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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, 1 December 2021 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 5 January 2022 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

STEPHEN WALFORD

Chief Executive

23 November 2021

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

A G E N D A

MEMBERS ARE REMINDED OF THE NEED TO MAKE DECLARATIONS OF INTEREST PRIOR TO ANY DISCUSSION WHICH MAY TAKE PLACE

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

Note: A maximum of 30 minutes is allowed for this item.
- 3 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT**
Councillors are reminded of the requirement to declare any interest, including the type of interest, and reason for that interest at each item.
- 4 **MINUTES OF THE PREVIOUS MEETING** (*Pages 5 - 32*)
Members to consider whether to approve the minutes as a correct record of the meeting held on 3rd November 2021.
- 5 **CHAIRMAN'S ANNOUNCEMENTS**
To receive any announcements the Chairman may wish to make.
- 6 **DEFERRALS FROM THE PLANS LIST**
To report any items appearing in the Plans List which have been deferred.
- 7 **THE PLANS LIST** (*Pages 33 - 68*)
To consider the planning applications contained in the list.
- 8 **APPLICATION 20/01458/FULL - ASHDOWNE CARE CENTRE, ASHDOWNE HOUSE, ORKNEY MEWS, TIVERTON** (*Pages 69 - 86*)
To consider an implications report with regard to this application.
- 9 **16/01707/MOUT - MODIFICATION TO THE S106 PLANNING OBLIGATIONS** (*Pages 87 - 112*)
To receive a report from the Development Manager
- 10 **MAJOR APPLICATIONS WITH NO DECISION** (*Pages 113 - 114*)
List attached for consideration of major applications and potential site visits.
- 11 **APPEAL DECISIONS** (*Pages 115 - 116*)
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. The Council will enable all people to continue to participate in meetings via Zoom.

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

Please read the new meeting protocol which is available here: <https://democracy.middevon.gov.uk/documents/s23135/MeetingProtocolUpdateOct2021nextreviewFeb2022.pdf>

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

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

E-Mail: coliphant@middevon.gov.uk

Public Wi-Fi is available in all meeting rooms.

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MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 3 November 2021
at 2.15 pm

Present

Councillors

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

Also Present

Councillor(s)

R J Chesterton, B Holdman, D J Knowles,
Mrs E J Lloyd, Mrs E J Slade,
Mrs M E Squires and L D Taylor

Present

Officers:

Richard Marsh (Director of Place), Angharad Williams (Interim Development Management Manager), Dean Emery (Corporate Manager for Revenues, Benefits and Recovery), Maria De Leburne (Operations Manager Legal and Monitoring), Christie McCombe (Area Planning Officer), Myles Joyce (Consultant Development Management Officer), John Millar (Acting Area Team Leader), Daniel Rance (Principal Planning Officer), Carole Oliphant (Member Services Officer) and Sally Gabriel (Member Services Manager)

111 **APOLOGIES AND SUBSTITUTE MEMBERS**

There were no apologies for absence.

112 **PUBLIC QUESTION TIME (00-04-23)**

1. Mr Elstone referring to number 1 on the agenda stated:

Question 1

The MDDC Adopted Masterplan SPD Document Section 1.7 Design Process States:

“MDDC will expect landowners and developers to follow the prescribed design process which is adopted as an integral part of this SPD”.

The words, stipulate, command, impose are all synonyms of the word prescribed, I am therefore at a total loss to understand why anyone could not understand then follow this very clear requirement.

Can it be fully explained why Redrow Homes were allowed to ignore the prescribed requirement at the UD &AP stage. This to consult with the Public and Stakeholders and hold a workshop in order to formulate the UD&AP proposals before progressing to the Reserved Matters Stage.

Question 2

Can it be fully explained why Redrow Homes were allowed to ignore the prescribed requirement at the UD &AP stage to engage with the Design Review Panel this to discuss and formulate the UD&AP proposals before progressing to the Reserved Matters Stage.

Question 3

Why were Redrow Homes allowed to arbitrarily create 6 new character areas without any form of consultation this with stakeholders or even Ward Councillors. In creating these artificial areas, they have totally destroyed the full intent and key principles of the Tiverton EUE Masterplan SPD Design Guide.

They have placed the highest density housing areas where it should be amongst if not the lowest in this phase of the development. They have placed the lowest density housing their show homes against the Spur Road which should be the highest. They have defeated the Centre to Edge, Key and Guiding Principle.

Question 4

What efforts did the MDDC Officers make to have Redrow Homes comply with the prescribed Planning Design Process. I understand that MDDC Officers attempted to get Redrow Homes to engage with the Design Review Panel before submitting the Reserved Matters Application, but they would not comply. Can this be confirmed.

Question 5

Why have the Planning Officers never flagged up to Planning Committee Members how critical the Design Review Panel were of being introduced late (too late) into the Design Process.

Also, how the Review Panel felt constrained in making recommendations as a result.

Question 6

Why were Redrow Homes allowed to fail to comply with their own UD&AP submission that said they would engage with the Design Review Panel before they submitted their Reserved Matters Application.

Question 7

Why did Redrow Homes fail totally to follow their own Community Engagement Policies as defined in Redrow 8 Placement Key Principles Document, Principle 1 Listen to Learn -Community Engagement.

2. Mr Langford referring to number 4 on the plans list stated:

The lengthy report has been produced when the officer and department are under pressure to clear applications. Perhaps as a result, there are basic errors of fact presented to you. They are of fundamental importance to your decision making today.

I have the following question, in three parts, on one aspect - the need for 24 hour attendance on site, for you to put to the planning officer:

- Why was the Economic Development officers' input, which was one of balance with stated doubts on the need for 24 hour attendance on site ("I am doubtful"), edited to an endorsement of the applications Functional Need statement? Why was the claim by the applicant of poor 4G connections preventing remote sensing not checked with the governments' OfCOM on-line site? It shows there are 4 different providers of good 4G services available. Interestingly the even more reliable option; the Ultrafast Fibre Optic cable connection in the lane running past the field gate was not in the application. There are therefore 5 different communication services for the remote sensing of all the hatching equipment, cameras for animal welfare as well as site security. Most neighbours use these services quite adequately. Why was no check made on the claim by the applicants that there were no available rented properties nearby? As at 1 November at least 7 three bedroomed houses within 4 miles, or 10 minutes travel; and over 10 similar houses at about 8 miles distance, or 20 minutes travel are advertised. These are available for the applicant, or the supposedly required agricultural worker, without incurring further permanent environmental and ecological construction damage to the open landscape of the AONB – a key consideration, especially in the week of COP26.

3. Patricia Parsons referring to number 2 on the plans list stated:

I have worked with the elderly over 40 years, prior to retirement we owned and managed a care home registered mainly for dementia suffers, so I am aware of the problems of running a care home. Looking through the points on the report I notice the following:

Highways state that many parked cars on the highway leading to this area does cause concern and maybe restricting the width of the carriageway to a point an emergency vehicle would struggle to negotiate, also this is far short on MDDCs Policy DM5 and suggested prior more extensions there is a need to provide adequate parking for the existing use.

Health and safety made no recommendations but surely anyone using the mews is at risk due to the parking problems, no path between the homes means residents in wheelchairs using the road, which often has a parked car on the side making the carer and the wheelchair walk in the road, surely not an ideal situation for staff or residents.

99% of all highways parking in the mews is by staff and visitors, residents of the mews park either in garages, on allocated parking areas or outside our garages.

Policy DM8 applies a minimum of 1.7 parking spaces per dwelling. Ashdowne has 2, Pinnex Moore 0, this is to allow 60 residents and their visitors, 48 staff and numerous workmen etc. Although we do not expect them to provide anything like the amount recommended surely the mews should not be a car park for the care homes.

Please remember all the residents of the homes are either physically or mentally frail, can you imagine the problems encountered by the emergency services during an emergency, trying to evacuate 60 frail residents, with numerous demented residents, not understanding what was happening and fighting those trying to help, imagine the panic, getting frail people downstairs. In the event of an emergency vehicles and their backups, the mews is often blocked by parked cars, where will all these vehicles park with the turning bay full of staff and visitor cars.

Temporary permission for siting of a portacabin for an office was granted in 1997 and again in 2002, as far as we can see there seems to be no more permission asked for. Is this portacabin now a permanent structure, could you withdraw permission, re-installing 4 parking bays increasing the number of bays from 12 not as the report states to 16.

My question is why are thousands of pounds spent on Local Plans if planning is not being guided by them, please sort out the parking before you allow anymore extensions to what is an over developed area.

4. C D Roberts referring to number 2 on the plans list stated:

I note the recommendation is to grant this application subject to various conditions. Although I have read the proposed conditions, I am not a planner so please could you explain exactly what conditions mean?

