for this would need to be checked by Devon County Council Flood Management team and the outfalls should also be shown on a drawing including any private existing gully positive pipe work and the construction and condition.

#### A Note to the Applicant

There is no drawing within the application showing how this bank is constructed and whether this bank would be suitable to retain the area with the proposal of 22 dwellings and the associated traffic which this development could generate. Technical Approval is required for all new and existing structures with potential highway implications whether or not it is eventually intended to be adopted by the County Council. The proposed access road also has no drawings to show the existing construction details to show this is built to the Devon County Council Adoptable Standard.

The Highway Authority has no objection to the proposed development, as it is the applicant's 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.

#### Recommendation:

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

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

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;

- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;

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

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

3. No development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the County Planning Authority. Unless it is demonstrated that it is unfeasible to do so, the scheme shall use appropriate Sustainable Urban Drainage Systems. The drainage scheme shall be designed so that there is no increase in the rate of surface water runoff from the site resulting from the development and so that storm water flows are attenuated. The development shall be carried out in accordance with the approved scheme.

REASON: To protect water quality and minimise flood risk.

4. No other part of the development hereby approved shall be commenced until the proposed access road and retaining structure details have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times

REASON: To ensure highway safety for the traffic attracted to the site

Officer authorised to sign on behalf of the County Council 20 August 2020

#### **TIVERTON TOWN COUNCIL**

Council feels this proposal is over development and would result in a loss of valuable green land. There would also possibly be harm to wildlife. There are a number of water springs on this land which makes it, in the opinion of this council, to be unsuitable for dwellings

#### **WASTE and TRANSPORT MANAGER - 25th August 2020**

Paragraph 8 of the National Planning Policy for Waste and Policy W4 of the Devon Waste Plan requires major development proposals to be accompanied by a Waste Audit Statement.



The document submitted with this application is not sufficiently detailed to meet the requirements of Policy W4: Waste Prevention of the Devon Waste Plan.

Within the submitted Waste Audit and Minimisation Statement, the applicant has made an attempt to identify targets for the re-use, recycling and recovery for each waste type during construction, demolition and excavation of the development as well as demonstrating the provisions made for the management of any waste generated to be in accordance with the waste hierarchy. However the document is lacking in detail in its current form.

The following points need to be addressed in the statement:

1. The amount of construction, demolition and excavation waste in tonnes.
2. Further information on the type of material the waste will arise from during construction, demolition and excavation.
3. Identify in more detail targets for the re-use, recycling and recovery for each waste type during construction, demolition and excavation of the development
4. The predicted annual amount of waste (in tonnes) that will be generated once the development is occupied.
5. Identify the main types of waste generated when development is occupied (If possible)
6. Provide further detail of the waste disposal method including the name and location of the waste disposal site.

Devon County Council has published a Waste Management and Infrastructure SPD that provides guidance on the production of Waste Audit Statements. This includes a template set out in Appendix B, a construction, demolition and excavation waste checklist (page 14) and an operational waste checklist (page 17). Following the guidance provided in the SPD will enable the applicant to produce a comprehensive waste audit statement that is in accordance with Policy W4: Waste Prevention of the Devon Waste Plan. This can be found online at: <https://www.devon.gov.uk/planning/planning-policies/minerals-and-waste-policy/supplementary-planning-document>.

**PUBLIC HEALTH - Contaminated Land:**

The proposed development may be on land affected by land contamination resulting from previous or current land use(s) on or adjacent to the development site.

Recommended conditions:

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

a remediation statement together with a timescale for completion of the required works for approval in writing by the LPA.

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

Reason: In the interests of public health and the protection of the environment

Informative note: It is recommended that applicants, agents and developers take specialist consultant advice before complying with these conditions. (12.08.20).

### **Air Quality**

No objection to this proposal. (12.08.20).

### **Environmental Permitting**

No objection to this proposal. (11.08.20).

### **Drainage**

No objection to this proposal. (12.08.20).

### **Noise & other nuisances**

Before the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. Once approved the CEMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority. (12.08.20).

### **Housing Standards**

The layout of a number of these plots means that the bedrooms are inner rooms and there is no safe primary means of escape in the event of a fire. The stairs descend directly to a high risk area being the open plan living and kitchen space. The ideal would be for the bedrooms/stairs to descend to a hallway with access directly out of the property to a place of safety. The layout to plot 15 is a particular concern with the bedroom situated at the furthest point to the exit which is through the high risk rooms. (21.08.20).

### **Housing Manager**

There is a need for affordable housing in the area, including wheelchair accessible units

### **Licensing**

No comments. (20.08.20).

### **Food Hygiene**

No comments. (11.08.20).

### **Private Water Supplies**

Not applicable. (13.08.20).

### **Health and Safety**

No comments. (11.08.20).

**FLOOD and COASTAL RISK MANAGEMENT TEAM - 1 September 2020 (Please note updated response below)**

**Recommendation:**

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

**Observations:**

- o We only accept FEH rainfall for new applications in line with best practice. The FSR is based on a dataset from 1970s and is out-of-date.
- o The Micro Drainage outputs indicate a hydrobrake flow control with a diameter of 47 mm which has the potential to cause blockage of the system. The applicant should revise the runoff rates based on a larger diameter flow control device.
- o The applicant should submit the Phase 2 Preliminary Ground Investigation Report (GCE00969/R1) as mentioned in section 2 of the Drainage Statement, to the local planning authority. We require evidence of the infiltration test results.
- o The applicant should provide clarification on what flood protection measures are being referred to on the eastern site boundary as shown on Drawing No. 200 rev B in the Drainage Statement Appendix B.
- o We are happy to see a swale proposed within the design of the surface water system however we would require evidence that the swale is situated entirely out of the fluvial flood zones which encroach onto the site in this area.
- o We note that there are a series of existing ditches that transverse the site. The applicant should mark these on a plan and provide assurance that with the diversions of the ditches, the capacity of the ditches won't be compromised.
- o The diversion of the proposed ditches is likely to require a Land Drainage Consent from Devon County Council's Flood and Coastal Risk Management Team prior to any works commencing. Details of this procedure can be found at: <https://new.devon.gov.uk/floodriskmanagement/land-drainage-consent/>. Any connection into the watercourse will require a consent from the Environment Agency and the watercourse is a Main River.

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

**FLOOD and COASTAL RISK MANAGEMENT TEAM – 21 October 2020**

**Recommendation**

Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that the following pre-commencement planning conditions are imposed on any approved permission:

No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:

- (a) A detailed drainage design based upon the approved Flood Risk Assessment - Reference 19026 dated October 2020, and Drainage Strategy - Drawing Number 200 Revision C.
- (b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
- (c) Proposals for the adoption and maintenance of the permanent surface water drainage system.
- (d) A detailed assessment of the condition and capacity of any existing land drainage system that will be affected by the proposals. The assessment should identify and commit to, any

repair and/or improvement works to secure the proper function of the surface water drainage receptor.

(e) Evidence there is agreement in principle from the landowner to connect into their system  
No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (e) above.

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

**Observations:**

Following my previous consultation response (FRM/MD/01263/2020) dated 1 September 2020, the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

Email from Jamie Law to Devon Flood Risk on 8 October 2020 at 12:49

Flood Risk Assessment - Reference: 19026 - dated October 2020

Ground Investigation Report - Reference: GCE00969/R1 - dated September 2019

Proposed Drainage Strategy - Drawing Number: 200 Revision C

The applicant has submitted a surface water runoff strategy that proposes an underground attenuation structure, which along with runoff from the proposed highway, will discharge into a swale which then conveys surface water runoff at greenfield rate to an existing ditch on site. Exceedance flows will be directed into an existing ditch by a proposed earth bund. The applicant may wish to consider, where possible, the re-use of onsite material in the construction of the bund.

The proposed swale should be landscaped and incorporated into the model at detailed design stage.

**FLOOD and COASTAL RISK MANAGEMENT TEAM - 17/03/2021 –**

**Observations:**

The most recently submitted Flood Risk Assessment is reference 19026, dated October 2020 and appears to be the same document that was the basis of my recommendations in my consultation response on 16 October 2020.

I therefore, have no further comments or recommendations to make

**HOUSING ENABLING & BUSINESS SUPPORT MANAGER - 07.10.20**

Tiverton still has a high need for Housing. We also need some wheelchair properties in the district, not sure if this is something which can be included.

**Forward Planning - 5th October 2020**

Thank you for your query. Based on the information you've provided below you have rightly linked the application to DM6 'Rural Exception Sites'. This policy does allow for market subsidy but this should be permitted where the proportion of market housing will be less than the provision of affordable or low-cost housing and the market housing will be at the lowest level necessary to ensure that the development is deliverable. This position is the same as the previous Local Plan in LP3 DM9 'Cross Subsidy of affordable housing on exception sites' and therefore the recent adoption of the Local Plan should not have affected the policy position with regard to this element.

You also note the site is a former MDDC allotment, it may be worth ensuring that the site also complies with DM24 Protection of Local Green Space and recreational land and

buildings, the position in this policy is also the same as the previous Local Plan in LP3 DM26 Protection of recreational land and buildings and therefore the recent adoption of the Local Plan should not have affected this policy position either. Although given that you note the site is 'former' it may be that the site would not be identified under this policy.

You note their intention is to provide all 22 dwellings as affordable. Although their intention would meet the policy requirements, as you have noted their application does not reflect this, with only 35% affordable dwellings proposed therefore this does not meet policy requirements with regard to DM6. The recent adoption of the Local Plan would not have changed the policy position with regard to the proportion of market housing on an exceptions site and therefore the advice at pre-app should not have been significantly different to the basis of the newly adopted Local Plan.

If you would like to discuss further please do get back in touch with us.

#### **Forward Planning 7th October 2020**

If the application is for 20 dwellings or more then the 5% custom and self-build policy requirement kicks in. For a proposal of 22 dwellings this would equate to the requirement to provide 1 serviced plot.

#### **Forward Planning 19th October 2020**

Query regarding provision of self build from Officer – response:

Given that the rural exceptions policy is a distinct and separate policy approach, whereby market housing is only permitted to facilitate financial viability (and therefore the market provision is the lowest level necessary to make the scheme viable) we wouldn't want to undermine this as a result of the 5% policy.

#### **DEVON, CORNWALL & DORSET POLICE**

Re Erection of 22 dwellings with parking, landscaping and construction of new access at Allotments, Tumbling Field Lane, Tiverton ' 24th August 2020

Thank you for this application.

Police do have some concerns from a designing out crime view that require attention. 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.

From a designing out crime and disorder perspective it is vital that the parking provision for the proposed development is both enough when balanced against the schedule of accommodation, as even a one-bedroom dwelling could attract 2 vehicles, and designed that it is convenient and practical to use, for example, side by side parking as oppose to tandem style parking, as this will encourage its use and reduce the level of unplanned parking elsewhere. It is the 'elsewhere parking' that can introduce a source of conflict and rancour amongst residents, generally due to inconsiderate or obstructive parking and chaotic and vehicle dominated streets.

With reference to 'tandem' parking above, there is ever increasing evidence from new development in the county where this design of parking is not being embraced, perhaps due to being inconvenient or just awkward to use, seeing the 2nd (or 3rd) vehicle being parked elsewhere just to make life easier for the occupants. It is appreciated that the tandem parking design is likely to fulfil the number of parking spaces required for new development, but this number is likely to be much reduced if the spaces are not being utilised. In addition to this the problems associated with tandem parking are further exacerbated when designed to the front of a garage or car port.

The proposed private secure parking courts and 6 spaces for Hamlin Close do not, as stated, appear to be well overlooked, with the spaces being disconnected from the associated dwelling, the majority of plots do not have line of sight to the allotted parking spaces. This places the burden of surveillance on those residents immediately adjacent to the parking courts and regrettably, there is overwhelming evidence to suggest that unless a

crime/ASB directly involves a member of the public, many will not report it for fear of repercussions. Residents will also look to park as near to their choice of main access point, resulting in parking in visitor spaces, on footpaths and verge's, creating potential for community conflict between residents and motorists.

Rear parking courtyards are discouraged for the following reasons:

'They introduce access to the vulnerable rear elevations of dwellings where the majority of burglary is perpetrated;

'In private developments such areas are often left unlit and therefore increase the fear of crime;

'Un-gated courtyards provide areas of concealment which can encourage antisocial behaviour.

Where rear parking courtyards are considered absolutely necessary, they must be protected by a lockable gate to provide resident only access.

Best practice suggests, where communal parking areas are necessary, bays should be sited in small groups, close and adjacent to homes, be within view of active rooms and allocated to individual properties. The word 'active' in this sense means rooms in building elevations from which there is direct and regular visual connection between the room and the street or parking court. Such visual connection can be expected from rooms such as kitchens and living rooms, but not from more private rooms, such as bedrooms and bathrooms.

It is preferable that footpaths are not placed to the back of properties. If they are essential to give access to the rear of properties they must be gated. The gates must be placed at the entrance to the footpath, as near to the front building line as possible, so that attempts to climb them will be in full view of the street. Where possible the street lighting scheme should be designed to ensure that the gates are well illuminated.

Perimeter security is one the basic principles of crime prevention, being the first line of defence against unwanted trespassers, as such all rear boundary treatments must be 1.8m high, as a minimum requirement, and be solid and robust to prevent being breached. Close boarded fencing or walls would be deemed appropriate. If more surveillance is required or 1.8m would feel too closed in for smaller gardens then a 1.5m solid structure with a .3m trellis topping would be acceptable. It is accepted that on some occasions gradients of land or other permanent solid structures can have an impact on the need, choice and height of boundary treatments but these should be assessed on their own merits to ensure the boundary treatment is appropriate to any potential risk of trespass.

With the above in mind, the seven attributes of Crime Prevention Through Environmental Design (CPTED) are key to ensuring a safe and sustainable community, in addition to the layout the physical security is now a consideration.

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

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

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

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

'Physical protection: Places that include necessary, well-designed security features as laid out in SBD Homes 2019

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

'Management and maintenance - Places that are designed with management and maintenance in mind, to discourage crime and ASB.

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

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

To assist the process in ensuring compliance with the requirements of ADQ, it is recommended that all doors and windows are sourced from a Secured by Design (SBD) member company. SBD requires that doors and windows are not only tested to meet PAS 24 (2016) standard by the product manufacturer, but independent third-party certification from a UKAS accredited independent third-party certification authority is also in place, thus reducing much time and effort in establishing the provenance of non SBD approved products

Secured by Design (SBD) is a crime prevention initiative managed by Police Crime Prevention Initiatives Ltd (PCPI) on behalf of the UK police services.  
Please do not hesitate to contact me if any clarification is sought or I can assist further.

### **NATURAL ENGLAND - 19th August 2020**

No comments

### **Royal Devon & Exeter NHS Foundation Trust - 9 October 2020**

This is a consultation response to the planning application ref: 20/01263/MFUL in relation to Erection of 22 dwellings with parking, landscaping and construction of new access

#### Introduction

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

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

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

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

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

CIL Regulation 122 and 123

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

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

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

S 106

S106 of the Town and Country Planning Act 1990 (as amended) allows the Local Planning Authority to request a developer to contribute towards the impact it creates on the services. The contribution in the amount £29,055.00 sought will go towards the gap in the funding created by each potential patient from this development. The detailed explanation and calculation are provided within the attached document.

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

#### **DCC - EDUCATION - 24th August 20**

Regarding the above application for 22 dwellings, Devon County Council has identified that the proposed increase of 18 family type dwellings will generate an additional 4.5 primary pupils and 2.7 secondary pupils which would have a direct impact on primary schools in Tiverton and Tiverton High.

In order to make the development acceptable in planning terms, an education contribution to mitigate its impact will be requested. This is set out below:

In accordance with the Education Infrastructure Plan 2016-2033, DCC will consider the adopted Local Plan allocations in addition to the forecast spare capacity and already approved but not yet implemented developments. We will share the forecast spare capacity of an area proportionately between all outstanding development sites allocated in the Local Plan. Based on this, a percentage is established, which will be requested for developments in the area.