In particular, why can the Construction Environmental Management Plan not be agreed before approval, given that it will have a significant effect on residential amenity, public safety and highways safety? By having this condition exercised after planning is granted it removes the oversight of this committee and the public.

5. Valerie Day again referring to no 2 on the plans list stated:

The proposed development will overbear the adjacent properties, providing visibility directly into their bedroom windows, save for the hedge between them. The hedge has been assessed as 'low quality'. Why is it considered 'low quality'? What contingency plans does the applicant have should the hedge die, or the quality deteriorates? This is particularly important given the likelihood of root disturbance during construction even with pile foundations and protection. Orkney Mews used to be a quiet cul-de-sac.

I accept that the home provides a vital service, but in the middle of an overdeveloped residential estate that is largely restricted to retired people, who are home all the time, is unfortunately not the right place to grow one. This area is already totally overdeveloped

If the hedge dies or deteriorates a 6-foot-high fence will not suffice, will the planning committee ensure a like for like replacement will be guaranteed?

6. R B Clarke referring to number 2 on the plans list stated:

The surrounding area already cannot cope with the volume of traffic that the care home attracts. We the residents of the Mews are worried about safety for themselves and the children who use it as a cut through from the high school to the estate. Notwithstanding the reducing effect that Covid-19 restrictions have had on visitors, some residents are placing traffic cones on their own property to prevent vehicles from crossing onto it and causing damage.

A visitor on a mobility scooter to one of the residents was forced into the road due to visitors of the home parked on the pavement, there are numerous people who live locally and who use mobility scooters, surely, they should not be put at risk in this way.

If the application is approved, what restrictions or actions can the committee or the applicant take to ensure, measurably, that the access and safety of the Mews residents is not made any worse than it currently is.

7. K L Parry referring to number 2 on the plans list stated:

The home currently has 12 available parking spaces for staff and visitors, and not 15 as stated in the parking plan. It appears that the applicant is counting 2 parking spaces on the turning head itself, which is unacceptable and a public highway others are underneath a temporary portacabin that has outstayed its agreed planning conditions by about 20 years, and a fenced area used for bin storage.

Can the applicant please explain how they arrived at this figure of 15 spaces?
The applicant has revised their plans to remove new planned bedrooms.

Although it should be noted that it would be possible to create additional bedrooms elsewhere within the property once extended, I do understand that you cannot use that alone as a grounds for refusal. However, they have used this as a justification to state that car parking is not a consideration under this new application as there is no increase in bed space. I would like to ask the planning committee to remember that more beds need more staff and more deliveries. The issue with the severe lack of parking has never been due to the care home residents themselves, rather visitors, staff and service vehicles combined

.
In addition to my earlier question about the number of spaces presently available being overstated, has the applicant considered removing the temporary portacabin office and fenced storage bin storage area from the carpark to restore some of the originally planned parking bays. Will the committee consider the overall increase in parking demand from staff, residents' families and friends and service vehicles?

8. B A Leach referring to number 2 on the plans list stated:

In the event that planning permission should be granted what/will restrictions be put in place to lessen the impact on the ageing local community in respect of their privacy and the access to their properties/parking?

9. C A Wood referring to number 2 on the plans list stated:

Staff already park in the road because there is limited space on the site. Visitors often park in the entrance itself, in the turning head (sometimes double parked) and on the pavement of the surrounding roads blocking access for large vehicles. I note that when Councillors and officers have visited the site for this application, they have parked in the turning head because there is nowhere else available, which forces the large trucks servicing the home to turn and drive over the pavement.

I have seen ambulances parking back on the street because they could not get into the site, which can delay vital care. I have seen vehicles loaded and unloaded in the middle of the public highway, as parked cars stop lorry drivers packing close to the homes. I pray they never need a fire appliance because at busy times they simply will not get close.

The highways authority states in their consultation that the number of spaces is not sufficient for the size of the care home. The current provision also falls far short of Mid Devon's own local policy plan DM5 which required 60 spaces.

What provision is the applicant making to ensure that emergency and delivery vehicles can access the home? What justification would create some limited additional parking space?

Would it be possible for a condition to be added that the temporary building in the carpark is removed as a condition of approval, as this would create some limited additional parking space?

10. John Dunlea referring to number 2 on the plans list stated:

If building works go ahead, where will all the building materials, equipment and working area be sited, and where will the construction plant and vehicles park? Will the normal staff and visitors be required to park away from the site to allow access, and if so, where will this be given the lack of parking space in the area? I am concerned that the Construction Environmental Management Plan requested by the conditions will be acceptable on paper but not actually be workable. There has been past building works at the care home, and this caused significant access issues to neighbouring properties despite past mitigations.

11. Mary Seaton referring to number 1 on the plans list stated:

1. Why are Redrow non-compliant with the procedures of a planning application? The design was not seen by the design committee until too far along the design process, the design recommendations were for a Centre to Edge plan and the long row of houses affecting existing residents was meant to be highest density along the green boulevard at right angles to the existing plan.

2. Why are Redrow not indicating any Green policies in this development? There is no sign of solar panels, space for heat pumps or indeed much in the way of electrical points for cars. Given that there will be an average of 1.5 cars per household the roads indicated are not wide enough to allow parking

3. Why are there no cycle paths?

4. Why should Redrow be allowed to use the farm gate entrance to the north side of Blundell's Road. They could access their sites via the new roundabout. They

should likewise not vandalise the existing hedge along the road to access the self-build homes which should open onto a service road to the north of them.

12. Jo Blackmore referring to number 4 on the plans list stated:

Could the committee ask the planning officer why the evidence provided by professionals such as the AONB and Economic Development officer have been discounted? The AONB objections concerning the siting of the dwelling, and damage to the area, have been disregarded and the Economic Development officer, whilst unable to come to a definite opinion, did not say there was an essential need for a worker to be on site as required by DM8?

13. Garth Whisker again referring to number 4 on the plans listed stated:

I wish to ask the following questions.

What is the committees view on the recent sighting of a mobile home, 3 weeks prior to today's meeting?

Does this demonstrate a complete disregard for any decision that the planning officer and committee might make today and would this constitute a flagrant breach of planning rules?

Could the committee ask the planning officer why in the case of such small wet land acreage with only 4 horses and a handful of chicken, in a sensitive landscape area, would there be any immediate need for a large 3 bedroom farm workers dwelling applied for on a 3 year temporary basis during which time an agricultural occupancy would need to be proven.

A small mobile caravan, adjacent to the already established workers rest room would seem more than adequate for this temporary purpose.

14. Freddie Parker referring to number 4 on the plans list stated:

Could the committee ask the planning officer if, without revealing detailed financial information provided by the applicant, he could give an indication of the percentages for income generation expected from horse rehabilitation, horse owner "treatment" and horse livery, in comparison to the chicken activity and hay production? i.e. the percentage of agriculture vs equine. Also does the applicant have planning permissions to run a human therapy business from the site or has the business model changed from that on her website and social media?

15. Julian Day referring to number 4 on the plans list stated:

Could the committee ask how the proposed dwelling is to be occupied, Condition 4 recommended by the Planning Officer stipulates that "the dwelling hereby approved shall be occupied only by a person solely working in relation to the agricultural use at Poacher's Rest and to any associated family members". As in para 11.5 the statement is made that the dwelling will be "for the applicant and her family" and therefore not for the agricultural worker. The applicant is a psychotherapist running a business called Integrated Trauma Solutions and does not nor ever has worked in agriculture.

16. Hannah Kearns referring to number 1 on the plans list stated:

Question 1

My first question follows sight of an email from Redrow Homes Senior Planning Manager to the MDDC Tiverton EUE Area Planning Officer dated 12th October 2021. In this email Redrow's Senior Planning Manager says the following:

"Whilst I appreciate it could be termed an "easy win" we are already going above and beyond by a reasonable quantum the requirements and as such have we not already met the request of Cllr Knowles. In theory we can provide more charging points but all these have significant viability for two reasons"

And also:

"The fact that to provide the electric charging points requires the electricity network to be enhanced with an oversized substation and increased forecast electricity demand to cater for the request".

Given the content of the email I'd like to ask for clarification of the following:

- What future proofing have Redrow Homes considered for the electrical infrastructure given that it already seems near to capacity given this response and the likelihood of future legislation driven by the climate emergency to which MDDC has signed up for?

N.B. Currently Redrow only propose 48 out of 164 plots for car electrical chargers.

Assuming that 7.2 KW charging points are installed for all of the 164 plots going forward, this equates to a further 835 KW at peak load over the 345 KW so far provisioned.

- What is the actual power output of the electric car chargers Redrow now intend to provide? Is it 3.2 KW or 7.2 KW? It should be noted many residents will likely upgrade to 20 KW or higher as current data shows.

- Given that Redrow Homes are installing gas boilers which will very likely need to be replaced by Air Heat Pumps in a relatively short period of time, substantial extra demand will be placed on the electricity network (assuming an extra 4.5 KW per house or 738 KW). Are Redrow Homes future proofing the central heating system radiator pipework by only installing 15 mm pipe as opposed to micro bore which will not work?

Question 2

Why have Redrow Homes been allowed to design and submit a housing project that is so grossly in non-compliance with the Tiverton EUE Masterplan SPD and Design Guide without any apparent substantive challenge?

17. Emma Way referring to item 1 on the agenda stated:

I feel passionately that this application as it currently stands is sub optimal and completely misses the essence of the 2016 EUE design plan which generally promised so much. Having spent my entire career in education working in the UK and abroad, a large part which has been outside I have come to recognise a fundamental truth. Buildings and their relationship with space have an immeasurable impact on the wellbeing and mental health of people. Respect and nurture the first and then hopefully the other will follow.

1. Playgrounds should be a safe, calm environment which parents should easily access and not cause undue stress and anxiety. Why this playground is situated on a very busy road and why is it not adjacent to the housing north of Blundells road and are you really happy with this?
2. Mid Devon has specifically expressed its ambition to enhance cycling opportunities. Where are the cycling lanes on the plan? They should connect all areas and reach the new employment centre.
3. A key part of the EUE plan was to fully protect West Manley Lane yet it is evident that Redrow homes keep accessing this space in order to start construction.
4. Given the current COP26 conference renewable energy should be front and centre, despite this the developer keeps talking about project viability impacts even after being asked to provide extra car charging points. Why is this development choosing to use gas and why are solar panels not being installed from the outset on all the houses. As per my objection letter C J Fry have 90 attractive new homes in Tisbury all with air source heat pumps. I have seen them.
5. The 2016 EUE Design specified the use of vernacular stone to compliment the historical tile of the town and the beautiful rural setting. Where is this stone in this development? This would at the very least distinguish it from other Redrow developments. The applicant's plans do not in any way fulfil the MDDC DM1 Policy requirements
6. I feel really strongly about this one. The approach from the A361 looks really depressing when you look at it and imagine it on the paper. Someone exiting the link road from the new junction will be confronted by looming 3 storey buildings, their first impressions of Tiverton and how does this reference our historic market town?
7. Trees, I feel strongly about them too. New build developments nationwide have taken and are taking a massive toll on ancient priceless and treasured trees that support entire eco systems. I feel we need to be planting more particularly on the new junction on the Blundells Road. Housing density is gravely concerning as far as I can see from the current application there has been a total lack of respect of residents along the Blundells Road. Why does extreme high density housing back onto properties that were initially given to understand that there would be far fewer. Why are there only two bungalows on this current application and why are there not more fully accessible 3 bedroomed properties. The current call for houses goes way beyond bricks and mortar we've lived through two extraordinary years and if anything we should have learned the need to create environments for the future which foster positive mental health, protect biodiversity do you honestly feel that this proposal achieves all of the above. I sincerely hope that we will look back in 5, 10, 15 years and know that your decision today as our local representatives to

Council is nothing more than doing the best thing and please return to the original EUE Master plan because it was an inspiring vision for a better future.

18. Heather Bingham/Graham Conabeare referring to number 1 on the plans list stated:

I understand that the above planning application will be discussed at the meeting on Wednesday 3 November 2021. Unfortunately we are unable to attend but would appreciate if you could please ask the Chairperson to read out the following questions from us as owners of 'Sherwood', one of the ten existing properties in Blundell's Road which will be impacted by this proposed Redrow development:

1. Why, if MDDC 'expected' Redrow to deal sensitively with the residents of the existing ten properties in Blundell's Road, has this expectation not, from then on, appeared to play any part in planners' considerations?
2. Why have Redrow been repeatedly allowed to flout planning processes, eg from the consultation stage onwards to issues relating to site access, etc?
3. Why have we not been afforded the same consideration as other residents in the town previously in terms of the properties being built behind our bungalow? (We are referring to bungalows having to be built behind bungalows, rather than the 2-storey houses which were originally proposed by a developer in the past in another part of the town).
4. Why have MDDC agreed to working times on site being from 7.30am, when the accepted norm across the land is 8.00am? (Even with that so-called 7.30am start, work has been going on behind our property from 7.00am with its ancillary noise, vibration and disruption).

19. Amanda Keetly referring to item 5 on the agenda stated:

My question as you said is on reference to the Linscombe Farm application for 5 eco homes with lots of additions for bio diverse wildlife instead of 3 very large non eco homes with very little provision for wildlife and the second one, the 3 very large homes already has permission to be built. So my question is please can you highlight which policy would mean that this application which is reference 21 /00887/FULL, this eco-friendly nature regenerating community enhancing development is being recommended for refusal by MDDC?

113 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (00-44-32)

Members were reminded of the need to make declarations where appropriate.

114 MINUTES OF THE PREVIOUS MEETING (00-45-44)

The minutes of the meeting held on 6 October 2021 were agreed as a true record and duly **SIGNED** by the Chairman.

115 CHAIRMAN'S ANNOUNCEMENTS (00-46-09)

The Chairman welcomed Richard Marsh (Director of Place) to the meeting.

116 DEFERRALS FROM THE PLANS LIST (00-46-58)

There were no deferrals from the Plans List.

117 THE PLANS LIST (00-47-15)

The Committee considered the applications on the *Plans List

Note: *List previously circulated and attached to the minutes

Applications dealt with without debate.

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

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

- a) Application 20/01764/TPO –application to reduce height and canopy spread on north side by 2m of 1 beech tree (T1) and fell 2 ash trees (T2 and T3) protected by Tree Preservation Order 80/00001/TPO – land at NGR 294817 112951 (South of 45 Derick Road) Patches Road, Tiverton*** be approved subject to the conditions as set out in the report

(Proposed by the Chairman)

Reason for the decision: As set out in the report

Notes:

- b) Application 21/00454/MARM – Reserved Matters (appearance, landscaping, layout and scale) for 164 dwellings with the provision of public open space, vehicular and pedestrian access, landscaping, drainage and related infrastructure and engineering works following outline approval 14/00881/MOUT – land east of Tiverton, South of A361 and both north and south of Blundells Road, Uplowman Road, Tiverton)***

The Area Planning Officer provided responses to questions raised in public question time, covering the general issues as follows:

- With regard to non-compliance with the application process and more specifically why the Design Review Panel had not been involved at an earlier stage, the officers were unaware of any non-compliance to the statutory application process, the report of 28 July 2021 provided a reference to the NPPF that encouraged the Design Review Panel (DRP) process and the applicant was informed, she acknowledged that there was a delay in the DRP being involved but that the application had been considered by the DRP.
- With regard to the 'Centre to Edge' concept established in the Tiverton EUE Design Guide which made reference to a row of houses adjacent to the green boulevard – this were possibly those mentioned in figure 3.39 of the design guide that focused on the residential core or those highlighted within the

illustrative masterplan submitted at outline stage. The adopted masterplan set out a strategic vision for the EUE and was intended to be flexible. The masterplan submitted with the 2014 outline application was an illustrative framework plan setting out how the development might be achieved.

- With regard to the inclusion of green policies – this was referred to in the update sheet
- With regard to cycle paths, again she referred to the update sheet and confirmed that cycle paths were provided and had not been removed.
- With regard to the access via the farm gate entrance on the north side of Blundells Road, she would need to clarify this with the questioner as the access would currently be off the A361 junction for construction works.
- With regard to the self build dwellings being serviced from the north, the officer's report stated that the proposed scheme would not preclude this.
- With regard to electrical infrastructure and future legislation driven by climate change, the planning consent would be based on the current legislative framework. The provision of EV charging provisions was outlined in the report.
- With regard to the applicant dealing sensitively with residents – the meeting was advised that due consideration had been given to all the residents and that changes had been made to the proposals some of which had been highlighted by residents.
- With regard to the 10 existing properties north of Blundells Road and them not being afforded the same consideration as other residents in town, she was unaware of the specific application that was being highlighted.
- With regard to construction hours, this was highlighted within the update sheet.
- With regard to the consultation process and workshop – reference was made to this in the adopted masterplan
- With regard to the Design Review Panel - this had been answered previously
- With regard to the 6 character areas – this was referred to in the update sheet
- With regard to officers encouraging the Design Review panel process – this had been responded to previously
- With regard to why the officers had never flagged up to committee members how critical the Design Review Panel were of being introduced late into the process – officers had never hidden this fact.
- With regard to why Redrow were allowed to fail to comply with their own policies – the applicant would need to answer this.

The officer then outlined the reasons why the application had been deferred previously, she informed those present that a stakeholder meeting had taken place on 6 September and following this, revised drawings had been received, she also stated that a number of other drawings had been received and were available on the planning portal.