The existing primary schools within Tiverton are forecast to have capacity for 94% of all pupils likely to be generated by the proposed development. An urban extension is proposed within Mid Devon's Local Plan with the inclusion of a new primary school to serve the development. This primary school will increase the towns primary capacity and therefore, Devon County Council will seek a contribution of 6% of the total number of pupils generated directly towards the delivery of this additional education infrastructure. The contribution sought is £5,242 (based on the DfE new build rate of £19,417 per pupil). This will relate directly to providing education facilities for those living in the development.

Tiverton High is forecast to have capacity for 62% of all pupils likely to be generated by the proposed development. Therefore, Devon County Council would seek a contribution based on the Tiverton secondary percentage of 38% of the total number of pupils generated directly towards additional secondary education infrastructure at Tiverton High School. The contribution sought towards secondary is £23,098 (based on the DfE extension rate of £22,513 per pupil). This would relate directly to providing secondary education facilities for those living in the development.



In addition, a contribution towards Early Years provision is needed to ensure delivery of provision for 2, 3 and 4 year olds. This is calculated as £4,500 (based on £250 per dwelling). This will be used to provide early years provision for pupils likely to be generated by the proposed development.

It should be noted that in accordance with the County Council's Education Infrastructure Plan, education contributions are required from all family type dwellings, including both market and affordable dwellings. Affordable housing generates a need for education facilities and therefore any affordable units to be provided as part of this development should not be discounted from the request for education contributions set out above. Such an approach would be contrary to the County Council's policy and result in unmitigated development impacts.

All contributions would be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on March 2019 rates and any indexation applied to contributions requested should be applied from this date.

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). 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.

## **REPRESENTATIONS**

The application has been advertised by means of site notice, an article within the local newspaper and a direct consultation to the nearest neighbouring properties.

At the time of writing, the Council has received a signed petition of 58 signatures against the development and a further 7 objections. 1 representation has been received.

The objections raised concerns in regards to the following:

1. Harm to wildlife including bats;
2. Additional housing impact on local infrastructure;
3. Impact of the development in terms of noise, air quality and parking;
4. Inconsistencies with the plans submitted;
5. Concerns regarding lighting impact and street lighting locations;
6. Concerns over the proposed access and traffic flow
7. Impact on the agricultural land
8. Overdevelopment;
9. Flooding

10. Potential increase in anti-social behaviour

11. Lack of employment in surrounding area

The representation is from Tiverton Archaeological Group and neither supports nor objects to the application. It seeks to request that a geophysical survey is conducted and that there is insufficient evidence submitted with the application to assess the historic context.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

### **Introduction**

The site relates to a plot of land which is around 0.7ha in size and is currently utilised as a paddock. The application seeks planning permission for a development of 22 residential units, of which 12 will be affordable homes delivered by Live West, (the applicant). The dwellings will be a mix of:

4 x 1 bed homes;  
11 x 2 bed homes;  
7 x 3 bed homes.

Four of these plots will be built to Part M4 (2) which means that they will be wheelchair accessible. The supporting information suggests that all homes are tenure blind and will be built in accordance with the overall space standards. There will be 7 social rent and 4 shared ownership. There are predominately two parking spaces per plot.

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

- **Principle of the development**
- **Impact of the development on the character and appearance of the area**
- **Impact of the development on neighbouring properties in regards to amenity**
- **Impact of the development on the local highway network**
- **Impact of the development on the historic environment**
- **Impact of the development on protected species and biodiversity**
- **Impact of the development in regards to flooding**
- **Other issues**

### **Principle of the development**

The application site falls outside the defined settlement limit of Tiverton, within the open countryside. Policy S14 deals with such locations and stipulates that only a limited number of proposals are considered acceptable in principle subject to their conformity with other policies and provisions in the plan. One such proposal that is considered acceptable under Policy S14 is that of affordable housing to meet local need.

The proposed development seeks to provide 22 new homes on the site, with 12 proposed for affordable housing and 10 for open market. This denotes the site as a 'Rural Exception Site' and as such, we must assess the development under the policies and provisions of Policy DM6.

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

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

Each of these points are addressed below:

There is up-to-date evidence of housing need secured through a housing survey

The applicant has provided an affordable housing statement which sets out the need identified within the local area. This has been reviewed by the Council's Housing manager who has agreed that there is a need for affordable homes within Tiverton.

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

This matter can be controlled via the provision of the S106 that will ensure that only individuals with a strong local connection will be able to apply for the affordable homes proposed.

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

The application site adjoins the Tiverton settlement boundary, and is adjacent to existing residential properties to the south and west of the site. In terms of the visual impact and other relevant planning issues, these are addressed accordingly below and are considered to be satisfied.

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

As noted above, the affordable housing statement submitted has identified a need for the development in Tiverton, and the Council's Housing Manager had agreed that such development is required. Furthermore, four of the units will be wheelchair accessible which

is required within the area and will help secure these much needed homes for those with this particular need.

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

Again, this matter will be controlled via the s106 that will be drafted, agreed and signed by all parties.

The proposed development is therefore considered to meet the necessary criteria of Policy DM6 from this perspective. There is another point in which to assess and that would be the number of affordable units proposed against that of the market housing.

The proposed development suggests there will be provision of 12 affordable homes and 10 open market. The reason behind this, is down to viability concerns. As per National Planning Policy, the applicant has submitted a viability assessment in support of this proposal. The report seeks to demonstrate that the provision of all 22 units being proposed as affordable would not be viable, and therefore, the development would not be able to go ahead.

Accordingly, the Council has assessed the applicant's viability report by seeking out an independent viability assessor. The Council's independent advisor has provided the Council with a comprehensive report on the viability of the scheme based upon the applicant's submission and has concluded that the proposal as submitted for 12 affordable and 10 open market units is considered to be acceptable. It is agreed with the applicant's viability advisor through the detailed assessment, that to provide any more affordable homes on the site would not be viable. Whilst this would need to be written into the s106 for purposes of formality, it is understood through the applicant's agent, that the applicant 'Livewest' as a well known affordable housing provider, would still endeavour to construct all 22 units as affordable if they are able to do so. As this is a desire and not a formal proposal however, the application must be assessed on its acceptability at delivering the 12 units as affordable, and the Council sees no reason why not to accept the recommendation of their independent viability assessor and to therefore consider the proposals as they stand to be acceptable.

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

The site lies in the Exe Valley Landscape Character Area, on the edge of the town. Landscape character type LCT7 and the River Valley slope and combs LCT 3G. The landscape has a rich pattern of hedges, copse and woods, associated with the river valley, combs and farmland giving an overall well wooded appearance. The site does not fall within a Conservation Area, or near any listed buildings.

That said, it is still important to ensure the character of the development will not impact on that of the existing environment.

The proposal will see the development of what is currently a vacant site to the north and to the east of an existing housing development. The site is currently bound by hedgerow on all sides apart from that of the western boundary, which is bound by Tumbling Fields Lane, and which will provide the access to the site.

Whilst the development will clearly see the loss of greenfield land, the site is adjacent to existing housing and as such, its development will not cause a significant impact in terms of visual appearance when viewed against the backdrop of the existing housing. In terms of the proposed landscaping plan, this illustrates that existing hedgerows will be retained not only for visual amenity purposes, but also for purposes of biodiversity. Further landscaping is proposed within the design which will help soften the appearance of the development and where it has been possible, car parking has been provided to rear of properties. That said, and notwithstanding the plans currently accompanying the application, there will be a

condition recommended to provide full details of all the proposed boundary treatments and species that are proposed in terms of hedgerows and trees together with a maintenance plan to understand how such landscaping will be maintained.

In terms of the character and appearance of the proposed housing, this is not considered to be significantly different from that of the surrounding area. The housing within the nearby area are predominately brick built and are in terrace formation, with parking to the front. Whilst materials are to be agreed as part of the conditions, it is stated throughout the proposal that brick will again be used, and the proposed elevations show housing that is formed similarly to that of the surrounding area. Policy DM1 seeks development that is of a high quality design and requires proposals to have a clear understanding of the characteristics of the site and add a positive contribution to the surrounding area.

It is considered that with the recommended conditions, the proposed development would suitably accommodate this policy, and in terms of layout, has predominately active frontage with good sized plots which meet national space standards. Discussion has been undertaken with the applicant in terms of ensuring active frontage is provided as much as possible and it is considered that this has been achieved to a good standard.

In support of the application, a Landscape and Visual Impact Assessment has been submitted. This has assessed the impact of the development from a number of viewpoints and aspects and has also taken into account the historic site of Cranmore Castle to the south. The conclusion advises that the development (subject to necessary mitigation measures discussed in this report) can proceed with undue impact on the landscape.

The application (subject to conditions) is therefore considered to meet the necessary criteria of policy, and is not considered to have a significant impact on the landscape character or appearance of the area.

#### **Impact of the development on neighbouring properties in regards to amenity**

As noted above, the application is bound by existing residential properties to the south and to the west.

Nonetheless, these existing developments are divorced from the site by either a road (to the west) or by existing hedgerow. Furthermore, the development is primarily located away from these properties, with the nearest being that of proposed plot number 22, which falls to the rear of the property of number 3 Hamlin Close. The proposed plot is further screened by proposed trees and plantings, which as outlined above, would still be conditioned to ensure they are maintained accordingly.

There is therefore not considered to be any concerns in relation to existing amenity being impacted upon.

In terms of the dwellings proposed, each property is considered to have sufficient natural light through the use of well positioned windows and the majority of plots have good sized rear gardens. There is also a communal garden proposed towards the centre of the scheme which provides additional onsite open space.

In regards to any concerns of overlooking, the properties have been well laid out, with risk of this being limited. Appropriate boundary treatments to the rear of gardens will also ensure privacy of future residents is protected.

The proposed application is therefore considered to be acceptable on grounds of existing and future protection of neighbour amenity.

### **Impact of the development on the local highway network**

It is proposed for the development to be accessed to the west of the existing road network from Tumbling Fields Lane.

Concerns have been raised by local residents as to the impact of the development on the road network as and to whether it will be safe for the development to go ahead with the additional traffic that will arise as a result.

In accordance with policy, the application is supported by a Transport Assessment. This has assessed the proposed traffic implications of the development on the local road network as well as looked at the connectivity in terms of cycling and walking.

Devon County Highways have reviewed the supporting information and their full response is included at the beginning of this report. However, in summary, the County Highways team do not object to the application subject to a number of conditions being associated with any grant of planning permission.

In particular, they note that the existing access has the appropriate visibility requirements for the speeds in this area and see that there are footway links to the town centre which all have appropriate crossing points across the A396. The connection to the town centre amenities and bus stops are within the guidance for walking distances. The Highways team consider that the number of trips 22 dwellings could generate would not be a severe impact on the Highway Network.

In terms of parking, it is noted that 40 spaces are proposed for the 22 dwellings, which meets the terms of local planning policy.

The highways implications of the proposed development are therefore considered to be acceptable and do not give rise to concern.

### **Impact of the development on the historic environment**

Whilst the site does not fall within a conservation area, nor is it near any listed buildings, it is noted that it is approximately 250m to the north of Cranmore Castle, a large Iron Age Hillfort, which constitutes a Scheduled Monument.

Following concerns from Tiverton Archaeological Group and Devon County Historic Environment team, the applicant has commissioned and submitted an Archaeological Trench Evaluation, in order to understand whether there were any further assessments required at the site prior to permission being granted.

The investigation concluded that the evaluation provided no evidence of features, deposits or finds relating to the cloth industry and as such, no further works are considered necessary. The Devon County Historic Environment team have no objection to the proposed development.

### **Impact of the development on protected species and biodiversity**

The application is supported by an Ecological Appraisal which has been prepared by Richard Green Ecology.

The report outlines that there are likely to be several impacts on protected species as a result of the development, including bats, hazel dormice, slowworms and grass snakes. That said, the report also outlines ways of mitigating against these impacts, and all of which are achievable. Appropriate conditions have therefore been recommended to ensure such mitigation measures are put in place, and include matters such as limiting the lighting alongside the northern and eastern hedgerows, having slowworms relocated prior to the

development commencing and the placement of dormice nest boxes in retained hedges to the south and east to increase the carrying capacity of the hedges for dormice.

These measures will need to be strictly followed in order to ensure there is no harm to protected species and that biodiversity enhancement is achieved throughout the scheme.

### **Impact of the development in regards to flooding**

The majority of the site is located within Flood Zone 1, which is the lowest flood risk zone in accordance with the Environment Agency. However, the access to the site does fall within Flood Zone 3, and as such, a Flood Risk Assessment (FRA) has been undertaken and is submitted in support of the application.

The infiltration testing indicates that soakaways are not viable at the locations tested and that the groundwater levels are relatively shallow. Therefore, it is proposed to provide an attenuated discharge into the ditch located onsite. Due to existing site constraints which include steep topography, shallow groundwater levels and existing SWW's combined sewer located along the western site boundary, below ground attenuation has been proposed.

The below ground attenuation structure and swale has been designed to cater for a 1 in 100-year storm event with an allowance of 40% for climate change. The overall discharge rate from the site has been restricted to the QBAR greenfield runoff rate.

An earth bund is to be provided along the eastern site boundary as flood protection from the upstream catchment to ensure that exceedance flows are directed into a ditch and diverted around the proposed development.

Foul water is to connect into SWW's combined sewer, with sufficient spare capacity to accommodate the proposed development

Both the Environment Agency and Devon County Lead Local Flood Authority have reviewed the submitted FRA and do not have an objection to the scheme. There are conditions recommended which are included as part of the decision.

### **Other matters**

#### **Self build**

As noted above, the forward planning team advised that in accordance with planning policy S3, any scheme above 20 units would normally be required to provide 5% of that development as self-build plots. However, following further discussions with the forward planning team, it is agreed that in regards to a rural exception site, whereby the priority is to obtain as much affordable housing as possible, the requirement for the self-build unit should not be pursued as the development is already under financial constrain as demonstrated through the viability report.

#### **Open space**

In accordance with Policy S5 the development should provide an offsite contribution towards offsite open space. This has been calculated in accordance with Mid Devon's open space supplementary planning guidance. The figure is to be confirmed, but presently stands at a total of £11,014.20. It is understood this will go towards enhancements of public open space at West Exe Recreation Ground.

#### **NHS contribution**

As noted above, the NHS have requested that the application provide a s106 contribution of £29,055.00 sought towards the gap in the funding created by each potential patient from this development. It is not yet agreed whether this contribution request meets the tests as set out

under the CIL Regulation 122 and 123 legislation. This legislation dictates that planning obligations must:

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

The Council is still considering the contribution request and an update will be provided at the committee meeting.

#### Public Footpath

A Public Right of Way borders the site to the west. The application was advertised accordingly with a site notice to this nature to advise members of the public. No diversion of the public footpath is proposed as part of this application.

#### Conclusion

The application proposes a development of up to 22 units of which 12 will be affordable units and 4 will be wheelchair accessible. It is understood there is a need for the development and as such, it generally meets the criteria of planning policy as set out by the National Planning Policy Framework, and the Mid Devon Local Plan 2013-2033. The development has limited impact on amenity and is considered to be of a design and appearance that is similar to that of the immediate area. Subject to a S106 and the following conditions, there is a recommendation to approve the application.

#### **S106 PROPOSED HEADS OF TERMS**

- a. 12 of the 22 homes to be Affordable**
- b. An education contribution of £32,840 (plus legal fees)**
- c. A public open space contribution of £11,014.20 (Financial figure to TBC) – project to be confirmed.**
- D. Potential NHS contribution – update at Committee to be given.**

#### **CONDITIONS**

1. The development hereby permitted shall begin before the expiry of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the application form and the approved plans/documents.
3. Prior to the commencement of development, a scheme and strategy for the translocation of reptiles at the site shall be submitted to an approved in writing by the Local Planning Authority. The translocation shall be carried out in accordance with the approved details and the area proposed for development should be isolated using temporary reptile fencing and artificial refugia placed around the site. Capture and translocation should continue until five consecutive inspections of artificial refugia under suitable weather conditions find no reptiles present. Translocation would need to be carried out between April and October when reptiles are active.