The officer then outlined the contents of the report by way of presentation highlighting the history of the site, the reduction in the number of dwellings from 166 to 164, the layout of the spine road, the site location plan, the illustrative framework plan from the masterplan, an aerial view of the site, the planning layout, the proposed changes to the layout of the dwellings behind the properties to the north of Blundells Road. She explained the location of the affordable dwellings, the provision made for play space, the increase in the number of electric charging points on the site, the crossing

points that had been put in place, the reduction in height of the apartment block, the introduction of 2 bungalows, the changes to the depth of the buffer and explained the density of the dwellings in that area. She also provided photographs from various aspects of the site.

Consideration was given to:

- The views of the objector highlighting his and others disappointment in the proposals for development on this site; the fact that the determination of the current application would leave a legacy for the rest of the site; the poor development design and density to the north of Blundells Road; his views on non-compliance with regard to the planning process and planning design, the lack of engagement with the general public and the expectations of the masterplan.
- The views of the applicant with regard to the stakeholder meeting that had taken place and the changes to the scheme that had been made following this meeting the fact that all the local residents had been written to and consulted and that the views received had been interpreted within the plans.
- The views of the Ward member in attendance who stated that the applicant had been listening and that the points that he had raised at the stakeholder meeting had been considered. He was unsure whether there were enough electric car charging points and would have liked to see the installation of heat pumps.

Discussion then took place regarding:

- Recent Government guidance with regard to climate change issues and whether additional conditions could be added to address this
- The viability of the scheme and the need to comply with the current framework and that the applicant had over-provided against policy requirements
- Concern with regard to the design, location and number of affordable dwellings and the mix of affordable dwellings
- Disabled access to the apartments
- The location of the new play space and the safety of users
- Pollution issues within the new play space
- Whether the road crossings would be in place prior to occupation of the dwellings
- Whether the affordable dwellings resembled the market housing
- Traffic calming measures put in place and highway advice
- The information within the update sheet
- Whether 2 bungalows were enough in this location
- Vernacular materials and whether this was compliant with the urban design
- The tandem parking proposed
- Whether the amendments proposed were enough to allow for the approval of the application and whether further negotiation should take place to consider the committee's ongoing concerns.

It was therefore:

RESOLVED that the decision on the application be deferred and that delegated authority be given to the Development Management Manager, in conjunction with Members of the Planning Committee to renegotiate with the developer with regard to

the appearance, scale, characteristics, design and density of the scheme and that a meeting take place with the committee, the Planning Officer and the developer to determine the key issues.

Reason – the issues raised previously had not been resolved or addressed.

(Proposed by Cllr G Barnell and seconded by Cllr L J Cruwys)

Notes:

- i) Cllrs G Barnell, E J Berry, S J Clist, L J Cruwys, Mrs C P Daw, R J Dolley, C J Eginton, P J Heal, F W Letch and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillor dealing with planning matters as they had received correspondence from the objectors to the application;
- ii) Cllr B G J Warren made further declarations in accordance with the Protocol of Good Practice for Councillor dealing with planning matters as he had received additional letters as Chairman of the Scrutiny Committee;
- iii) Cllr C J Eginton made further declarations in accordance with the Protocol of Good Practice for Councillor dealing with planning matters as he had received additional letters as Chairman of the Standards Committee;
- iv) Mr Elstone spoke in objection to the application;
- v) Mr Cattermole spoke as the applicant;
- vi) Cllr D J Knowles spoke as one of the Ward Members;
- vii) The following late information was provided:

Revised Drawing:

EV Charging Layout.

Dwg No: POST-21-04-10 Rev G

Response: Revised drawing submitted to reflect a more even distribution across the development. 48 charging points identified: Fourteen (x14) north of Blundell's Road and thirty four (x34) south of Blundell's Road. Please refer to detailed response in Officer report (Para 9.1).

Consultee Comments:

Historic Environment team – 19 October 2021

Neither an objection nor support for Planning Application 21/00454/MARM:
A programme of archaeological work is currently on going within the area subject to this reserved matters application in accordance with an agreed written scheme of investigation and, as such, the Historic Environment Team has no comments to make on this current planning application.

Response: consultee comments noted. No further action required.

Historic Environment team – 21 October 2021

Neither an objection nor support for Planning Application 21/00454/MARM:
While the Historic Environment Team has informally approved the written scheme of investigation prepared by Cotswold Archaeology, and that archaeological works are underway on site, I am unaware that this document has been formally submitted to the Planning Authority to comply with

Condition 15 on the consent granted for the outline application 14/00881/MOUT.

I would be grateful if you could make the applicant aware of the outstanding requirement for the formal submission and approval of the agreed written scheme of investigation to comply with the above mentioned condition.

Response: The concerns raised are included as an Informative in the Officer Report. No further action required.

Tiverton Town Council – 19 October 2021

The earlier comments previously made by the council remain. Whilst it is appreciated that the developer has made some changes following our recommendations they are fairly minor and many issues have not been addressed. The report submitted by the Tiverton Civic Society which contained many valued points seems to have been mainly ignored. We therefore feel that the developer should revisit the comments and come up with a better amended plan taking those points in to consideration. There would seem to be little if no provision for electric charging points in the large affordable housing block. Can the developer explain the reason for this when we are being pushed towards electric vehicles?

Response: revised drawings including (but not restricted to) a revised playing layout, wider distribution of house types, introduction of new house types, enhanced consideration of the Blundell's Conservation Area, introduction of children's play space, change in height, scale and massing of apartment block 2, amended landscape and boundary enclosures, increased depth of landscape buffer south of Blundell's Road, enhanced EV charging provision and changes in the density and distribution of development are a number of changes introduced into the scheme following additional Member and stakeholder consultation. Officers advise that a comprehensive consideration of the overall design, scale and layout has been given.

As regards to EV charging provision the proposed scheme is providing a significant over provision, 32 in excess of policy requirements. Policy DM5 requires infrastructure for electric vehicles to be built into development without specifying its allocation to unit types.

Tiverton Civic Society – 21 October 2021

Most of our original objections remain, as well as our statement and question on Affordable housing submitted at the MDDC Planning Committee on July 28th. In particular, we emphasise the following points:

- The application remains non - compliant with the NPPF, para 132 relating to early discussion with the local community.

Response: Please refer to detailed response in the Officer report to Planning Committee 28th July 2021, section titled Proposed Development, para 9.1.

- The overall distribution of Affordable Housing remains highly unsatisfactory needing to be integrated with the provision of private housing to promote the creation of mixed and balanced communities. Affordable housing should be indistinguishable from market housing in terms of its visual appearance and its location within the development site and should contribute positively to the high-quality urban design of the scheme

Response: Please refer to detailed response in the Officer report 3rd Nov, para's 5.1 – 5.2.

- Whilst the applicants are correct in stating that the Mid Devon Local Plan Policy DM5 calculates that they are required to provide 16 or 17 electric charging points, and it is gratifying that they are providing 48, surely it would be more sensible with the surge in demand for electric cars and plug-in hybrids, and future developments in the Eastern Urban Extension all being required to provide EV charging points that it is not provided now.

Response: the application represents an over provision in policy terms. Please also refer to detailed response in the Officer report 3rd Nov, para 9.1.

- The proposed development is a standard design replicated in many parts of the country. The development of 'character areas' and 'heritage ranges' is no substitute for local distinctiveness. The development shows minimal appreciation of the local context.

Response: Please refer to detailed response in the Officer report to Planning Committee 28th July 2021, para 3.11.

Consultee Comments:

The objection letters submitted are available and can be read in full from the Mid Devon District Council Planning portal.

6 x letters of objection. The main points including:

- The linking road (north of Blundell's Road) towers over the garden fence to our property in Pool Anthony Drive. This is a violation of privacy with vehicles looking directly into our property. Without an appropriate barrier the increase in noise will be significant.

Response: an acoustic barrier has been constructed in accordance with Application No. 16/01759/FULL. The proposed apartment block (Units 148-156) will act as a visual and noise barrier between vehicles using the linking road and existing properties on Pool Anthony Drive. Officers can advise that vehicles using the linking road, will not be able to achieve direct views into properties on Pool Anthony Drive. The spur to the Left-in-left-out junction will serve vehicles travelling in a west bound direction; no direct views or head lights will be directed towards existing properties on to Pool Anthony Drive. The detailed landscape Plan (Dwg No. edp6162_d018g, Sheet 2 of 8) identifies a new hedge between apartment block 148-156 and the existing mature boundary on the northern edge of the application site, with 6 hedge species proposed. This will provide additional remediation.

- The car park (associated with Unit No.s 148-156) to the rear of properties in Pool Anthony Drive will, I imagine, also be built up, meaning people can look straight over our garden boundary into our property.

Response: Dwg No. Engineering Strategy 15255-hyd-xx-xx-dr-c-3501 Rev PO1 provides details of ground levels. The point of entry into the apartment car park will have limited impact on the privacy of existing properties where the hedgeline between the existing properties and the development site is at its weakest for providing a visual barrier.

- The application does not comply with the policy expectations relating to visitor parking provision. Visitor parking being poorly located.

Response: Parking provision complies with policy expectations (Dwg No. POST-21-04-10 G). Please refer to detailed response in the Officer report to Planning Committee 28th July 2021, Para 3.12.

- Tandem Parking spaces does not encourage householders to park on their driveways instead resulting in a higher insistence of on-street parking. Visitor spaces will be taken up by those not parking on their drive.

Response: Please refer to detailed response in the Officer report to Planning Committee 28th July 2021, Para 3.12.

- The application does not comply with the Tiverton EUE key design principle relating to the 'centre to edge' and 'garden village' principle.

Response: Please refer to detailed response in the Officer report to Planning Committee 28th July 2021, Para's 3.10, 3.18 and 3.19.

- The application does not comply with the Tiverton EUE key design principle relating to character areas; the application artificially creating 5 new character areas.

Response: Please refer to detailed response in the Officer report to Planning Committee 28th July 2021, Para's 3.10 and 3.21. Also the Officers report 3rd November paras 4.1 – 4.2.

- The application has created high density housing areas in locations that defeat the Tiverton EUE Design Guide expectations.

Response: Please refer to detailed response in the Officer report to Planning Committee 28th July 2021, Para's 3.9 and 3.10. Also the Officers report 3rd November paras 1.1 – 1.2.

- The applicant has totally removed all cycle lanes.

Response: Please refer to detailed response in the Officer report to Planning Committee 28th July 2021, Para's 2.7, 2.8 and 3.7.

- The applicant has created high density housing areas in locations that defeat the Tiverton EUE Design Guide expectations of sympathetic design to existing properties.

Response: Please refer to detailed response in the Officer report to Planning Committee 28th July 2021, Para's 3.9, 3.10, 3.16 and 3.17. Also the Officers report 3rd November para's 1.1 – 1.2, 2.1 – 2.5, 4.1 – 4.2 and 7.1.

- The applicant has not conformed to the Tiverton EUE Masterplan SPD or Design Guide Key Principles by not following the prescribed process (relating more specifically to the Urban Design and Architectural Principles document and Design Review Panel process); to the detriment in particular to existing residents.

Response: Please refer to detailed response in the Officer report to Planning Committee 28th July 2021, section titled Proposed Development, para 1.9, 1.10, 3.2, 3.3, 10.2, 10.3 and section titled Reasons for Approval of permission.

- The applicant has totally removed all provision of on-road parking as detailed in the Tiverton EUE Masterplan SPD and Design Guide failing to encourage walking, cycling and public transport ahead of car use.

Response: Parking provision complies with policy expectations providing a majority of on-plot parking (Dwg No. POST-21-04-10 G). Please refer to detailed response in the Officer report to Planning Committee 28th July 2021, para 2.3, 2.7, 3.1, 3.8, 3.12 with regard to the achievement of sustainable development and better places in which to live and work.

- The approach to Blundell's Road from the A361 should be fronted by 2 storey buildings with references in local stone, a wide boulevard with cycle lanes. Taller buildings should be nearer the centre.

Response: Hybrid application (14/00881/MOUT) established the width and detail of the A361 and Blundell's Road linking road. This application seeks to establish the form of development either side of the linking road. Please refer to detailed response in the Officer report to Planning Committee 28th July 2021, Para 2.7 that sets out the principles of development, para 3.8 establishing a hierarchy of streets and para 3.21 for negotiated amendments to this part of the development.

- The EUE Design Guide references the creation of green boulevards, street trees and on secondary streets on-street parking.

Response: Applications 14/00881/MOUT and 21/00374/MARM relate to the development of the green boulevards. Please refer to detailed response in the Officer report to Planning Committee 28th July 2021, para 2.7 that sets out the principles of development, 3.22 for street trees and para 3.12 for parking provision and policy compliance.

- Page 53 of the EUE Design Guide describes the approach to the intersection between Blundell's road and the new boulevards as 'a distinctive and high quality urban plaza' with central open space. The proposal materially compromises what was originally intended.

Response: Page 53 of the EUE Design Guide is referring to the neighbourhood centre; a part of the EUE that does not form part of this application area and will be addressed through a future application.

- A children's playground has been sited bang next to a noisy, busy and possibly treacherous main road, the volume of which will only increase dramatically with the arrival of further housing in subsequent years. Play zones should be friendly, safe, accessible and integral to the livelihoods of young children.

Response: Please refer to detailed response in the Officer report to Planning Committee 3rd Nov para 6.1. Also the Officer report to Planning Committee 28th July 2021, para 3.7 and the Tiverton EUE Masterplan SPD that identifies as part of the phased development of the EUE, multi-functional community hubs.

- It is disappointing beyond belief that cycle lanes are not included in the main boulevard. Cycle lanes should connect all areas and reach the employment centre. Tiverton has some areas of cycle lanes but there needs to be a more consistent strategy.

Response: Applications 14/00881/MOUT and 21/00374/MARM relate to the development of the green boulevards. Please refer to detailed response in the Officer report to Planning Committee 28th July 2021, para's 2.7 - 2.9 and 3.7.

- Why are solar panels and heat pumps not being installed as part of the development? Why is this development using gas overall for its energy?

Response: Please refer to detailed response in the Officer report to Planning Committee 28th July, para 3.27 referring to the fabric first approach. Also the Officer report for 3rd Nov, para 9.1.

- We need to create environments for the future which foster mental health, protect biodiversity, maximise sustainability, promote heritage value and consequently encourage strong communities that put welfare and community at the forefront.

Response: Please refer to the Officer report to Planning Committee 28th July that seeks to confirm the comprehensive approach to development, including recognition of future phases of development that will deliver community facilities in the form of a community centre and country park.

- The self-build homes (outside the application area, north of Blundell's Road) should have a service road from the rear.

Response: Please refer to the Officer report to Planning Committee 3rd Nov para 10.1

- There is a lack of provision for children to cross the main roads to the primary school.

Response: Devon County Council in approving the technical drawings for the linking road (north of Blundell's Road), the planning application for the primary school, the spine road (south of Blundell's Road) and Phase 2 traffic calming measures (Blundell's Road / Post Hill) will all address this issue.

- Two bungalows to the rear of existing properties south of Blundell's Road is not enough.

Response: Please refer to the Officer report to Planning Committee 3rd Nov para 7.1.

- The existing properties, south of Blundell's Road will lose their southern vistas. This is inequitable.

Response: the application site is an allocated site with outline planning consent. Please refer to the Officer report to Planning Committee 28th July, Para 3.16. Also the Officer report to Planning Committee 3rd Nov para's 2.1 – 2.5.

- Why have normal working hours been agreed with a 7.30 start; earlier than other sites?

Response: Condition 14 of application 14/00881/MOUT has not been discharged confirming hours of work.

Updated Reports

Two updated reports have been received – amended to reflect the updated Detailed Landscape Design referenced in the Officer's report at 'Applicant's Supporting Information'. The updated reports include the:

Habitat Assessment and Mitigation Plan
(211029_P1046_Habitat_Assessment_and_Mitigation_Plan – Finalv2
Dated November 2021); and

Landscape and Management Plan (edp6162_r005e, Dated November 2021)

Response: The updated Habitat Assessment and Mitigation Plan and Landscape and Management Plan do not have a material effect upon the measures and recommendations of the documents; simply for consistency that they reflect the latest landscape details.

Updated Reports

Two updated reports have been received – amended to reflect the updated Detailed Landscape Design referenced in the Officer's report at 'Applicant's Supporting Information'. The updated reports include the:

Habitat Assessment and Mitigation Plan
(211029_P1046_Habitat_Assessment_and_Mitigation_Plan – Finalv2
Dated November 2021); and

Landscape and Management Plan (edp6162_r005e, Dated November 2021)

Response: To reflect the updated reports the reference numbers within Condition 11 also require updating. The revised wording for Condition 11 is proposed as follows:

No development shall take place on the site except in accordance with the details set out within the submitted Landscape Management Plan (November 2021; edp6162_r005e) and Habitat Assessment and Mitigation Plan (November 2021; 211029_P1046_Habitat_Assessment_and_Mitigation_Plan - Finalv2). The recommendations in the Landscape Management Plan (June 2021) and Habitat Assessment and Mitigation Plan (March 2021) shall be adhered to throughout the construction period and the development shall be operated thereafter only in accordance with the management provisions set out within them.

c) Application 21/01458/FULL – Erection of single storey extension to care home – Ashdowne Care centre, Ashdowne House, Orkney Mews, Tiverton)

The Interim Area Team Leader outlined the application by way of a presentation highlighting the proposal along with a site location plan, block plan, an aerial image, existing and proposed elevations and floor plans, the proposed extension to the floorplan and roof plan and photographs from various aspects of the site.