4. No materials shall be brought onto any part of the site or any development commenced, until the developer has erected tree protective fencing around all trees, hedges or shrubs to be retained on that part of the site, in accordance with a plan that shall previously have been submitted to and approved in writing by the Local Planning Authority. The fencing shall be in accordance with Figure 2 of BS 5837 2012. The developer shall maintain such fences to the satisfaction of the Local Planning Authority until all development has been completed. The level of the land within the fenced areas shall not be altered without the prior written consent of the Local Planning Authority. No materials shall be stored within the fenced area, nor shall trenches for service runs or any other excavations take place within the fenced area except by written permission of the Local Planning Authority.

5. Prior to installation of any external lighting, including street lighting and lighting on and around buildings and public spaces, a phase specific lighting strategy shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter proceed and be retained in accordance with the Strategy.

6. Within 3 months of commencement of development of the development hereby approved, a scheme for the provision of integrated bat and bird boxes shall have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter proceed and be retained in accordance with the agreed scheme.

7. Prior to the commencement of development, a Waste Audit Statement shall be submitted to and approved in writing by the Local Planning Authority.

The statement shall include:

- a) Methods to reduce the amount of waste material
- b) Methods to re-use the waste within the development
- c) Methods for the reprocessing and/or final disposal of excavated materials, including locations (which should hold appropriate planning permission, Environment Agency licences and exemptions) where such activities will take place
- d) Estimated quantities of excavated/demolition materials arising from the site
- e) Evidence that all alternative methods of waste disposal have been considered
- f) Evidence that the distance travelled when transporting waste material to its final disposal point has been kept to a minimum
- g) The amount of construction, demolition and excavation waste in tonnes.
- h) Further information on the type of material the waste will arise from during construction, demolition and excavation.
- i) Identify in more detail targets for the re-use, recycling and recovery for each waste type during construction, demolition and excavation of the development
- j) The predicted annual amount of waste (in tonnes) that will be generated once the development is occupied.
- k) Identify the main types of waste generated when development is occupied (If possible)
- l) Provide further detail of the waste disposal method including the name and location of the waste disposal site.

The development shall thereafter proceed in accordance with the approved Waste Audit Statement.

8. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Environmental Management Plan (CEMP). The plan will 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 plan must include:

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

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

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

10. Prior to the occupation of the units hereby approved a Flood Warning and Evacuation Plan shall be submitted to and approved in writing by the Local Planning Authority.

11. No other part of the development hereby approved shall be commenced until the proposed access road and retaining structure details have been submitted to, and approved in writing by, the Local Planning Authority and will thereafter be retained for that purpose at all times.

12. Before the development hereby approved is commenced, a site investigation and risk assessment shall be carried out to determine the nature and extent of land contamination that may be present and the likely impact on all receptors that may result. A full report of the investigation and risk assessment shall be forwarded to the LPA for approval. No work shall

proceed on site until either the LPA grants written consent for the development to commence or the requirements of condition (2) below are met.

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

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

13. No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:

(a) A detailed drainage design based upon the approved Flood Risk Assessment - Reference 19026 dated October 2020, and Drainage Strategy - Drawing Number 200 Revision C.

(b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.

(c) Proposals for the adoption and maintenance of the permanent surface water drainage system.

(d) A detailed assessment of the condition and capacity of any existing land drainage system that will be affected by the proposals. The assessment should identify and commit to, any repair and/or improvement works to secure the proper function of the surface water drainage receptor.

(e) Evidence there is agreement in principle from the landowner to connect into their system. No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (e) above.

The development will thereafter proceed in accordance with the submitted and approved details.

14. The development hereby approved shall be undertaken in strict accordance with the mitigation measures detailed within the approved Ecological Report by Richard Green dated December 2019.

15. The development shall not be occupied until refuse/bin storage facilities have been provided in accordance with the details hereby approved.

16. Notwithstanding the details shown on the approved plans, the development shall not be carried out otherwise than in strict accordance with drawings to be submitted to and approved in writing by the local planning authority, prior to the commencement of the development, showing all external architectural including details of window and door reveals; rainwater goods; eaves and soffits; mouldings.

17. The development shall not be carried out otherwise than in strict accordance with the details of the finished floor levels of the dwellings which shall have been submitted to and approved in writing by the local planning authority prior to the commencement of the development.

18. The development shall not commence until full details of hard and soft landscape works, including an implementation and management plan, have been submitted to and approved in writing by the local planning authority.

Details of soft landscape works shall include [retention of any existing trees and hedges; finished levels/contours; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate. The hard landscape works shall include means of enclosure; boundary and surface treatments; vehicle and pedestrian/cyclist circulation; proposed and existing service lines. All works shall be carried out in accordance with the approved details and the implementation plan and thereafter maintained in accordance with the approved management plan.

19. Parking facilities shall be provided and thereafter permanently retained for the parking of vehicles in accordance with the approved plans prior to occupation of the dwellings hereby approved.

20. Notwithstanding the submitted details, 10 dormouse nest boxes will be installed in the retained south and east hedge, to increase the carrying capacity of the hedges for dormice prior to occupation of the dwellings hereby approved.

21. Prior to their use on any dwelling hereby approved, samples or details of the materials to be used on the external surfaces shall be submitted to and approved in writing by the Local Planning Authority. The work shall proceed in accordance with the approved materials.

## **REASONS FOR CONDITIONS**

1. In accordance with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. In order to ensure compliance with the approved drawings.

3. For mitigation and compensation of impacts on protected and priority species, habitats and sites. Early approval is required as disturbance could occur from the outset.

4. To protect trees, hedges and shrubs in the interests of visual amenity. Early approval is required as disturbance could occur from the outset.

5. For protection of legally protected species including bats, dormice and otters and to ensure that lighting does not conflict with trees and other features.

6. In the interests of Biodiversity mitigation and enhancement

7. In the interest of waste management and minimisation. Early approval is required as impacts could occur from the outset.

8. To minimise the environmental impacts of the construction process for local residents and in the interests of amenity. Early approval is required as impacts could occur from the outset.

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

10. To ensure that residents have a safe evacuation plan and route during an event of flooding.
11. To ensure highway safety for the traffic attracted to the site. Required prior to commencement to ensure that submitted details are acceptable prior to their commencement.
12. In the interests of public health and the protection of the environment. Early approval is required as potential impact could occur from the outset.
13. The condition is required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including National Planning Policy Framework and PPG. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.
14. For protection of legally protected species.
15. In the interests of local amenity
16. The submitted details are incomplete/unacceptable and to compliance with the approved details. Required prior to commencement to ensure that details are acceptable and approved at the outset.
17. In the interests of local amenity. Required prior to commencement to ensure that details are acceptable and approved at the outset.
18. To secure a landscape scheme that will complement the development in the interests of visual amenity. Required prior to commencement to ensure that details are acceptable and approved at the outset.
19. To ensure adequate parking facilities are provided to serve the development
20. In the interests of Biodiversity mitigation and enhancement
21. In the interest of visual amenity and to ensure the development will harmonise visually with the character and appearance of the site and its surroundings.

## **INFORMATIVES**

It is recommended that applicants, agents and developers take specialist consultant advice before complying with conditions related to land contamination.

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

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.

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

The application proposes a development of up to 22 units of which 12 will be affordable units and 4 will be wheelchair accessible. It is understood there is a need for the development and as such, it generally meets the criteria of planning policy as set out by the National Planning Policy Framework, and the Mid Devon Local Plan 2013-2033. The development has limited impact on amenity and is considered to be of a design and appearance that is similar to that of the immediate area.

# **Proposed Housing Tumbling Fields, Land off Tumbling Fields Lane Tiverton, Devon**



## **Landscape and Visual Appraisal**

June 2020 – rev a



Prepared by Foxford Design Ltd – Chartered Landscape Architects

# Landscape and Visual Appraisal

Issue – June 2020

a)-9 July 2020- site plan updated

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**Executive Summary:**

*This report presents the results of a Landscape and Visual Appraisal carried out to assess the impact of a proposed development of new housing on land at Tumbling Fields Lane, in Tiverton, Devon. The appraisal has been commissioned by LiveWest to form part of a planning application for 22 dwellings and associated parking and infrastructure.*

*The report is a summary of the key findings following the site assessment and survey. Survey work was carried out in the Spring 2020. The report analyses and assessed the scale and character of the development with reference to the surrounding landscape in terms of landscape character and visual amenity. It considers the magnitude and assessed the importance of the effects of the development, and considers ways to mitigate adverse effects.*

*The site is located to the south side of Tiverton at around 62-71m above sea level, in a field laid to grass surrounded by hedges. The site is not covered by any landscape designations, though there is a scheduled monument, Cranmore Castle, to the south east.*

*The site lies in the Exe Valley Landscape Character Area, on the edge of the Town Landscape character type LCT7 and the River Valley slope and combs LCT 3G. The landscape around Tiverton is mainly farmland with hedges, copse and woods and has an overall well wooded appearance.*

*The Zone of Theoretical Visibility is mainly to the NE to SSW-of the site, however actual visibility is limited, due to the position of the site close to the town; the low lying position of the site within the valley at the confluence of the Rivers Exe and Lowman; the well wooded appearance and undulating nature of the landscape, and the predominantly farmed nature of landscape limiting public access.*

*Landscape and visual assessment baselines are established and the likely effect of the development on these assessed.*

*The landscape assessment judges that the Landscape effect of the development would be of moderate\* importance in terms of the site and its immediate surrounding the sites; of minimal importance in terms of Cranmore Castle; and of minimal importance to effect on the wider landscape character area.*

*The visual assessment determined that views of the site from publically assessable area would either be longer distance views or close views on the footpath immediately adjacent to the site. The assessment judges that the visual effect of the development would be of minimal impact on the longer distance views, and be moderate importance on close views. In terms of Cranmore Castle it is judged that the overall visual effect of the development on the overall views to the Hillfort will be of minimal importance.*

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## 1.0 Introduction

This report presents the results of a Landscape and Visual Appraisal carried out to assess the impact of a proposed development of new housing on land off of Tumbling Field Lane, Tiverton, Devon... The appraisal has been commissioned by LiveWest to form part of a planning application.

The report is a summary of the key findings following the site assessment and survey. Survey work was carried out in the 12th March, 29th May and 2nd June 2020. The appraisal analysed and assessed the scale and character of the development with reference to the surrounding landscape in terms of landscape character and visual amenity. It considers the sensitivity of receptors and the magnitude of the likely impact in order to assess the importance of the effects of the development and it considers ways to mitigate any adverse effects.

The statement is prepared by Claire Foxford, BSc, MA, and Chartered Member of the Landscape Institute on behalf of Foxford Design. The site assessments followed landscape and visual impact assessment methodology guidelines produced by the Countryside Agency and Scottish Natural Heritage (2002)<sup>1</sup> and the Landscape Institute and Institute of Environmental Assessment (2013)<sup>2</sup> respectively, modified and refined to reflect the brief and nature of the site. This report is the summary of the key findings.

## 2.0 The Site - Location and Context

The site is situated off Tumbling Fields Lane on the south side of Tiverton Town Centre in Devon. (OS Grid reference SS 956 122). The proposed development site is within a field laid to pasture. The field is approximately 0.74 hectares.



Figure 1 – Site location and Arial Photo

### 3.0 Study Area – Landscape Designation and Local Planning policy

The site lies in the jurisdiction of Mid Devon District Council. There are not statutory landscape designations covering the site or surrounding area which would be influenced by the development. However to the South East lies Cranmore Castle, an iron age hillfort, which is a Scheduled monument under the Ancient Monuments and Archaeological Areas Act 1979 <sup>3</sup>.

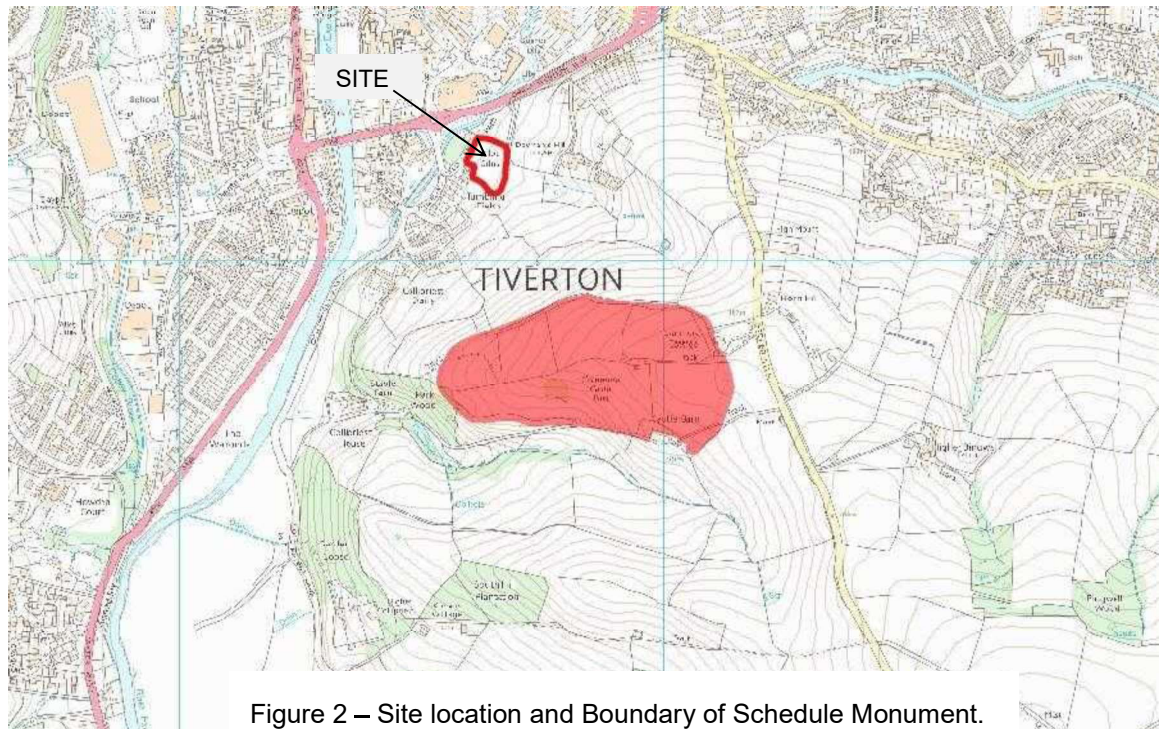


Figure 2 – Site location and Boundary of Schedule Monument.

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Local planning policy is set out in The Mid Devon Local Plan<sup>4</sup> which comprises of three parts:- Part 1: Core Strategy 2006 – 2026 containing the overall spatial strategy and policies for the area; Part 2: Allocations and Infrastructure Development Plan Document (AIDPD), and Part 3: Development Management Policies (LP3), containing topic-based policies to guide specific development proposals.

In the Mid Devon Local Plan - Part 1 – Core Strategy <sup>5</sup> - the key relevant policy is COR2 Local Distinctiveness. The policy states Development should sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through:-

- a) high quality sustainable design which reinforces the character and legibility of Mid Devon's built environment and create attractive places*
- b) the efficient use and conservation of natural resources of land, water and energy*
- c) the preservation and enhancement of the distinctive qualities of Mid Devon's natural landscape, supporting opportunities identified within the landscape character areas.*



*d) the protection and enhancement of designated sites of national and local biodiversity and geodiversity importance. Development will support opportunities for protecting and enhancing species populations and the restoration, recreation, enhancement and linking of habitats to contribute toward the delivery of Biodiversity Action Plan targets, and*

*e) 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.*

In Mid Devon's Local Plan Part 3 Development Management Policies<sup>6</sup>. The key policy of relevance to general landscape and visual issues is Policy DM2: High Quality Design, This states that: "Designs of new development must be of high quality, based upon and demonstrating the following principles:

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

*b) Efficient and effective use of the site, having regard to criterion (a);*

*c) Positive contribution to local character including any heritage or biodiversity assets and the setting of heritage assets;*

*d) Creation of safe and accessible places...*

*e) Visually attractive places that are well integrated with surrounding buildings, streets and landscapes, and do not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses, taking account of: i) Architecture ii) Siting, layout, scale and massing iii) Orientation and fenestration iv) Materials, landscaping and green infrastructure ..... "*

Other Mid Devon documents which include guidance and are relevant to the report include the Mid Devon Landscape Character Assessment which is referred to later.

## 4.0 Landscape Character Assessments

Landscape Character Assessment studies produce an objective hierarchical classification of landscape. The national context was originally defined in 1999, and subsequently regional and district classifications have considered these character areas in more detail. This hierarchy approach helps to maintain the understanding of landscape character within the wider landscape and provides a framework to assess development proposals. The following describe the landscape character, as defined at the varying scales, for the area around the site.

### National Level

The national landscape character context is detailed in the Character of England Map <sup>7</sup>. Devon has six main National Character Areas (NCA). The site is within the NCA 148 Devon Redlands<sup>8</sup>. Devon Redlands NCA 148 has *"a strong unified character. The underlying red sandstone and consequent red soils dominate the landscape through ploughed fields, cliffs and exposures. ... its fertility makes it the agricultural heart of Devon. ... Gently rolling hills that feature across the NCA support a network of hedgerows enclosing relatively small fields that are grazed or under arable cultivation. Hedgerow trees and small copses often give a wooded appearance to the hills. The valleys in between are flat bottomed and open into extensive flood plains across the central part of the Redlands. Here, more 'shrubby' hedgerows or fences enclose larger arable or grazed fields."*

### County / District Level Assessment

Devon County Council and its districts have carried out assessment to describe their areas. Devon County Council have assimilated the districts assessments into a countywide plan for Devon identifying its 68 Landscape Character Areas, as shown on their on line interactive map<sup>9</sup>. From the district assessments Devon County Council has also prepared a summary list of the 37 Devon Landscape Character Types, reflected in the assessments, along with the key characteristics of each.<sup>10</sup> Landscape Character Types are distinct types of landscapes with similar physical, perceptual and aesthetic attributes.

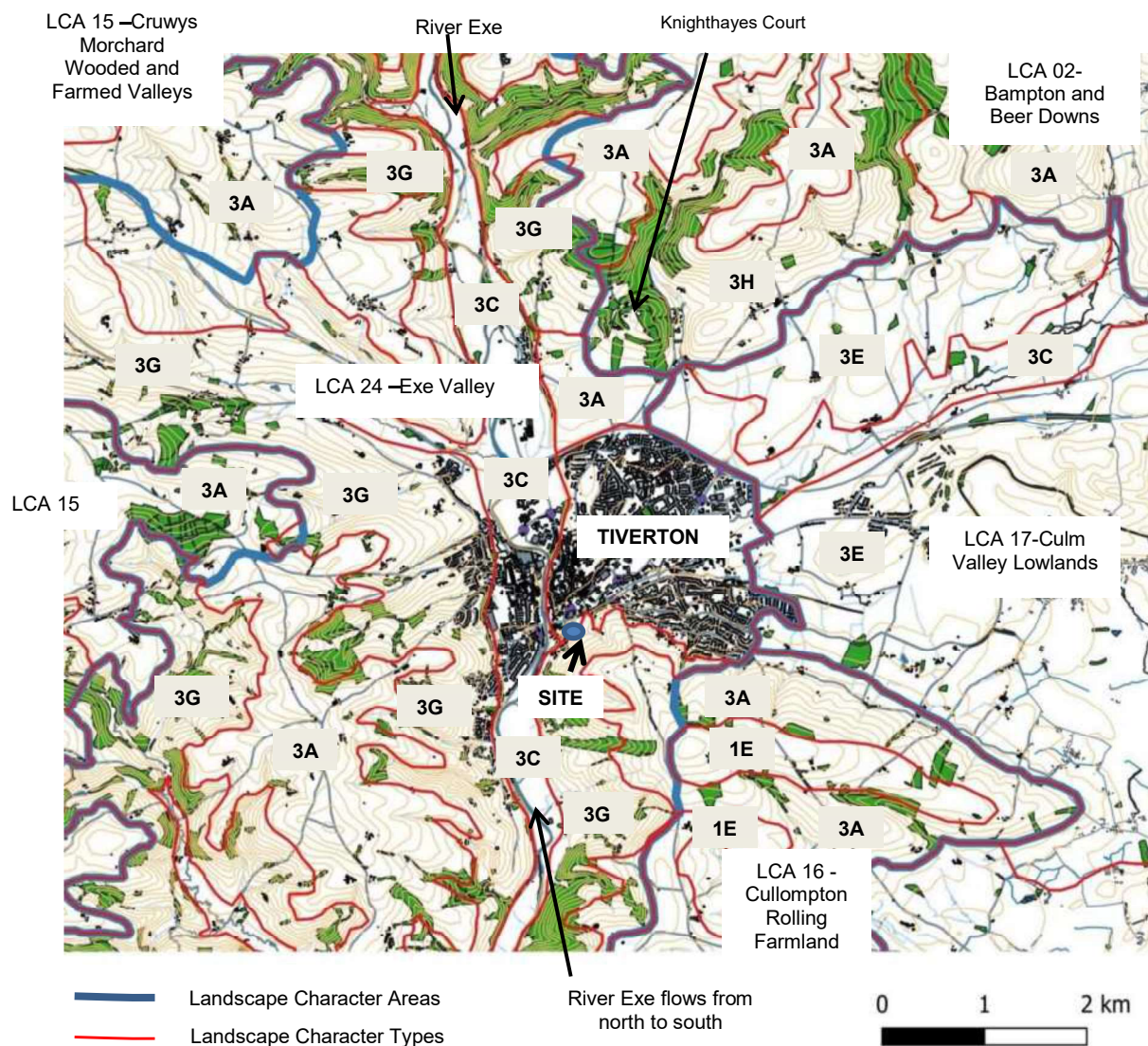
The site lies within Mid Devon District Council whose Landscape Character Assessment 2011 <sup>11</sup> describes the areas landscape types and strategy guidelines. It is the Devon County and Mid Devon landscape assessment that are referred to in this assessment.

## 4.1 County / District Landscape Character Areas (LCA) and Landscape Character Types (LCT)

The development site lies within the Exe Valley LCA (Devon County LCA 24<sup>9</sup>). The Exe Valley Landscape Character Area is influenced by the River Exe and its changing river patterns along its course. North of Tiverton deep and dramatic wooded valleys with oak woodland, give an enclosed feel, whilst gradually south of Tiverton the Exe valley landscape gradually opens up on its course to Exeter into a patchwork of fields, woodlands and copses with a gentler feel. Beyond the Exe Valley LCA the land rises to on the Western, South Eastern and North Eastern sides of Tiverton to higher ground characterised by hills and valleys, rich with hedges, woodlands and farmed landscape (the Cruwys Morchard Wooded Farmed Valley LCA15, Cullompton Rolling Hills LCA 16 and the Bampton and Beer Down LCA 02). Due East of Tiverton the flatter lowland of the Culm Valley Lowlands LCA 17 broadens out towards River Culm and the M5 Corridor. (Fig 3)

Landscape are further divided into landscape character types (LCT) <sup>10</sup>, which are distinct types of landscape that are relatively homogeneous in character, sharing broadly similar combinations of geology, topography and drainage patterns, vegetation, historical land use and settlement patterns and perceptual and aesthetic attributes. <sup>2</sup> The Mid Devon Landscape Character Assessment<sup>11</sup> uses this approach to define its area and gives strategic guidelines for each.

Tiverton has developed at the confluence of the River Exe and the River Lowman. The River Exe cuts through the valley floor (LCT3C) floors with the River Valley slopes and combs (LCT 3G) on each side then rising to Upper Farmed and Wooded slopes (LCT 3A). Tiverton has higher ground on all but the eastern side which open out into the Lowland Plains (LCT3E). (Figure 2).



#### Landscape Character Types

- LCT 1E – Wooded Ridges and Hilltops
- LCT 3A – Upper farmed and wooded valley slopes
- LCT 3C – Sparsely settled farmed Valley floors
- LCT 3E – Lowland Plains
- LCT 3G – River valley slopes and Combes
- LCT 3H – Secluded Valleys

Figure 2 – Landscape Character Areas and Landscape Character types.

Table 1– Summary of characteristics of Landscape Character Types

<p><b>The Sparsely Settled Farmed Valley Floor (LCT 3C)</b> character is described as consisting of rivers or streams in relatively flat or gently sloping valley bottoms. Characteristics: Low lying flood plains; medium to small scale landscape characterised by relatively narrow strips of gently sloping or level land with a smooth surface topography; woodland pattern tends to be sinuous with scattered deciduous stands; pastoral landscape with locally improved grasslands within a mosaic of generally grazed to rough pasture; landscape has a higher degree of enclosure due to woods and hedges and rising ground as result there are reduced levels of visibility; sparsely populated.</p>
<p><b>River valley Slopes and Combes (LCT 3G)</b> character is mainly located around the east and west of the River Exe and River Taw. These rivers have steep, wooded sides. In the upper areas there is a strong sense of enclosure with lush valley landscape and areas of ancient semi natural wood. Characterised by a landscape of valley floors and valley sides strongly undulating with a variety of sloping land. Well wooded and pastoral landscape with regular dense hedges, frequent hedgerow trees, frequent deciduous woodlands often ancient woodlands and copses. The scale is small to medium and combined with the incised landform gives a relatively enclosed feel. High degree of visual containment.</p>
<p><b>Upper Farmed and wooded Slopes (LCT 3A)</b> character is described steeply rolling landform associated with the environs of the Exe Valley and Taw Valley. Characterised by lush and fertile land with medium scale fields of permanent pasture. Deciduous woods and copse and hedgerow trees. Dense wide hedgerow including Beech hedgerows are well managed and bound medium to large scale enclosures. Landscape dominated by small scale farming. Dispersed settlement pattern, and narrow winding lanes, gives an intimate and intricate landscape with wider views often restricted by vegetation.</p>
<p><b>Secluded Valleys (LCT 3H)</b> character characterised by a series of small to medium narrow valleys that extend from plateaux down over steep valley sides to low lying valley bottoms. Scrub and woodland dominate steep slopes both deciduous and coniferous, tree lined hedge bank and steep pastoral fields</p>
<p><b>Wooded Ridges and Hilltops (LCT 1E)</b> character has a landscape that is high, rounded with narrow ridge tops laid to ley pasture, medium field sizes and hedging</p>
<p><b>The Lowland Plain (LCT 3E)</b> character is described as an open low lying flat landscape, on red fertile soils, giving prosperous agricultural land. Typical of the Crediton area and around the River Culm. Characteristics – gently rolling from middle ground to lowland with smooth rounded hilltops;. primarily arable farmland with some areas of improved grassland;. mixed farming with a rotation of crops and ley; medium to large scale field patterns; fields divided by hedgerows and hedge banks; hedgerow trees are infrequent within type and isolated trees in field indicate positions of lost hedges; copse and discrete woodlands; roads are straight or winding characterised by narrow routes lined by traditional hedge banks.</p>



#### 4.3 Local Landscape Character Baseline Survey – Study area around Development Site

The site lies on the southern side of Tiverton. It is shown on the Devon Interactive Map <sup>9</sup> and Landscape Character assessments to lie within the Main Cities and Town Landscape Character type (LCT 7), and on the edge of the River Valley Slope and Combes LCT (LCT3G). This is probably because at the time of the Mid Devon Landscape Assessment and Mid Devon Local Framework Plan (adopted 2011) the field were shown on Ordnance Survey plan's as allotments gardens. Google's historic aerial photos of 2006 show the site as allotments but at some point between then and 2010 they must have fell into disuse and subsequently have returned to pasture that is seen today.

The site is approximately 0.74 hectare pasture, bound by native hedgerow on the north, south and eastern boundaries. (Figure 3 + Site Photos)) The eastern boundary has a high hedge bank and tall hedge with trees (Photo 17). The northern hedge is on a bank and the hedge is tall and bushy to the eastern end consisting of hazel and willow, but severely managed on the western end. (Photo 20, 21) The southern hedge is mainly overgrown willow on a low bank. (Photo 15) The western boundary along Tumbling Fields Lane consists of a planted semi natural symphoricarpus and privet hedge (Photo 16, 22) and a short section of native hedge to the rear of Hamlin Close. (Photo 13-14)

Approximately 75m from the site's northern boundary is the A396 Grand Western Way that skirts the southern edge of Tiverton Town Centre. The road is separated and screened from the site by a mature belt of tree and shrub planting. Immediately west of the site is the front of 2-3 storey town housing of Tumbling Fields Lane (Photos 2,3,5) and the rear of properties of Hamlin Close.(Photo 12) Beyond that more housing spreads to the south west of the site with newer housing on Tumbling Field and older housing associated with St Andrews Street South. The River Lowman separates these two areas of housing and a further large belt of planting between the roundabout of the A396 and the River Lowman provides further screening and natural feel to the area. (Figure 3)

Tiverton has developed around the confluence of the River Exe and River Lowman, the land rises north into the Town Centre and late C19th core of the settlement (around 70-75m above sea level). The town has also developed on the flatter areas out to west and northwards on the River Exe valley floor around the textile mill. Much of this land is of a similar level to the site (60-70m above sea level). Further to the West sides of Tiverton the town has developed up the valley sides of the River valley slopes and combes (LCT3G). The surrounding land around Tiverton rises to around over 200m and consists of mainly Upper Farmed and Wooded slopes Landscape Character Type. See Figure 5)

To the South and East of the site the land rises gradually River Valley Slope and Combes LCT (LCT3G towards Cranmore Castle. (See Figure 3, and 4) and then continues to rise to in the Upper Farmed and wooded slopes LCT 3A and then up to the Wooded Ridges and Hilltops (LCT 1E) to around 240m on the top., .These are steeply rolling landforms, with small to medium scale field patterns, with frequent deciduous hedgerow, trees and copse giving a well wooded appearance.. The land is well managed pastoral farmland landscape, and settlements are dispersed. Network of lane between hedge banks and strong field boundaries create an intricate

landscape, with little public access. The landscape has a higher degree of enclosure due to woods and hedges and rising ground as result there are reduced levels of visibility;.

The site lies close to the valley floor at around 61.5m, and rises gently east south east to around 72m at about 1:10. The Eastern boundary of the site is a tall native hedge on a 2m high hedge bank. From the site boundary the land form continues to rise, rising more steeply through a series of fields for about 260m to the northern edge of Cranmore Castle where it steepens significantly close to the castle at around 125-140m on the castle's northern tree-lined rampart. (Figure 3 Photo A)

Cranmore Castle is a large elliptical enclosure, encircling the hill approximately 550m long on its West/East axis rising from around 120m in the West to 173m in the East, and around 260m wide (approximately 14 hectares). It is defined by ramparts (wide earth mounds) on all sides, with the north on the boundary associated with the development site the rampart sits above a steep natural scarp, previously described.

The geology and landform associated with the confluence of the River Exe and Lowman has shaped the development of Tiverton from the early settlements from early bronze and Iron Age around Cranmore Castle to present settlement patterns. The area is intrinsically shaped by man.

Human activity in the area has dated from early Bronze Age. Cranmore Hillfort dominated a strategic defensible location at the confluence of the Exe and Lowman. Historic characterisation maps<sup>9</sup> indicate that the slopes on the northern side of the Castle were probably originally enclosed with hedge banks in later middle ages, whilst the lower ground around the Rivers Lowman and Exe were water meadows. The lower slopes below the castle around Tumbling Fields are indicated as being post medieval orchard, whilst the site, located in a field identified as Chums Meadow, is likely to have been laid out and enclosed later in the C18th and C19th century.