He explained that there was historic concern with regard to parking in the area, however the proposal had not sought additional bed space and therefore did not require additional parking.

Addressing the questions raised during public question time, he provided the following responses:

- Concern with regard to compliance with Policy DM5, the response of the Highway Authority had been that as there were no additional beds proposed then there was no need for additional parking
- Concerns that the existing rooms could be converted into bed space – that was beyond the control of the LPA
- The location of the portacabin and that it's siting could no longer be enforced against
- The meaning of conditions; he explained what conditions could cover

- The Tree Officer had considered the quality of the hedgerow and that tree protections plans would be put in place
- The impact of the proposal, now that this was a single storey application, there would be little impact on local residents
- Access and safety and further parking concerns, the proposal would not increase the traffic in the area
- With regard to access for construction – this had previously been via Shakespeare Close and would be detailed in a Construction Management Plan, required by condition

Consideration was given to:

- The views of the objector with regard to the serious traffic situation during the previous extension, the size of the development and emergency vehicle access, parking provision for staff, the issues with the turning bay and that residents had tried to protect their properties; how the site had been developed over the last 20 years and that the site was becoming overdeveloped.
- The views of the agent with regard to the lack of concern by the Highway Authority, his client had considered the comments of concern, there would be no additional bed space and no extra parking spaces required.
- The views of the representative from Tiverton Town Council with regard to her knowledge of working in the care industry, the collective concerns of residents, overdevelopment of the site; concerns with regard to access and turning, the proposal would take away some of the existing parking on the site and the lack of rear access to the site
- The views of the Ward Members with regard to the impact of the proposal on neighbouring residents, whether the proposal conflicted with planning policies; parking issues in the area, whether the site had been overdeveloped and the need for an appropriate Construction/Environmental Management Plan; insufficient parking and the need to stop developing the site further.

Discussion took place regarding:

- Concerns with regard to parking provision
- The siting of the portacabin and if planning permission was granted whether the applicant would remove it?
- The extension details and whether existing rooms would be used for bed space
- Items (g) and (j) within Condition 3
- How the extension would be constructed with no access to the rear of the site
- The number of extensions
- Whether Policy DM5 did apply to the proposal
- Overdevelopment of the site
- The lack of control with regard to the number of beds

RESOLVED that Members were minded to refuse the application and therefore the decision be deferred for the receipt of an implications report to consider reasons for refusal with regard to over development of the site and that the application did not comply with Policy DM5

(Proposed by Cllr G Barnell and seconded by Cllr L J Cruwys)

Notes:

- (i) Cllrs G Barnell, E J Berry, S J Clist, L J Cruwys, Mrs C P Daw, R J Dolley, C J Eginton, P J Heal, F W Letch and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillor dealing with planning matters as they had received correspondence from the objectors to the application;
- (ii) Cllr Mrs C P Daw declared a personal interest as she had provided training to the care home in the past;
- (iii) Cllrs B G J Warren and R J Dolley made further declarations in accordance with the Protocol of Good Practice for Councillor dealing with planning matters as some of the objectors were known to them;
- (iv) Cllr Mrs F J Colthorpe made a further declaration in accordance with the Protocol of Good Practice for Councillor dealing with planning matters as the site was within her previous county division;
- (v) Cllr L J Cruwys declared a personal interest as the objectors were known to him, his mother had been a patient and he used to be an ambulance driver;
- (vi) Cllr Mrs F J Colthorpe requested that her vote against the decision be recorded;
- (vii) Mrs Jenner spoke as the objector
- (viii) Mr Archer spoke as agent
- (ix) Cllr Mrs Harrower spoke on behalf of Tiverton Town Council;
- (x) Cllrs B Holdman and Mrs E Slade spoke as Ward Members.

d) Application 21/00152/FULL Change of use from place of worship to residential dwelling together with external alterations– Gospel Hall, Peter Street, Bradninch)

The Interim Area Team Leader outlined the application by way of a presentation highlighting the site location, an aerial view of the site, existing and proposed front and rear elevations, the upper roof space and how it would be utilised, the views of the Conservation Officer who had no objection but had raised the issue of the paraphernalia on the roof and how that could be managed by condition, the proposed ground and top floor plans and photographs from various aspects in the area including the street scene.

Consideration was given to:

- The views of the objector with regard to inappropriate development in a conservation area, the current street scene of small cottages and terraces; the impact of the glass box on the roof and how visual that would be; strong objections from neighbouring properties with regard to the misuse of the roof, overdevelopment of the site and concern with regard to further development in the conservations area; parking in the area and that the property was unsuitable for a residential dwelling
- The views of the applicant who had previously converted a chapel, the fact that they had worked closely with the Conservation Officer on the project, the

need to preserve some of the original features of the building, the roof would be a private amenity space and not a party area

- The views of the Ward Member with regard to supporting the views of the objectors; the fact that the roof terrace was not appropriate and out of place, that the design was not in keeping with the built environment and there were parking issues in the area

Discussion took place regarding:

- If the building were to be demolished would the site become infill and then another dwelling be applied for
- The building would go into disrepair if not used
- Whether the building was out of place within the current street scene in its current form
- The garden roof could be a great innovation
- What other use would be suitable here and not require parking

RESOLVED that planning permission be granted subject to conditions as recommended by the Interim Development Management Manager.

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

Reason for the decision: As set out in the report.

Notes:

- (i) Cllrs G Barnell, E J Berry, S J Clist, L J Cruwys, Mrs C P Daw, R J Dolley, C J Eginton, P J Heal, F W Letch and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillor dealing with planning matters as they had received correspondence with regard to the application;
- (ii) Mr Andrews spoke in objection to the application;
- (iii) Mrs Schamroth spoke as applicant;
- (iv) Cllr L D Taylor spoke as Ward Member.

e) Application 21/01079/FULL Change of use of land for the siting of a temporary worker's dwelling –(log cabin) for 3 years – land at NGR 316266 116080 (Poachers Rest – Clayhidon)

The Consultant Development Management Officer outlined the application by way of a presentation highlighting the reason for the call in, the number of consultees, the concerns of development within the AONB, the views of the Economic Development Officer, the objections and support for the application, the previous scheme which had been refused, the detail of Policy DM8, whether there was an essential and functional need. He also highlighted recent appeal decisions which were relevant to the application and the criteria to be considered for a mobile unit, also the business plan for the proposal. He reported that he had considered the impact of the development on the AONB and considered drainage and highway/access issues.

Providing responses to questions posed in public question time:

- He informed the meeting that the Economic Development Officer had not stated that he was doubtful,
- Occupation of the site would assist business use
- He had not checked the 4G but had considered the availability of rented property in the locality and that all relevant information presented has been considered.
- With regard to the views of the AONB and Economic Development Officer, he had not discounted this information but had reached a different conclusion.
- The ratio of income generation was approximately 30:70 agriculture to equine
- Enforcement investigation on the site was live and that if the application was approved it would regularise the situation

He also referred to an amendment to Condition 4 with regard to the occupation of the dwelling.

Consideration was given to:

- The views of the Objector with regard to the harm that the development would have on the landscape, the economic development did not out way the harm, the views of the Economic Development Officer was not clear, the small number of livestock on the property, that there was no evidence of rehabilitation of horses and that the development would set a precedent on the AONB
- The views of the Parish Council with regard to the essential need for a full time worker to live on the site, the views of the Economic Development Officer was not clear, there were 16 properties available within 5 miles of the site and whether any of the evidence had been verified by an agricultural expert
- The views of the Ward Member with regard to the difference between a log cabin and a mobile home, the live enforcement cases, the different regulations in place for the AONB and whether the application was contrary to Policy DM8

Discussion took place regarding:

- What would happen after 3 years and how much weight should be given to the letters of support
- The log cabin was a serious investment for a temporary dwelling
- If horses were present then 24 hour care was needed
- The response of the Economic Development Officer and the representative of the AONB

RESOLVED that planning permission be granted subject to conditions as recommended by the Interim Development Management Manager with an amendment to Condition 4 to state that: The occupation of the dwelling shall be limited to a person solely or mainly employed in connection with the operation of the agricultural or equestrian business at Poacher's Rest, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.

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

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

(Vote 5 for; 4 against)

Reason for the decision: As set out in the report.