The landscape characters in the LCT along the Exe valley and around Tiverton are diverse and good quality. The landscape has an intricate pattern of small-medium scaled field mainly laid to pasture with hedges and with frequent trees, woodland and copses. There are significant tree planting associated with the valley sides of the River Exe, the creation of the Grand Western Way, and The North Devon link Road running to the North of the Town, adding to the well wooded appearance.

Figure 3

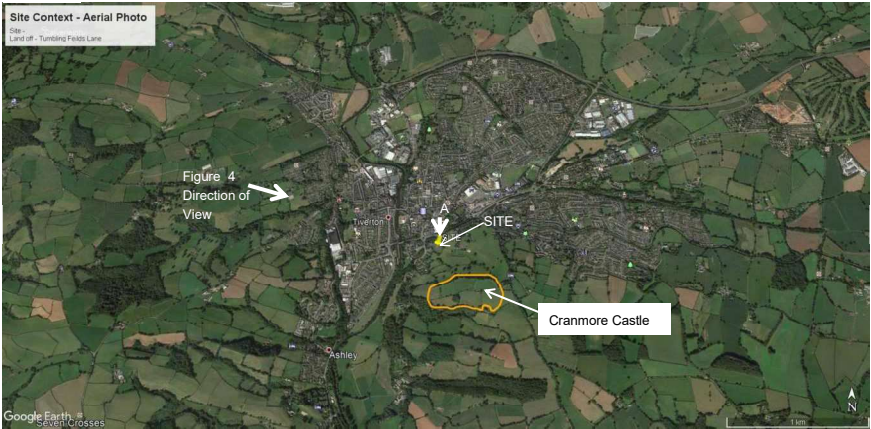


Figure 3 – Aerial Photo (Left) - showing landscape pattern and vegetation around the site and Tiverton and location of Cranmore Castle Schedule Monument. ...

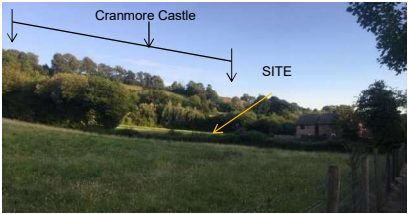


Photo A – View looking across the site to Cranmore Castle – Indicating the section of the scheduled monument visible from the site, namely the north western boundary which is predominantly tree lined.

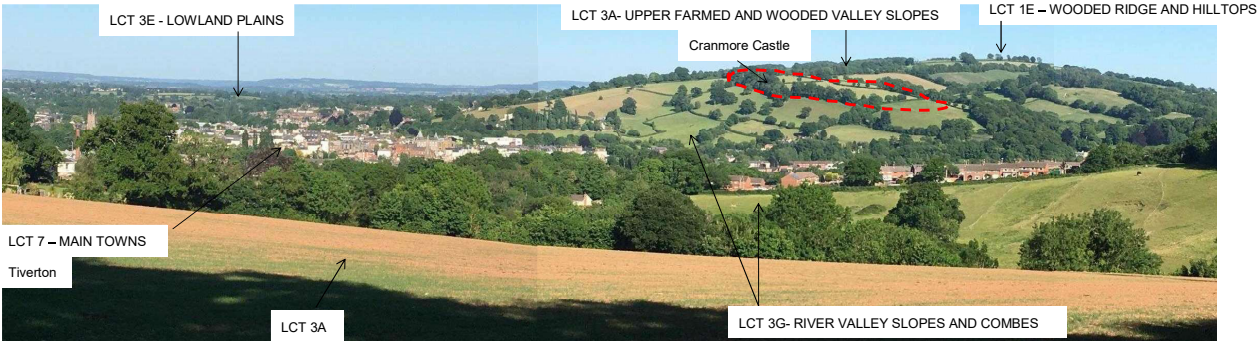


Figure 4 - Typical landscape as seen around the site. Tiverton lying in the valley, with the River Exe flowing through the sparsely settled farmed valley floor in the valley bottom LCT3C, with LCT 3G River valley slopes and Combes on the lower slopes rising to Upper Farmed and Wooded Valley Slopes on higher ground either side LCT 3A and then further to the Wooded Ridges and hilltops LCT 1E. The landscape on the edge of Tiverton is an intricate pattern of small-medium scaled pastures enclosed with hedges and with frequent trees, woodland and copses. giving a wooded appearance.



Figure 5- Character of the LCT 3A – Upper Farmed and Wooded Slopes, LCT 3H- Secluded Valleys 3 G – River Valley Slopes and Combes – Characterised by small to medium mainly pastoral fields with strong network of hedges, copses and woodlands, with network of narrow winding lanes with hedges on hedge banks. Creating an intimate complex landscape with limited view.





PHOTO 1



PHOTO 2



PHOTO 3



PHOTO 4



PHOTO 5



PHOTO 6



PHOTO 7



PHOTO 8

#### SITE AND SITE CONTEXT PHOTOS

- PHOTO 1 – Looking east towards Hamlin Close and Tumbling Fields Lane
- PHOTO 2 – Looking north east along Tumbling Fields Lane
- PHOTO 3 – Looking south west along Tumbling Fields footpath link.
- PHOTO 4 – Properties on Tumbling Fields Lane
- PHOTO 5 – Properties on Tumbling Fields Lane – overlooking the site
- PHOTO 6 – Site's north west boundary adjacent to Tumbling Fields Lane .
- PHOTO 7 – Hamlin Close – the proposed route for the developments access.
- PHOTO 8 – Hamlin Close - Proposed new Access



PHOTO 9



PHOTO 10



PHOTO 11



PHOTO 12



PHOTO 13



PHOTO 14



PHOTO 15

**SITE AND SITE CONTEXT PHOTOS**

- PHOTO 9 – Site – looking from western side. Towards Tumbling Fields Lane .
- PHOTO 10 – Site – Looking SW to proposed new access
- PHOTO 11 – Site – Looking SW to proposed new access
- PHOTO 12 – Site Rear of properties Hamlin Close
- PHOTO 13 - Site's W boundary with Hamlin Close .
- PHOTO 14 – Site's W boundary with Hamlin Close
- PHOTO 15 - Site's Southern boundary



PHOTO 16



PHOTO 17



PHOTO 18



PHOTO 19

#### SITE AND SITE CONTEXT PHOTOS

PHOTO 16 – Sites Eastern Boundary, looking towards southern boundary .

PHOTO 17 – Sites Eastern Boundary looking North

PHOTO 18 – Stream / Ditch inlet on Eastern Boundary

PHOTO 19 – Stream Ditch along Northern Hedge

PHOTO 20 - Northern Boundary of site .

PHOTO 21 – Site side of North West boundary Hedge alongside Tumbling Fields Lane



PHOTO 20



PHOTO 21



PHOTO 22



## 5.0 Visual Assessment.

The visual analysis was carried out by a combination of desktop study (including running a computer program to generate a Zone of Theoretical Visibility (ZTV)) and a field assessment. The Zone of Theoretical Visibility (ZTV) was generated on our behalf by Swan Paul Partnership using WindPro version 3.1 software for a 5 km radius based on the location and height of the new dwellings ranging in 7.5-9m in height, thereby giving a Ridge height of between 73.5 and 77.4 m above sea level.

The software used to generate the ZTV uses topographical data only and does not take into account the impact on visibility resulting from vegetation cover or the impact of buildings. Field work was therefore undertaken to assess the actual visibility. Using the ZTV (Figure 6) and Ordnance Survey Explorer map 114 data (1:25000 scale), publically accessible areas were identified and the initial extent of the field survey was established. The field work was undertaken in Spring 2020.

As part of the assessment the visual receptors were identified. Visual receptors are “the different groups of people who may experience views of the development ”<sup>2</sup> The ZTV, baseline desk study and site visit were used to identify those receptor groups most likely to be affected by changes in views and visual amenity arising from the development. This includes people living in, using and passing through the area, and these are weighted in terms of their sensitivity to the effect.

By driving and walking around the area the visual field survey established the nature and extent of the views of the development on the surrounding receptors. See Table 2, Fig 6 and photos View 1-17. The views were assessed in terms of the level and effect of the visual impact, determined by considering the nature of the impact, level of importance, distance between viewpoint and the site and the magnitude and sensitivity of the receptors. From these the overall effect of the Visual Impact of the development can be considered.

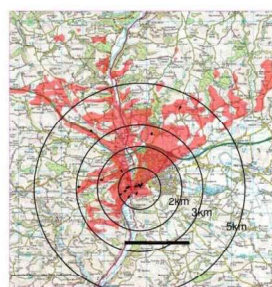
### 5.1 Actual Visibility and key visual receptors

The actual visibility of the site from publically accessible areas is limited due to .

- The position of the site close to the southern edge of Tiverton Town Centre, so the built form of Tiverton restricts views of the site
- The low lying nature of the site - meaning other buildings and trees are screening the site from low lying areas. .
- The landscape character with its intricate nature and well wooded appearance –restrict, break up views and provide visually diverse views.
- Rural landscape and narrow winding country lanes
- Majority of land is private farmland, limiting public access to public footpaths.

The key visual receptors initially considered as likely to experience the development are identified as local people and residents, walkers using public rights of way, car drivers, landowners and farm workers, and visitors to Knightshayes Court.





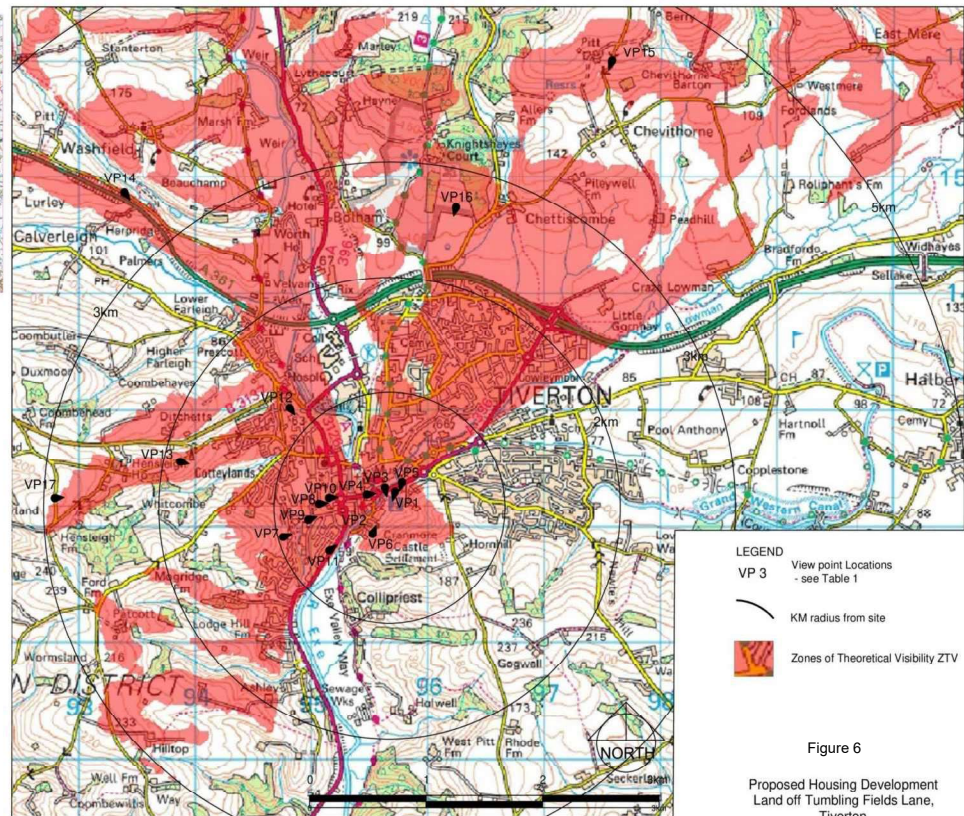
ZTV - WIDER CONTEXT

The ZTVs were generated by Swan Paul Partnership Ltd using WindPRO, Version 3.3 software. The ZTV was produced on the 06/03/2020 using grid references across the site with the following coordinates:

L 295624	N 112212	H 165.1	Height 8.4m
E295628	N 112217	FFL 65.5	Height 9m
L 295633	N 112223	FFL 65.5	Height 9m
L 295639	N 112232	FFL 65.5	Height 7.5m
L 295644	N 112241	H 165.3	Height 8m
L 295656	N 112209	H 167.7	Height 8.4m
L 295663	N 112207	FFL 68.0	Height 9m
E295667	N 112204	FFL 68.0	Height 7.8m
E295665	N 112193	FFL 68.0	Height 8.2m
E295662	N 112189	FFL 68.4	Height 9m
E295666	N 112182	FFL 68.4	Height 9m
E295663	N 112177	FFL 69.4	Height 7.8m
E295619	N 112180	FFL 66.5	Height 8.1m
E295627	N 112177	FFL 67.2	Height 7.4m
L 295633	N 112173	H 167.6	Height 9m
L 295640	N 112165	FFL 69.0	Height 9m
E295645	N 112166	FFL 68.4	Height 9m

Housing height ranging from 7.4m to 9m has been used in accordance of the different house types and the provided finished floor levels.

1.5m eye level height criteria for calculation of the ZTVs and for views within 5km radius.



**LEGEND**  
 VP 3 View point Locations - see Table 1  
 — KM radius from site  
 Zones of Theoretical Visibility ZTV

Figure 6

Proposed Housing Development  
 Land off Tumbling Fields Lane,  
 Tiverton.  
 ZTV and viewpoints

ZTV produced by Windpro software by Swan Paul Partnership Ltd who holds the licence and have given Foxford Design Ltd - Chartered Landscape Architects permission to use the output



**VIEWPOINT 1** – View looking SW towards site from public footpath



**VIEWPOINT 2** – View looking towards Hamlin Close



**VIEWPOINT 3** – View Looking S towards site from A396 - Grand Western



**VIEWPOINT 4** – Looking E from footbridge over A396 that links St Andrews Street North and South



**VIEWPOINT 5** – Looking SW along A396 in the direction of the Site



**VIEWPOINT 6** – Looking North from Little Silver

**VIEWPOINTS 1-6** – Visual Assessment – see table 1



**VIEWPOINT 7**– From Turner Rise off Palmerston Park looking NE



**VIEWPOINT 8**– From Broad Lane looking East



**VIEWPOINT 9**– From Howden Lane looking East



**VIEWPOINT 10**– Near Roundabout Exeter Road / Broad Lane looking East



**VIEWPOINT 11**– From A396 Exeter Road looking NE on the approach to Tiverton

**VIEWPOINTS 7-11** – Visual Assessment – see table 1





**VIEWPOINT 12** – From Derrick Road looking SW



**VIEWPOINT 13** – From Gateway on Hensleigh Road looking ESE



**VIEWPOINT 14** – View looking SE from Gateway on Long Lane.



**VIEWPOINT 15** – From gateway looking SSW from lane North of Chevithorne



**VIEWPOINT 16** – From Fields on Knightshayes Estate looking South



**VIEWPOINT 17** – View from Gateway on Farmland to W of Site and Exe Valley

**VIEWPOINTS 13-17** – Visual Assessment – see table 1

**Table 2 - Viewpoints – Visual Analysis.**

Refer to photos Views 1-12

View point Reference	Description	Grid Reference of viewpoint	Level of Importance	Degree of visibility of the Development	Distance of dev from viewpoint	Nature of Effect			Receptor of view	Magnitude of receptors number	Importance
SITE Height 59-70m		SS 956 122									
VIEW 1 Height 60m	View looking SW towards site from public footpath near Tumbling Field Lane	SS 956 122	Local	View of Site over Northern boundary	Near 50m	A	D	P	Locals /Local Residents	small	Moderate/ Minor
VIEW 2 Height 59m	View looking towards Hamlin Close	SS 955 121	Local	Site behind Hamlin Close –Ridge of new houses just seen	Near 60m	A	D	P	Locals /Local Residents	small	Minor
VIEW 3 Height 60m	View Looking S towards site from A396 - Grand Western Way	SS 956 123	Local	Glimpse of site through gap in road side screen planting.	Near 75m	A	D	P	Road Users/Locals	small	Minor
VIEW 4 Height 60m	Looking E from footbridge over A396 that links St Andrews Street North and South	SS 954 122	Local	Urban Form and Trees screen site	Near 195m	NONE			Locals	small	-----
VIEW 5 Height 60m	Looking SW along A396 in the direction of the Site	SS 956 123	Local	Roadside Planting screens views	Near 90m	NONE			Road Users/Locals	small	-----
VIEW 6 Height 83m	Looking North from Little Silver	SS 955120	Local	Views down towards site partially screened by buildings and trees	Near 220m	A	D	P	Local Residents	Very small	Minor