Notes:

- (i) Cllrs G Barnell, E J Berry, S J Clist, L J Cruwys, Mrs C P Daw, R J Dolley, C J Eginton, P J Heal, F W Letch and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillor dealing with planning matters as they had received correspondence with regard to the application;
- (ii) Cllr S J Clist made a further declaration in accordance with the Protocol of Good Practice for Councillor dealing with planning matters as the Parish Councillors and objectors were known to him;
- (iii) Mr Carter spoke in objection to the application;
- (iv) Mrs Evans spoke on behalf of the Parish Council;
- (v) Cllr S J Clist spoke as Ward Member;
- (vi) The following late information was reported: Public Health withdraw their holding objection with regard to drainage now a package treatment plant is proposed.

f) Application 21/00887/FULL - Erection of 5 dwellings with associated works following demolition of existing agricultural building – land at NGR 278841 104538 (Linscombe Farm), New Buildings, Sandford

The Principal Planning Officer outlined the application by way of a presentation highlighting the site location plan, the history of the site with regard to the Class Q application for conversion that had been granted, the 3 dwellings approved as a fall back in 2019 and the current application. He identified the square meterage of floor space for each application and the case law deemed to be useful guidance. He felt that the proposed development was not considered to be appropriate or acceptable and that it was not betterment to the original scheme that had been granted permission.

The meeting viewed the aerial view of the application site, the block plan, proposed elevations, ground floor plans, an illustrative perspective of the site and photographs from various aspects of the site. The officer also explained that Class Q did have limits and that the proposal was over the Class Q limit.

Providing a response to a question posed in public question time with regard to policy, he stated that there was no specific policy but that there was a need to consider betterment.

Consideration was given to:

- The views of the applicant with regard to the need to address the climate emergency, the biodiversity gains of the scheme, the decrease in energy proposed, there would be more habitat for wildlife, that the proposal was betterment and that the development was sustainable.
- The views of the Ward Members with regard to the need to encourage development such as this, the biodiversity net gain which would be established, the need to encourage small scale development and the lack of current policy for being carbon neutral. The history of the site, the lack of objection from the Parish Council, what would happen to the site if it was not developed and the need to consider the sustainable development proposed.

Discussion took place regarding:

- The absence of a S106 agreement – which would be considered if the application was approved
- Whether the application was stretching the Class Q status
- Anyone could progress the tree planting
- Whether the proposal was an example for the future.

RESOLVED that planning permission be granted and that delegated authority be given to the Interim Development Management Manager to progress a set of conditions to include a S106 agreement.

Reason for approval - that this was suitable use of the land, it was an imaginative and eco-friendly development which should be encouraged.

(Proposed by Cllr L J Cruwys and seconded by Cllr F W Letch)

Notes:

- (i) Cllrs E J Berry, S J Clist, L J Cruwys, Mrs C P Daw, P J Heal, F W Letch and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillor dealing with planning matters as they had received correspondence with regard to the application;
- (ii) Ian Russell spoke as the applicant;
- (iii) Cllrs Mrs E Lloyd and Mrs M E Squires spoke as Ward Members;
- (iv) Cllr B G J Warren requested that his vote against the decision be recorded;
- (v) Cllr Mrs C P Daw requested that her abstention from voting be recorded.

118 MAJOR APPLICATIONS WITH NO DECISION

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

It was **AGREED** that: application 21/02014/MARM – land north of Putson Road Cottages, Blundells Road, Tiverton be brought before the Committee for determination and that a site visit take place.

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

119 **PLANNING PERFORMANCE REPORT**

The Committee had before it, and **NOTED**, a *report of the Interim Development Management Manager which outlined the performance aspects of the planning function.

The officer explained the statistics and informed the meetings that the planning team were doing very well, she highlighted the speed and quality of decision-making, the current staffing issues; the work of the enforcement and building control teams and that the authority was joint second in comparison to those other authorities in the south west.

Members recorded their congratulations for the work that was taking place.

Note: *Report previously circulated and attached to the minutes

(The meeting ended at 8.15 pm)

CHAIRMAN

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PLANNING COMMITTEE AGENDA - 1st December 2021

Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	<p>18/01711/MFUL - Formation of an open clamp (4630m2) for the storage of silage and provision of new access at Land and Buildings at NGR 288069 117081 (Gibbet Moor Farm), Rackenford, Devon.</p> <p>RECOMMENDATION Grant permission subject to conditions.</p>
02.	<p>21/00782/FULL - Siting of a temporary rural workers dwelling (mobile home) at South West Game Birds, Crediton, Devon.</p> <p>RECOMMENDATION Grant permission subject to conditions.</p>

Plans List No. 1

Application No. 18/01711/MFUL

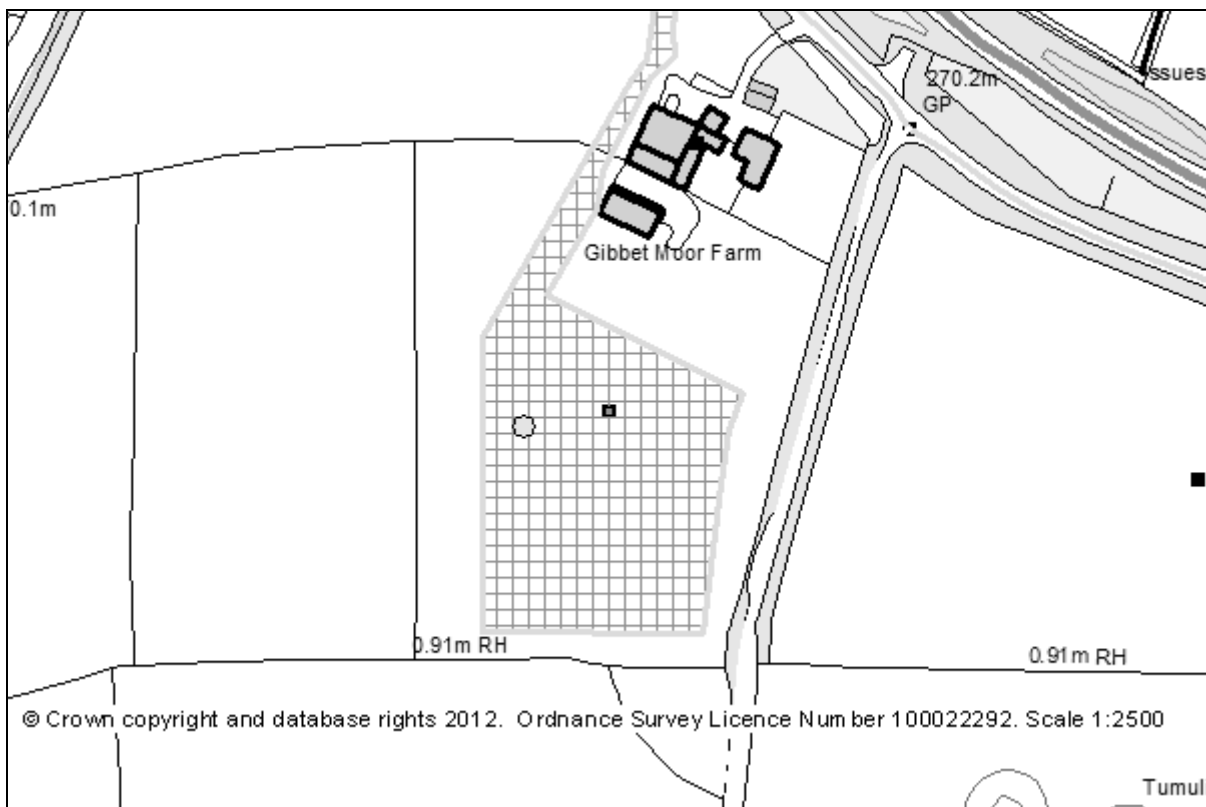
Grid Ref: 288069 : 117081

Applicant: Mr W Reed

Location: Land and Buildings at NGR 288069 117081 (Gibbet Moor Farm)
Rackenford
Devon

Proposal: Formation of an open clamp (4630m²) for the storage of silage and provision of new access

Date Valid: 9th October 2018



APPLICATION NO: 18/01711/MFUL

MEMBER CALL-IN

This application has been called in by Cllr Ray Stanley and Cllr Andrew Moore in order for the Planning Committee to consider: whether the transport movements associated with the use of the proposed silage clamp will have an unacceptable impact on the amenity of the surrounding rural area, whether the size of the silage clamp is acceptable and whether the development would result in an unacceptable risk of pollution. Another key question would be was the proposal industrial or agricultural development and therefore would the local planning authority or the County be the relevant decision making body.

REASONS FOR DEFERRAL

The item first appeared before Planning Committee on 23rd October 2019. It was deferred to allow for further work to be undertaken on the application.