View point Reference	Description	Grid Reference of viewpoint	Level of Importance	Degree of visibility of the Development	Distance of dev from viewpoint	Nature of Effect			Receptor of view	Magnitude of receptors number	Importance
SITE Height 59-70m		SS 956 122									
VIEW 7 Height 84m	From Turner Rise off Palmerston Park looking NE	SS 948 119	Local	Belt of Woodlnd and trees and building near site form screening – Rooves may be visible	Long 900m	A	D	P	Local Residents	Very small	Minimal
VIEW 8 Height 60m	From Broad Lane looking East	SS 950 122	Local	Urban Form and Trees screen site	Medium 530m	NONE			Local Residents	small	-----
VIEW 9 Height 58m	From Howden Lane looking East	SS 949 121	Local	Urban Form screens site	Medium 640m	NONE			Local Residents	small	-----
VIEW 10 Height 60m	Near Roundabout Exeter Road / Broad Lane looking East	SS 952 122	Local	Urban Form and Trees screen site	Medium 420m	NONE			Road Users /Locals	medium	-----
VIEW 11 Height 57m	From A396 Exeter Road looking NE on the approach to Tiverton	SS 951 118	Local	View of site screen by along River Exe	Medium 640m	NONE			Road Users/Locals	medium	-----
VIEW 12 Height 71m	From Derrick Road looking SW	SS 948 130	Local	Urban Form screens site – Rooves may just be visible	Far 1.2km	A	D	P	Local Residents	Very small	Minimal
VIEW 13 Height 147m	From Gateway on Hensleigh Road looking ESE	SS 948 130	Local	Partial view of Site – close to Urban form of Tiverton and Trees View	Far 1.7km	A	D	P	Local Landowners	Very small	Minimal

View point Reference	Description	Grid Reference of viewpoint	Level of Importance	Degree of visibility of the Development	Distance of dev from viewpoint	Nature of Effect			Receptor of view	Magnitude of receptors number	Importance
SITE Height 59-70m		SS 956 122									
VIEW 14 Height 122m	View looking SE from Gateway on Long Lane	SS 942 143	Local	Urban Form and Trees screen site. Rooves may just be seen	Far 2.6km	A	D	P	Local Landowners	Very small	Minimal
VIEW 15 Height 188m	From gateway looking SSW from lane North of Chevithorne	SS 975 159	Local	Site beyond urban form of Tiverton and discernible	Far 4km	NONE			Local Landowners	Very small	-----
VIEW 16 Height 110m	From fields on Knightshayes Estate looking South	SS 952 122	Local	Urban Form and Trees screen site	Far 2.5km	NONE			Visitors /Locals	small	-----
VIEW 17 Height 235m	View from Gateway on Farmland to W of Site and Exe Valley	SS 929 122	Local	Partial view of Site – close to Urban form of Tiverton and Trees	Far 2.7km	A	D	P	Local Landowners	Very small	Minimal

Distance of development from viewport – Near = <250m, Medium Distance = 250-750m, Long Distance = 750-1000m, Far = >1km

Nature of effect – A=Adverse, N=Neutral, B=Beneficial, D=Direct effect, I=Indirect effect, P=Permanent, T= Temporary

Magnitude of receptors – numbers of receptors, very small, small, medium, large, very large, extensive.

Importance – insignificant, minor, mod= moderate, major, severe, -

The Importance criteria used within the visual assessment is.

SEVERE – An Adverse Landscape or Visual Effects which represents a key factor in the decision-making process. These effects directly affect the landscape or visual quality of the National Park. Typically, mitigation measures are unlikely to remove such effects. MAJOR - Landscape or Visual Effects which will be important to the perception of the National Park and could have an effect on the visual or landscape character of an area. Mitigation measures and detailed design work are unlikely to remove all of the effects upon the affected communities or interests. MODERATE - Landscape or Visual Effects which will be experienced at the district or local scale, but are not likely to be key decision-making issues. Mitigation and detailed design may ameliorate or enhance some of the consequences. Some residual effects will arise. MINOR - Landscape or Visual Effects which will have little overall impact on the landscape and visual character of the area. These effects may be raised as local issues but are unlikely to be of importance in the decision-making process. Nevertheless they are of relevance in enhancing the design of the project and consideration of mitigation measures. MINIMAL/INSIGNIFICANT - No effect or effect which is beneath the level of perception

## 6.0 Development Proposals

The proposed development is for 22 affordable residential dwellings, consisting of 4 blocks of 2 storey dwellings, including a mix of 1 bed apartment, and 2 and 3 bed houses all with associated parking set around a shared surface road layout. The road will enter the site from Hamlin Close through the existing boundary and swing right and rise up the slope to the houses. . Figure 7 shows the site layout

The hedge boundaries on the North, East, South will be retained along with the majority of the western hedge. The proposals retain a landscaped buffer around the margins of the site to provide ecological benefits. An open space is proposed at the North Western side which will be the location for the water attenuation tanks. . Refer to the Design and Assess statement and plans accompanying the application for details of the development for further details.



Figure 7 – Architects Site Plan – P1747 – 02





## 7.0 Potential Effect

From the landscape and visual baseline conditions, the effects the development will have on these are considered. Whilst related, the visual and landscape components are two different considerations and therefore the impact of the development on each is assessed separately.

In order to assess the landscape and visual effect of a development the sensitivity of the receptor to change (i.e. the designated areas or landscape character areas or people) and the magnitude of the likely effect on them are assessed. Sensitivity is a combination of susceptibility to change of the landscape receptor or visual receptors and the perceived value of the receptor.

Susceptibility indicates “the ability of the defined landscape or visual receptor to accommodate the specific development without undue consequences for the maintenance of the baseline situation”<sup>2</sup>. Sensitivity is then combined with the magnitude of the likely effects of the development (based on its scale (amount of alteration to the baseline situation), duration and extent (indicates the geographic area or extent of view over which the effect will be felt).

Combining the sensitivity and magnitude gives the overall level of importance of the effect.

### 7.1 Potential Effect of the development on the baseline condition

The site and its surrounding are not cover by any landscape designations, and is outside of Tiverton’s Conservation Area boundary. However Cranmore Castle, a univallate hillfort and schedule monument is situated to the south / south east of the site.

The Site lies on the edge of Tiverton Town LCT 7 and the River valley slopes and Combes LCT3G. This landscape has a very good quality and high scenic value in particular to the SE and S of the site and a rich and intricate character..

The proposed development is on a small field laid to grass (approx.0.74 hectares), which is surround on the north, east and south by native hedges with trees. The proposals will change this pastoral field to an area of residential housing with associated road, parking and infrastructure. Approximately 0.5 hectares of the site will become buildings, road, parking and gardens, whilst the remainder will be open space (0.1 hectares in the NW), the retained boundary hedges and the ecological buffer to them. The site will retain its enclosed nature, with a tall hedge boundary to the north east, east, and south. The field is on the edge of Tiverton on low lying land around 62-71m above sea level. The hedge to the East of the site continues north to meet the town by pass, this hedge is not affected by the development and provides a strong landscape feature separating the site from the larger pastoral fields and farmland to the East of the site.

Several trees and areas of vegetation will be removed as part of the development to form the site entrance and part of two areas of existing young native tree and shrub planting in the NE and SE corners of the site will be removed to accommodate the proposals. The NW corner will have an attenuation tank buried beneath the ground, however due to drainage requirements and outlet levels the top of the tank will be around 63.6m. Therefore this section of open space will be raised. The original gate access into the field will be removed and a new pedestrian access to Tumbling Fields Lane added.

The field slopes at around 1:10 from about 62.3m and the new access road will rise up the slope to the housing and level areas of parking. At the top of the site these will be dug into the existing ground to keep ridge heights down. Ridge heights across the site will be between 73.5 on the lower part of the site and 77.4m above sea level on the higher part. The open space will create a buffer between the existing 2-3 storey town houses on Tumbling Field Lane and the new properties, however the new properties are at around 65.57 FFL. A new hedge will be planted to the front of the dwelling to soften the appearance of the base of the houses.

The proposed development will have a permanent adverse effect, placing housing into a green field area. However the boundary trees and vegetation will be retained. There will be alteration to landscape character and the post development baseline situation will be noticeably changed. The magnitude of the effect of the development and degree of change exhibited on the landscape or view will vary within the context it is experienced. The level of importance of the landscape and visual effect as a result of the development is therefore considered in the following sections in terms of their sensitivity and magnitude.

When considering the effect of the development on the landscape particular consideration is given to the physical change to the fabric / structure of the landscape; the integration of a development to the surrounding landscape pattern and structure; and the degree to which opportunities to preserve or enhance character are taken. When considering the effects of the development on the view the magnitude and sensitivity of the visual receptors are considered.

#### **7.1.1 Landscape Effect – Impact of the development on the site and immediate surroundings.**

The development site is situated in a small sized field enclosed by hedges and trees on the edge of Tiverton. Being close to Tiverton and low in the valley allows for a natural extension of the Town. The main landscape features characteristic of the area, hedges and trees around the edge of the site will be retained, thereby retaining the structure of the landscape pattern. Within the site ecological margins are provided to buffer the development's built form from these features to lessen pressure on them, giving greater assurance to their long term retention as broad landscape features. The residential development will therefore be built into the existing landscape pattern on a parcel of land located in an area that provides a natural extension of the Town.

The area is not covered by landscape designations and therefore valued at the community level and the location would allow the landscape to accommodate the development without undue landscape consequences so a Medium- Low landscape sensitivity is judged for the site.

The development will result in a permanent change of 0.5 hectares of a 0.74 hectare field to housing, but the existing landscape hedges to the north south and east will not be affected. The scale of the landscape effect is judged as medium, as there will be partial alteration to key features and characteristics giving a noticeable change, but the extent is limited, therefore overall the magnitude of the effect is judged as low. Combined with the medium-low sensitivity of the area, the overall landscape effect of the development on its immediate surroundings is considered to be of moderate importance. This should not preclude development but high quality buildings and mitigation measures are important to generate an acceptable scheme to fit into the context of the area.

### 7.1.2 Landscape Effect – Impact of the development on Cranmore Castle..

When considering the landscape impact of the development on Cranmore Castle, the scale of the development is less than 6% the size of the Hillfort. The development is located on low lying land between 62-71m above sea level, whilst the Hillfort ramparts closest to the site are around 130-140m above sea level, at a distance of 260m.. The land rises gently from the proposed site and then more steeply to the scarp and the earth ramparts on the northern edge of the Hillfort. The development lies in fields that were historically enclosed later than the higher slopes (i.e. C18th and C19th rather than medieval). It is therefore considered that the effect of the development in terms of landscape would have no undue consequences on the Hillfort and whilst having a national historic value, the magnitude of the effect is low and will be of minimal importance. Considering the adjacent housings relationship to the Hillfort, the existing housing around Little Silver is at around 85m above sea level and only 150m from the Hillfort ramparts which are only 120m above sea level at that point and so nearer to the Hillfort than the proposed development.

### 7.1.3 Landscape Effect – Impact of the development on the wider landscape.

When considering the impact of the development on the wider Landscape Character of the area, the scale of the development and the position close to the edge of Tiverton means the extent of the landscape effect on the wider LCA and LCT will be so small as to be of minimal importance.

## 7.2 Visual Effect

Visual impact assessments consider the nature and extent of the impact of a development on a view combine with the nature of the visual receptors to give a level of importance. (Table 2) Visual Assessments concentrates on public views, from publically accessible areas. The visual analysis identified the views and direction of views from which the development will be perceived.

Due to the sites location, near the confluence of the Rivers Exe and Lowman within a valley setting, with high ground rising steeply above, the Zone of Theoretical Visibility generated is mainly a scattered area to the NE to SSW of the site. The character of the landscape with strong pattern of field enclosure by hedges is a predominantly farmed landscape, the wooded valley of the River Exe, and the screen planting associated with North Devon Link Road and Grand Western Way and the urban form of Tiverton means actual view point from publicly accessible areas are limited.

Most views are either immediately adjacent to the site or from higher ground (above 100m above sea level) at distance from the site. With high ground and longer distances the site a progressively smaller element within the wider view and so as the distance increases the potential for a visual effect diminishes. This is especially so in this area where the mosaic of elements and landform within the view are complex and diverse, as experience in this area..

Within the study area views from public rights of way access is limited to narrow winding roads and footpath and the visual receptors were assessed as being local people using footpaths, land owners or agricultural workers.

Where longer distance views are achieved the magnitude of the development is negligible, and the site seen in the context of Tiverton. Vegetation often significantly screens the site and therefore only some roof top may be seen, if at all. Therefore the longer distance views of the site are judged as of minimal importance.

The main visual effect will be experienced by locals using the footpath link north of the site and the residents of the 2-3 storey town houses opposite the site on Tumbling Fields Lane and those in Hamlin Close. Visual Assessment focuses on views from publically accessible areas, rather than private dwellings, however it is acknowledged that the residents of Tumbling Fields Lane are the main visual receptors. The view is limited to a very small number of visual receptors who would have a High –Medium sensitivity and the magnitude of the change of the view is judged as medium. So in visual assessment terms the importance of the visual effect of the development, on those close to the development, though from private areas is judged as of moderate importance.

The development will have an impact on the view to Cranmore Castle from the viewpoints close to the development identified in the study ( Viewpoint 1 / Photo A p.13). However, being elevated and visible from a wide area around Tiverton it is judged that the magnitude of this visual impact due to the development is small in terms of the overall views of the Hillfort from the surrounding areas and so of minimal importance.

There may be some views from individual properties or views from farmland scattered through the wider study area, however this report focuses on only publically accessible areas. However it is recognised that there may be some places where residents will see the change from their homes, but whilst having a medium-high visual sensitivity, they will be small numbers and often the development will be a small element in a wider view, and so the effect is judged as minor.

### **7.3 Elements of the development:**

The quality of the landscape surrounding the area is very good. The assessment of landscape and visual effect has considered the scale of the development. However the appearance of the buildings in terms of colour and materials used and the design approach to layout and planting are fundamental to how well the development can integrate into the surroundings.

External lighting has an effect on the landscape and visual amenity but has not been assessed in this report. Street lighting will be required by the highways authority. Being situated on the edge of the town and next to the countryside the site lighting needs to be sensitively designed to control and reduce local light pollution and overspill into the countryside and adjacent housing. The CPRE data for light pollution and dark skies indicates night light level of around 16-32 (nanowatts/cm<sup>2</sup>/sr) within the centre of Tiverton lessening to 16-18 on the edges around Tumbling Fields, with the farmland near Cranmore Castle at 2-4.

## 8.0 Mitigation and Enhancement

Following the assessment of the landscape and visual effect of the proposed housing, mitigation and enhancement measures are recommended. The following items are recommended to integrate the development into the local landscape:

1. Design in keeping with the local character
  - a) Retain existing hedges and tree lined boundaries and manage for the long term benefit of, wildlife and screening. Ideally the whole section of the northern boundary should be allowed to grow up as tall hedges to screen the development from the north, however as the hedge is not owned by the applicant, planting on the inner hedge bank of native trees and shrubs is recommended to introduce taller planting. The southern boundary hedgerow should be coppice, and new transplants added for diversify in order to regenerate the hedges structure.
  - b) Provide a landscape buffer between the houses and the hedges, and manage for the benefit of wildlife to lessen the pressures on the hedges.
  - c) Contour the open space in as natural a manner as possible around the surface water storage.
  - d) Create diversity in the grass and flora in the open spaces and buffer zone using summer flowering meadows, tussocky grassland or hedgerow species mixes
  - e) Provide hedge or climbers on mesh or trellis fencing to selected garden boundary to soften the site's internal boundaries.
  - f) Provide planting on the western boundary with Tumbling Field Lane to soften/ screen the visual impact of the new road – where possible.
  - g) Hard landscaping - lessen the overall impact of the road by using different materials
  - h) Fencing – Soften the impact of fencing, using a mix of 1.5m close board fencing with 0.3m trellis above; trellis to the front of 1.8m high close board fences to allow climber to grow, and mesh garden fencing between gardens and natural boundaries.
2. Use native species that are in keeping with the local character
  - a) Plant tree and shrub species typical of the area (e.g. oak, hawthorn, alder, hazel, field maple, beech, rowan, holly, elder, willow, dogwood, spindle, wild privet, wild cherry, crab apple and holly) in order to integrate with the existing landscape and ecology, using trees and shrub nursery stock of local provenance. Strength areas where Ash is present to future proof against ash die back disease.
  - b) Where native species are less practical close to houses use planting that provides a naturalistic effect.
3. Adopt a management regime for the boundary hedges that allows those on the North, South and East boundary to grow tall and bushy to maximise the screening effect and value for wildlife. Sides of hedges to be trimmed back lightly outside of nesting period and to allow maximum flowering and fruiting effect of plants for wildlife. ( Jan- Feb) Carryout long term maintenance of hedges in a phased approach to ensure coverage is maintained.
4. Plant and seed hedges and hedge banks at the earliest opportunity during the construction process in the correct season once formed, to allow establishment

5. Design lighting sensitively with careful consideration to avoid unnecessary light pollution or spillage into the hedges, adjacent fields and properties.

## **9.0 Temporary effect**

In terms of landscape and visual impact there will be a temporary effect during construction works in the grading, groundwork and construction and hedgerow maintenance. The construction programme and operations should minimise the extent and duration of disturbance. Landscaping and remediation should be implemented at the earliest opportunities to allow time to establish and regenerate.

## **10.0 Residual effect**

The mitigation and enhancement measures identified in section 8 include landscaping and planting items. When incorporating any soft landscape measures it is the established vegetation and planting that will have the positive benefits. There will be a delay before new woody vegetation establishes and provide the effect intended to fully integrate the development into the landscape. Management then needs to be carried out to secure the design intent.

The tree and shrub planting enhancement cannot be expected to have a beneficial effect or major impact for at least 5-8 years. There will be therefore an initial adverse residual effect of the development in landscape and visual terms until this time. This effect is temporary and the level of importance will progressively reduce over time. With the planting becoming a beneficial effect to the landscape. Planting, whilst including some native evergreen species, will be mainly deciduous in character, in keeping with the local character of the area and therefore there will be a reduction in the extent of screening achieved in the winter months, however this is typical of existing features in the area.

## **11.0 Summary and Conclusion**

The site is located to the south side of Tiverton at around 62-71m above sea level, in a field laid to grass surrounded by hedges. The site is not covered by any landscape designations, though there is a scheduled monument, Cranmore Castle, to the south east.

The site lies in the Exe Valley Landscape Character Area, on the edge of the town Landscape character type LCT7 and the River Valley slope and combes LCT 3G. The landscape has a rich pattern of hedges, copse and woods, associated with the river valley, combes and farmland giving an overall well wooded appearance.

The Zone of Theoretical Visibility, the area in which the site can be seen based on topographical data only is mainly to the NE to SSW-of the site. However actual visibility is limited, due to the position of the site close to the town; the low lying position of the site within the valley at the confluence of the Rivers Exe and Lowman; the well wooded appearance and undulating nature of the landscape, and the predominantly farmed nature of landscape limiting public access.

The Landscape and visual assessment established the baseline situation from which the likely effect of the development were assessed

The landscape assessment judges that the Landscape impact of the development would be: of moderate importance when considering the landscape of the site and its immediate; it would of minimal importance in terms of the landscape effect on Cranmore Castle; and of minimal importance to its effect on the wider landscape character area.

The visual assessment determined that views of the site from publically assessable areas would either be longer distance views or close views immediately adjacent to the development site. It is recognise that views from individual properties may occur scattered through Zone of Theoretical visibility, however these are not assessed in this study. The assessment judges that the visual effect of the development would have minimal effect on the longer distance views, and moderate importance on close views. In terms of views to Cranmore Castle it is judged that the overall visual effect from the development on overall views to the Hillfort will be of minimal importance, though there is a moderate effect in terms of the close views near to the site.

Whilst the report identifies landscape and visual effects experienced near to the site with moderate importance these are ones experienced at a very local scale and are not key decision-making issues. Mitigation and detailed design can ameliorate some of the consequences, but the development of housing means residual effects will arise.

By taking into account mitigation measures to help integrate the site into the surroundings and consideration of the quality of the building, the development could be constructed without undue impact on the landscape or visual quality of the area.



## References

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3. *Historic England* <https://historicengland.org.uk/listing/the-list/list-entry/1020156>
4. <https://ancientmonuments.uk/118354-cranmore-castle-tiverton#.XmTMG0B2tIM>
5. *Mid Devon Local Development Framework Plan - Part 1 Core Strategy 2006-2026 – Mid Devon District Council*
6. *Mid Devon Local Development Framework -Part 3 Development Management Policies – Mid Devon District Council*
7. *Countryside Agency and English Nature (1998), The Character of England.*
8. *National Character Area Profiles – 148 – Devon Redlands - Natural England*  
<http://publications.naturalengland.org.uk/publication/6150022>
9. *Devon County Interactive Map (2019)* <http://map.devon.gov.uk/dccviewer/>
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11. *Mid Devon Landscape character assessment. Mid Devon District Council (Oct 2011)*

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**Application No. 20/01537/HOUSE**

**Agenda Item 2**

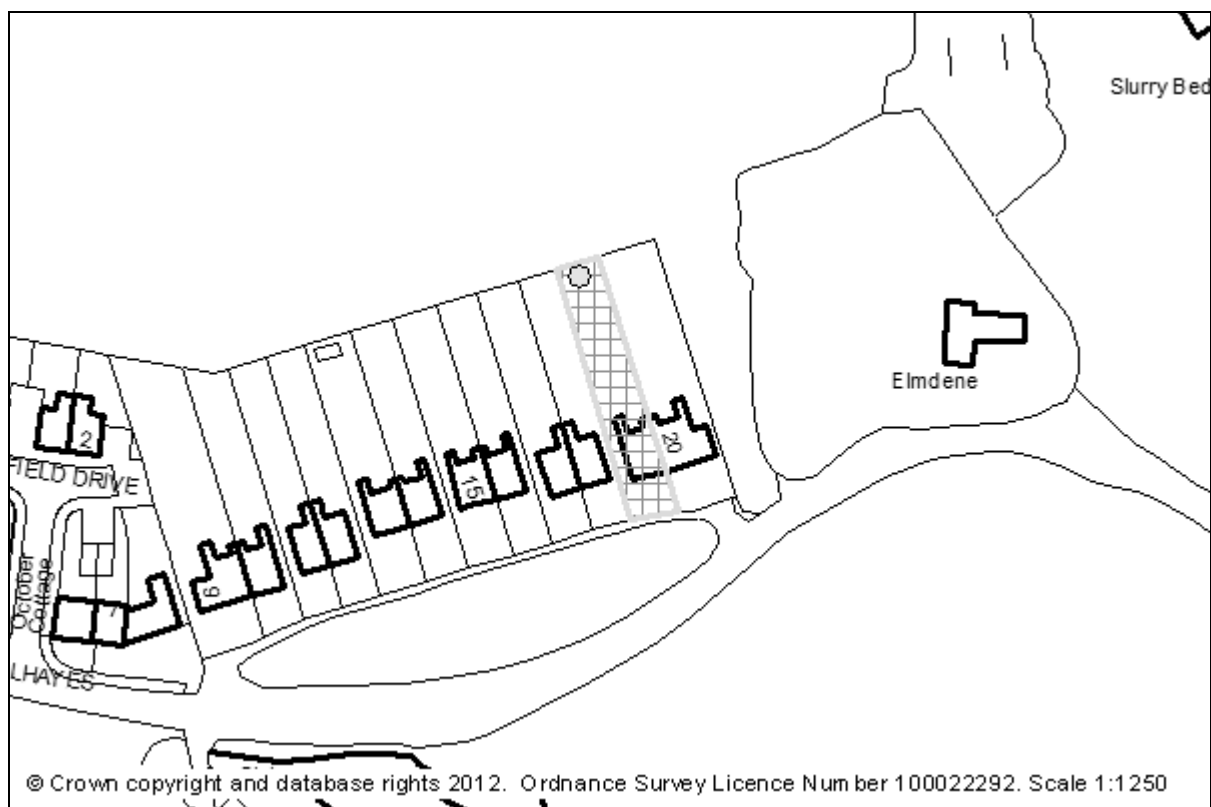
**Grid Ref:** 113966 : 314195

**Applicant:** Miss Marie  
Ingersoll

**Location:** 19 Lower  
Millhayes  
Hemyock  
Cullompton  
Devon

**Proposal:** Retention of  
timber outbuilding  
to be used  
ancillary to the  
main house,  
retention of  
decking and  
proposed  
installation of  
water supply and  
drainage pipes  
underground

**Date** 2nd October 2020  
**Valid:**



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

**20/01537/HOUSE - Retention of timber outbuilding to be used ancillary to the main house, retention of decking and proposed installation of water supply and drainage pipes underground - 19 Lower Millhayes, Hemyock, Cullompton**

**Description of Development:**

The applicant seeks planning permission for the retention of timber outbuilding to be used ancillary to the main house, the proposed installation of water supply and drainage pipes underground. The initial submission included the retention of an area of decking, however since Members considered this application the decking has been reduced so that this would now fall within permitted development limits, not exceeding 300mm from original ground level.

A certificate of proposed lawful use application was refused in August 2020 (reference: 20/00887/CLP) due to the proposed installation of water supply and drainage being considered to be excavation works requiring planning permission hence this application has been submitted. The application seeks planning consent for the retention of timber outbuilding to be used ancillary to the main house. Historically (pre-2017) there was an outbuilding on the site which is visible in aerial photographs at the end of the garden.

In 2019 the planning enforcement team were made aware of the site and the outbuilding. This application now seeks to regularise the outbuilding as built on the site with some minor changes including changing a door to an obscure glazed window to serve the shower room/toilet and one new window on the rear to serve the proposed bedroom. The outbuilding measures 4.4m x 7.5m with an additional porch on the front measuring 3.35m x 1.8m. The maximum height of it is 2.5m. It is located 22.4m from the rear of the house.

**Reason for Report:**

At the meeting on the 10th March 2021, it was resolved that Members were minded to refuse the application and therefore wished to defer the application for consideration of an implications report setting out suggested reasons for refusal and the associated implications.

**RECOMMENDATION(S)**

**Grant permission subject to conditions**

**Relationship to Corporate Plan:**

## Environment

- Protecting the natural environment

**Financial Implications:** An appeal may require the appointment of planning consultants to assist in the defence of the reasons for refusal. The applicant may make an application for costs on any appeal against the Council and such costs claims are made by demonstrating that there has been unreasonable behaviour. That being the case, Members must be able to clearly justify each and every reason for refusal in line with the development plan and all other material considerations.

**Legal Implications:** The report identifies the risks in proceeding with an appeal based on the reasons given by the Committee on the 10th March 2021 – both in terms of outcome of an appeal and the risk of a costs decision. The Council will still need to prepare draft planning conditions for the appeal.

## Risk Assessment:

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

## REASONS FOR REFUSAL AND IMPLICATIONS:

At the Planning Committee held on the 10th March 2021, Members gave consideration to:

- A condition could be introduced to raise the boundary fencing to a height of 2 metres to increase privacy
- Concerns from Members that the plans in front of them were inaccurate
- Concerns about what the building was to be used for
- If the building had a kitchen
- The difference in permitted development rights for properties within an Area of Outstanding Natural Beauty
- How the use of the building would be monitored
- The views of the objector who felt that the building failed to comply with any of the permitted development rights, the building was not timber and the planning report was a manipulation of policy
- The views of the agent who stated that the outbuilding was not to be used as an independent dwelling or a holiday let and would be used as an ancillary building. There were no current plans to install a kitchen and the application met criteria for policies DM11 and DM27
- The views of the Parish Council who felt that the shed dominated the top of the garden, the installation of a water supply was inappropriate and would encourage more frequent use. Neighbouring properties could be looked into by people using the decking
- The views of the Ward Member who stated that the decking had a negative impact on neighbouring properties, there were a lot of anomalies with the dimensions of the building

- Members views that the building was not compliant with policies DM1, DM11 or DM27
- The building was too far away from the house, on an elevated site and too dominant

Members of Planning Committee resolved that they were minded to refuse the application and therefore wished to defer the application for an implications report to consider the proposed reasons for refusal that of:

The proposed outbuilding and decking in terms of its size, appearance and location on an elevated site is not considered to make a positive contribution to the local character. In addition it is considered to adversely affect the amenity of neighbouring occupiers by virtue of unacceptable overlooking and its overbearing nature. Adequate justification for the proposal has not been provided and the submitted information is unclear. Consequently the proposal is contrary to policy DM1 and DM11 of the Mid Devon Local Plan.

### **The wording for the reason for refusal**

The Committee was minded to refuse the application on the grounds listed above. Set out below is the reason for refusal which would appear on the planning decision notice to address the above issues raised:

1. In the opinion of the Local Authority, the proposed outbuilding and decking in terms of its size, appearance and location on an elevated site is not considered to make a positive contribution to the local character of the area. The development is considered to adversely affect the amenity of neighbouring occupiers by virtue of unacceptable overlooking and its overbearing nature, with inadequate justification provided for the proposed ancillary accommodation on site. The proposal is therefore considered to be contrary to policies DM1 and DM11 of the Mid Devon Local Plan 2013-2033.

### **The implications of refusing the application**

As noted earlier in the report the area of decking has now been reduced so that the decking on site would constitute permitted development falling within Class A, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), not exceeding a height of 300mm when measured from the original ground level. Therefore no enforcement action could be taken to remove this decking structure and a reason for refusal based on the grounds of the decking installed or potential for overlooking from said decking would be deemed to be unreasonable. As such Members are advised that any reason for refusal on this ground would fail and should not be included within any reason for refusal given.

That would then leave the following suggested wording:

1. In the opinion of the Local Authority, the proposed outbuilding in terms of its size, appearance and location on an elevated site is not considered to make a positive contribution to the local character of the area. The development is

considered to adversely affect the amenity of neighbouring occupiers by virtue of unacceptable overlooking and its overbearing nature, with inadequate justification provided for the proposed ancillary accommodation on site. The proposal is therefore considered to be contrary to policies DM1 and DM11 of the Mid Devon Local Plan 2013-2033.

Part of the ground of refusal relates to Members concerns regarding to the visual impact of the building on the character of the area through the size, appearance and position on an elevated site with reference made by that Members felt that the proposal would be contrary to Policies DM1 and DM11.

Policy DM1 (High quality design) states that *'Designs of new development must be of high quality, based upon and demonstrating the following principles:*

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

With respect to the criteria outlined above, it would appear that Members are concerned primarily with criterion (a), (c) and (e) of Policy DM1 which focuses on understanding the characteristics of the site and surrounding area and to ensure that development makes a positive contribution to local character and creates visually attractive places taking into account architecture and materials.

Policy DM11 (Residential extensions and ancillary development) states that *'Extensions to existing dwellings and other ancillary development will be permitted provided that they:*

- a) Respect the character, scale, setting and design of existing dwellings;*
- b) Will not result in over-development of the dwelling curtilage; and*



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

On this matter of the impact on the character of the area, as referred to within the officer report, under permitted development rights in an Area of Outstanding Natural Beauty an outbuilding of 10sqm can be erected in the garden of a dwelling as long as it is less than 20m from the rear of the dwelling and the height could be 4m where located over 2m away from the boundary. This outbuilding amounts to a total of 39.03sqm and is located 22.4m from the back of the house which is the reason planning consent is required for its retention. The outbuilding measures 4.4m in depth x 7.5m wide (across the garden) amounting to 39.03sqm. The overall height of the monopitched building is 2.5m and there is a small porch like structure on the front of the outbuilding which measures an additional 3.35m x 1.8m. The property benefits from a long garden which is considered more than sufficient to accommodate the outbuilding of this size.

The outbuilding which is existing on the site is constructed of timber with a dark stain/paint on it. The building appears as an outbuilding in the rear garden of the property and does not look out of keeping in its scale or appearance with other garden sheds and structures found in gardens in the immediate area. The site is located within the Blackdown Hills Area of Outstanding Natural Beauty. The site is within the village of Hemyock and the impact of the proposal on the AONB is considered to be limited to the site and terrace of houses rather than the further village or AONB setting. The appearance of the outbuilding and decking are typical of many domestic outbuildings and the officer view is that they do not appear out of keeping. As such the proposal is considered to comply with policies DM1, DM11 and DM27 of the Mid Devon Local Plan 2013-33.

In terms of the structure itself, another matter which would need to be considered by Members is that there is aerial photography that shows the building in situ from June 2017. In Members were minded to refuse this application and an enforcement notice served for its removal, it is considered that given the time available to appeal an enforcement notice of one month and taking into consideration the appeal timeframe with the Planning Inspector a period of 4 years is likely to be passed. As such the building will be immune from any enforcement action. Therefore Members will need to consider this point and to whether any refusal should result to the conversion of the structure into ancillary accommodation and the proposed works to the building to allow this to happen.

The outbuilding is to be used ancillary to the main house, there is currently a garden store area which is proposed to become a bedroom and shower room, with proposals to include obscure glazing to the door to provide privacy. In the other area of the structure is a current bedroom which has been used by a member of the family to sleep within. With respect to the current bedroom, the proposal is to change this into a general sitting room and as such a one bedroom annexe would be created with information provided that the mother of the applicant would reside in this building, being able to care for the grandchildren.

As noted in the officer report, if the outbuilding were to be used as a separate dwelling house which was noted as a concern of neighbouring residents, then a full

planning application would be required for that use with further assessment required on whether this would be appropriate. The applicant has confirmed that the outbuilding is used for ancillary living accommodation and the water supply and drainage pipes are proposed so that a small shower room can be installed to serve the outbuilding. A condition is possible to control the use of the outbuilding in order to prevent this from being used, let, sold or otherwise disposed of as a separate unit of living accommodation. This is a standard condition which has been applied to other annexe buildings allowed within the curtilage of residential properties within the district, which are to be occupied by relatives to the occupiers of the main dwelling on site.

Another concern by Members relates to the impact on neighbouring properties amenity.

Officers have visited this site and it is noted that there is intervisibility between gardens due to the slope of the land with the rear gardens higher than the terrace properties. However the decking installed now would be permitted development and as such occupiers of the dwelling could stand in this location and view back toward the rear of neighbouring properties. Therefore this just leaves the matter of the building constructed and whether this would result in significant overlooking to the detriment of amenity currently enjoyed by occupiers of neighbouring property.

As noted earlier, permitted development rights would allow for a building 4m higher with a floor area of 10 square metres in the position of the current outbuilding which could result in a similar outlook. With respect to the two openings, one door is to be obscure glazed which could be conditioned leaving one. The height of the outbuilding is 2.5m which again is not considered to be an overbearing height, especially taking into consideration the distance between the building and the back of properties. The view from officers is that there would not be any significantly adverse overlooking or loss of privacy and whilst the impact on the visual amenity and character of the application site and area in general is subjective, in all likelihood the building is to remain given the length of time the building has been on site becoming immune to enforcement action.

One implication of a reason for refusal on the above grounds is that in the event of an appeal being made, the Planning Inspector even if minded to dismiss the appeal could award a partial award of costs where they believe a party has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense. There are appeal decisions whereby the Inspector has concluded that sufficient evidence has not been provided in light of adopted development plan policies other than beyond very generalised assertions and therefore did not substantiate the reason for refusal and thus put the applicant to the unnecessary expense of preparing grounds of appeal and then final comments to rebut the reason.

## **Conclusion:**

Your officers have concerns that whilst the impact of the building on the character of the site and surrounding area would be a subjective assessment, the reason for refusal as set out above is unlikely to be upheld at appeal. This is due in part to the fact that the single storey building has been in situ for four years and therefore

immune from enforcement action with only the use being a matter for consideration which could be controlled by planning condition. In addition to this, the area of decking has been reduced in line with permitted development rights which exist which address the matter of overlooking and the position of the single storey building being to the rear of the site means that there are limited public vantage points to the building in question and therefore Members should consider these matters carefully. However approval remains the recommendation of officers for the reasons set out in the earlier Officer report to Planning Committee attached.

**Contact for any more information**

Mr Adrian Devereaux, Area Team Leader  
01884 234267

**Background Papers**

Committee report

**File Reference**

20/01537/HOUSE

**Circulation of the Report**

Cllrs Richard Chesterton  
Members of Planning Committee

Attach previous Committee report

**Original Report from Planning Committee 10<sup>th</sup> March 21**

## **APPLICATION NO: 20/01537/HOUSE**

### **MEMBER CALL-IN**

**The application has been called in by Councillor Clist to consider whether the outbuilding is suitably scaled, designed and justified, whether the installation of water supply and drainage is justified and whether the decking has a negative impact on the amenity of neighbouring properties.**

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

Retention of timber outbuilding to be used ancillary to the main house, retention of decking and proposed installation of water supply and drainage pipes underground

A certificate of proposed lawful use application was refused in August 2020 (reference: 20/00887/CLP) due to the proposed installation of water supply and drainage being considered to be excavation works requiring planning permission hence this application has been submitted.

The application seeks planning consent for the retention of timber outbuilding to be used ancillary to the main house. Historically (pre-2017) there was an outbuilding on the site which is visible in aerial photographs at the end of the garden however it is unclear the dimensions of previous outbuildings as either no planning consent was required or no planning consent was obtained. The applicant has confirmed that the previous owner of the property remodelled the outbuilding around 2017 which extended the outbuilding. In 2019 the planning enforcement team were made aware of the site and the outbuilding. This application now seeks to regularise the outbuilding as built on the site with some minor changes including changing a door to an obscure glazed window to serve the shower room/toilet and one new window on the rear to serve the proposed bedroom.

The outbuilding measures 4.4m x 7.5m with an additional porch on the front measuring 3.35m x 1.8m. The maximum height of it is 2.5m. It is located 22.4m from the rear of the house. Under permitted development rights in an Area of Outstanding Natural Beauty an outbuilding of 10sqm can be erected in the garden of a dwelling as long as it is less than 20m from the rear of the dwelling. This outbuilding amounts to a total of 39.03sqm and is located 22.4m from the back of the house which is the reason planning consent is required for its retention.

The second element of the application seeks planning consent for the proposed installation of water supply and drainage to the outbuilding used ancillary to the main house (19 Lower Millhayes). The use of the building as a separate dwelling would require planning permission; as would a change of use to allow the building to be rented out and/or advertised as a separate entity such as a holiday let. This is not what the application is proposing and therefore no further consideration of this will be given.

The third element of the application seeks to regularise some decking which has been erected on the site as it is slightly more than permitted development will allow. Under permitted development legislation an area of decking up to 30cm can be installed in a garden. Due to the slope of the garden part of the decking is between 30cm and 45cm in height and therefore this application also seeks permission to retain the decking as built on site.

## **APPLICANT'S SUPPORTING INFORMATION**

Site location plan, existing and proposed plans.

## **RELEVANT PLANNING HISTORY**

05/01183/FULL - REFUSE date 8th August 2005 Erection of two storey extension to rear of property

20/00887/CLP - REFUSE date 19th August 2020 Certificate of lawfulness for the proposed installation of water and drainage to an existing outbuilding in rear garden

## **DEVELOPMENT PLAN POLICIES**

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

S13 - Villages

DM1 – High quality design

DM11 – Residential extensions and ancillary development

DM27 – Protected landscapes

## **CONSULTATIONS**

Hemyock Parish Council: 5<sup>th</sup> November 2020 - The parish council is not content with the application. The facilities are inappropriate for a garden shed, the potential usage is overdevelopment and due to its elevated position overlooks directly into the neighbouring properties resulting in a loss of privacy. This development could encourage more than ancillary accommodation and create a rental opportunity.

8<sup>th</sup> February 2021 - The parish council is NOT content with the application and concurs with the issues raised in Major Jenkins letter to MDDC dated 14th January, namely: the application contravenes policy with regard to height, location, raised platform and privacy.

Highway Authority: 21.10.20 - No Comments.

Environment Agency: Householder development and alterations within Flood Zone 1 - No EA consultation required.

## **REPRESENTATIONS**

A total of six letters of objection have been received at the time of writing this report. The main material considerations mentioned are summarised below:

- Use of the shed as a separate dwelling;
- Parking provision;
- Queries over need of ancillary accommodation;

- Privacy issues;
- Potential renting out of the shed;
- Decking area.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

- 1) Principle of development
  - 2) Use of the outbuilding
  - 3) Visual impact
  - 4) Impact on neighbouring properties amenity
  - 5) Impact on Blackdown Hills AONB designation
- 1) Principle of development

The site is located within the settlement limit of Hemyock which is one of the districts defined settlements set out in the Mid Devon Local Plan 2013-33. Development in village locations is covered by policy S13.

The development proposed is ancillary to the existing residential dwelling and therefore the proposal must be considered against policy DM11 of the Mid Devon Local Plan 2013-3 (residential extensions and ancillary development). Policy DM11 provides in principle policy support for residential extensions and ancillary development where the following set of criteria are met:

- a) Respect the character, scale, setting and design of existing dwellings;
- b) Will not result in over-development of the dwelling curtilage; and
- c) Will not have a significantly adverse impact on the living conditions of occupants of neighbouring properties.

A summary assessment of the application scheme against these criteria is set out below or within sections of the report later identified:

A) See section 3 of the report below.

B) The outbuilding and decking which are in situ and are not proposed to be extended further do not result in the overdevelopment of the dwelling curtilage. The outbuilding measures 4.4m in depth x 7.5m wide (across the garden) amounting to 39.03sqm. The decking measures 6.4m wide (across the garden) x 3.9m deep (extending out from the front of the outbuilding into the garden towards the house) amounting to an area of less than 25sqm. The property benefits from a long garden which is more than sufficient to accommodate the outbuilding and decking. The proposed water supply and drainage will not result in an overdevelopment of the dwelling curtilage as the works will be hidden below ground.

C) See section 4 of the report below.

2) Use of the outbuilding

The outbuilding is to be used ancillary to the main house. If the outbuilding is to be used as a separate dwelling house then a full planning application would be required for that use. The applicant has confirmed that the outbuilding is used for ancillary living accommodation. The water supply and drainage pipes are proposed so that a small shower room can be installed to serve the outbuilding. A condition to control the use of the outbuilding is proposed to be imposed to stop the outbuilding from being used, let, sold or otherwise disposed of as a separate unit of living accommodation.

3) Visual impact

The outbuilding which is existing on the site is constructed of timber with a dark stain/paint on it. The building appears as an outbuilding in the rear garden of the property and does not look out of keeping in its scale or appearance with other garden sheds and structures found in gardens in the immediate area. The outbuilding measures 7.5m wide which is approximately the width of the garden and is 4.4m deep. The overall height of the monopitched building is 2.5m. There is a small porch like structure on the front of the outbuilding which measures an additional 3.35m x 1.8m.

Under permitted development rights in an AONB the applicant could erect an outbuilding which amounts to up to 10sqm within 20m of the rear of the house. The height allowable would be 2.5m if within 2m of the boundary or 4m if more than 2m from the boundary and has a dual pitched roof. Officers have therefore considered what could be done under permitted development rights and would consider that if a 4m high structure in the middle of the garden is allowable, the retention of the outbuilding as has been built is no more harmful than what could be erected on the site.

The decking which is existing on the site is constructed of timber decking found in many other residential gardens. The decking measures 6.4m wide (across the garden) x 3.9m deep (extending out from the front of the outbuilding into the garden towards the house). The section of decking measuring over 30cm in height is approximately 1.5m and so it is only that 1.5m x 6.4m that is being considered as the rest would be permitted development. The appearance of the decking in the residential garden is not out of keeping with the general area and has weathered to blend in well. The decking is low level and therefore can only be seen because of the slope of the gardens which slopes upwards from the houses to the tops of the gardens. The visual appearance of the decking is considered to be acceptable in this garden location and has no wider visual impact beyond the row of houses along Lower Millhayes.

The proposed water supply and drainage would be installed below ground level in the garden and therefore it is not considered that there would be any adverse impact in allowing the proposed pipes.

#### 4) Impact on neighbouring properties amenity.

Officers have visited this site and it was clear that there are no significant adverse impacts resulting from the outbuilding or decking. There is intervisibility between gardens due to the slope of the site and the additional area of garden is not considered to increase the intervisibility to such an extent that the privacy of neighbouring properties is compromised. The general arrangement of having a row of terraced properties with gardens which elevate towards the ends by their very nature means that there is already increased intervisibility between properties. The outbuilding and decking area is not considered to be overbearing on neighbouring properties and due to the distance between the decking at the back of the properties, it is not considered that there is any significantly adverse overlooking or loss of privacy. The decking is a maximum height of 45cm in areas due to the slope of the land but it is not considered that this is an overbearing height when people are stood on it. The height of the outbuilding is 2.5m which again is not considered to be an overbearing height.

#### 5) Impact on Blackdown Hills AONB designation

The site is located within the Blackdown Hills Area of Outstanding Natural Beauty. The site is within the village of Hemyock and the impact of the proposal on the AONB is considered to be limited to the site and terrace of houses rather than the further village or AONB setting. The appearance of the outbuilding and decking are typical of many domestic outbuildings and do not appear out of keeping. As such the proposal is considered to comply with policy DM27 of the Mid Devon Local Plan 2013-33.

### **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 accommodation hereby permitted shall be used solely for purposes ancillary to 19 Lower Millhayes only and shall at no time be used, let, sold or otherwise be disposed of as a separate unit of living accommodation.

### **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. The applicant has been assessed on this basis only and would require planning permission for a separate unit.

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



The retention of timber outbuilding to be used ancillary to the main house, retention of decking and proposed installation of water supply and drainage pipes is considered to respect the character, scale, setting and design of the existing dwelling. The application scheme does not result in an overdevelopment of the dwelling curtilage and the proposal will not lead to any significantly adverse impacts on the living conditions of neighbouring residential properties. The application scheme is not considered to have a negative or wider impact on the Blackdown Hills AONB designation. On this basis the application scheme is considered to be in accordance with policies S13, DM1, DM11 and DM27 of the Mid Devon Local Plan 2013-33 and the National Planning Policy Framework.

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

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

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

Item No	Weeks	Reval	Proposal	Location	Name	Expected Delegated
1	1	21/00883/MFUL	Permanent siting of a Motorcross track	East Langford Station Road Bow	Mr Tom Jones	Del

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## LIST OF APPEAL DECISIONS FROM 13<sup>th</sup> May 21 to 3<sup>rd</sup> June 21

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
20/01531/OUT	Outline for the erection of 2 dwellings with all matters reserved (Revised scheme)	Footlands Knowle Lane Cullompton Devon EX15 1PZ	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
20/01560/HOUSE	Retention of raised decking area and associated fence	9 Millway Gardens Bradninch Exeter EX5 4RE	Refuse permission	Committee Decision	Refuse permission	Householder Appeal	Allow with Conditions

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