The item then appeared before Planning Committee on 3rd June 2020. It was deferred to enable officers to answer the following questions raised by the Committee so it could then proceed to determine the application:

1. Whether the use was industrial or agricultural to which NPPF was referred to under paragraphs 170 and 171 under Principle of Development and as such whether DCC should be dealing with the application?
2. Where does the Town and Country Planning Act 1990 define open clamps for the storage of silage as agricultural?
3. Are the size of the attenuation ponds sufficient for the run-off water for both the silage coverings and the concrete hardstanding and is the drainage considered adequate for this site?
4. Had the climate change issue been addressed with the amount of proposed vehicle movements?
5. Had the Ward Members concerns with regard to the pollution and transport impact on the local area been addressed?

PRELIMINARY MATTERS

In response the answers, the officers advise that:

1. Having carefully considered the legal advice obtained with reference to the facts of the current case, the existing use of the land and the proposed development is part of an agricultural use of land, including Gibbet Moor Farm which is one planning unit and which along with other units make up the agricultural business comprising several farms within a 12 – 15 miles radius of the application site. As such the LPA should determine the application.
2. The Town and Country Planning Act does not specifically define whether development relates to a particular use. Nevertheless, agriculture use is defined widely and is considered to include the proposed use, the storage of silage being part of, if not ancillary to the agricultural planning unit. In any event, the fact that there is an application before the committee, means that the use (storage of silage) as well as the operational development (the clamp) is for the Council to determine, imposing such conditions as are reasonable etc.

3. Yes, the application being recommended for approval bearing in mind the relevant Development Plan policies and all relevant material planning considerations (the weight to attached to such being a matter for the LPA) – please see further commentary in the report.
4. Ditto
5. Ditto

In terms of determining the application, it is important to note that since the application was last considered by the Committee:

- the NPPF has been further updated on July 2021. Accordingly, the quoted paragraphs and any others quoted in earlier iterations of the Committee report have been updated in this report.
- the new Local Plan, the Mid Devon Local Plan 2013-2033 has been formally adopted and the relevant policies have been updated for the purposes of this report.
- An updated Certificate of Ownership (Certificate B) has been submitted on 26th August 2021 and on 15th September 2021 following the matter that the applicant did not own all the land, and all parties reconsulted. An updated site notice has been erected on 27th September 2021 third parties have been re consulted. Any further comments received as a consequence were summarised in the 'consultations' section of this report.
- Officers have been provided with updated traffic figures relating to the proposed development. These show that the proposed clamp would be served by 11 different land parcels of varying distances from the application site, ranging from 0.6 miles to 13 miles. The applicant has confirmed that he either owns or rents all of the land identified within the traffic figures.
- Although the extent of the development has not changed, the application site has been extended to include the whole of GMF as that is considered to be the relevant planning unit which existing use is considered to be agriculture.

RECOMMENDATION

Grant subject to conditions

PROPOSED DEVELOPMENT

Formation of an open clamp (4630m2) for the storage of silage and provision of new access

RELEVANT PLANNING HISTORY

10/00026/DCC - DCCREF date 22nd July 2010

County Matter for construction of an anaerobic digestion facility with associated landscaping, ground and other works - DCC REFUSAL OF PLANNING PERMISSION - DATED 22ND JULY 2010.

18/00875/FULL - PERMIT date 6th August 2018

Retention of an agricultural access track

18/01711/MFUL - PCO date

Formation of an open clamp (4630m2) for the storage of silage and provision of new access

18/01527/PNAG - PDA date 25th October 2018

Prior Notification for the erection of an agricultural storage building

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013-2033

Policy S1 -Sustainable development priorities

Policy S6 – Employment

Policy S9 – Environment

Policy S14 – Countryside

Policy DM1 - High quality design

Policy DM3 - Transport and air quality

Policy DM4 – Pollution

Policy DM5 – Parking

Policy DM20 - Agricultural development

Policy DM25 - Development affecting heritage assets

Policy DM26 - Green infrastructure in major development

National Planning Policy Framework

National Planning Practice Guidance

CONSULTATIONS

PUBLIC HEALTH

2 November 2018

Contaminated Land	No objection to the proposal
Air Quality	No objection to this proposal
Environmental Permitting	No objection to this proposal
Drainage	No objection to the proposal
Noise & other nuisances	No objection to the proposal
Housing Standards	No comment
Licensing	No comments
Food Hygiene	Not applicable
Private Water Supplies	Not applicable
Health and Safety	No objection to this proposal enforced by HSE.

Public Health further responded on 29th September 2021 to confirm they had no further comments.

OAKFORD PARISH COUNCIL

16th October: No comment

RACKENFORD & CREACOMBE PARISH COUNCIL

12 November 2018

The Council has concerns that no evidence is provided to support the claim that there will be no increase in traffic, with no information on what this amounts to at present or the directions in which silage will be moving to and from the site. There is also concern that the proposal is too large to be accommodated on this site and evidently much larger than is necessary to hold the silage taken off the farm itself.

2 August 2019

Rackenford & Creacombe Parish Council would like to re-iterate the comments previously submitted in relation to this planning application as follows:

The Council has concerns that the evidence provided does not allay its fear that there will be an increase in traffic as a result of this proposal. There is still concern that the proposal is too large to be accommodated on this site and evidently much larger than is necessary to hold the silage taken off the farm itself.

20 November 2019

Further to Mrs Clifford's letter dated 13.11.19 inviting comments regarding the above planning application, Rackenford & Creacombe Parish Council would like to make the following observation:

The applicant is submitting piecemeal applications in North & Mid Devon, the cumulative effect of which will result in increased traffic movements at Stonelands Cross. This gives the Council great cause for concern regarding the safety at this junction.

STOODLEIGH PARISH COUNCIL

27 November 2018

This application was considered at a meeting of Stoodleigh Parish Council held last evening.

The Parish Council wish to object to the application as it considered that the industrial scale of the proposed development is wholly inappropriate.

It also has concerns that in the absence of a Pollution Impact Assessment there is potential for the contamination of watercourses leading into the Iron Mill Stream and River Exe.

5 August 2019

We continue to object to this application (previous response 27th November 2018) because the scale of the development suggests industrial use, not agricultural, with the potential for associated consequences. Furthermore, we still have concerns over the environmental impact of the development and draw attention to our original objection which highlighted the potential for the contamination of watercourses leading to the Iron Mill Stream and the River Exe.

18 February 2020

We continue to object to this application (previous responses, 27 November 2018 and 5th August 2019) because the scale of development suggests industrial use, not agricultural. It has also been brought to the council's attention that this planning application is potentially linked to two other large proposals in Devon, again suggesting industrial rather than agricultural use.

At such a scale and size we are very concerned about the risks of contamination to the environment, in particular to water courses leading to Iron Mill Stream and the River Exe.

There are also serious concerns from both the council and the public about the considerable increase in traffic; in terms of volume and size, in particular the tractors and heavy lorries using narrow roads and the A 361; which is one of the busiest roads in Devon and has had a number of fatalities over the last decade.

This increase in heavy traffic would also add to the deterioration of the local roads and verges that already are suffering from current usage levels, including excess mud, damaged verges, potholes and other highways issues.

4 October 2021

Reinstate objection in terms of highway safety, risk of pollution into Iron Mill Stream and river Exe and importation of material from up to 15 miles away and diesel required to transport it outweigh any energy production.

TEMPLETON PARISH COUNCIL

15 November 2018

Templeton Parish Council, as a neighbouring authority, wish to comment as follows:

Will there be a maximum total height restriction for the silage heap, allowed to be above the 3 metre concrete panelled sides?

There is no room for articulated lorries to turn left to approach the site, off the A361 (Stoneland Junction) coming from Tiverton direction without crossing over into the opposite lane of traffic approaching the junction. Please refer back to the Conditions referenced previous Milk Transfer and Tiverton Energy Centre Planning Permissions.

The plan indicates there is a farm track situated on the very east side of the site boundary, this is in fact a Council maintained road servicing Templeton Bridge known as Shell Lane.

Certain conditions should be attached to require: No Night Lighting should be conditioned, normal working hours to be observed, the drive to be concreted and a concrete turning area for articulated lorries, there is concern regarding surface water run off.

5 August 2019

Templeton Parish Council wish to respond as follows:

1. The silage clamps are huge. Normal clamps are about 600 sq metres. The question is asked as to where the silage is going to come from to fill the clamps. There are no cattle at Gibbet Moor and it is therefore not understood why a silage clamp is required for the sole purpose of storing winter feed.

2. Vehicle movements. These are likely to be considerable added to which there will be a significant risk of 44 tonne HGV's turning right at Stonelands Cross onto the A361 North Devon Link Road where there is almost a constant stream of traffic in both directions, more so with holidays makers during the harvesting season.

We note that net tonnage figures indicate the filling of the proposed clamp, it does not give the gross weight being carried on the public roads, being also the additional 10 tonnes or so of tractor and trailer, which is the actual road impact that the residents experience.

We note that the totals of trips to the clamp do not include their return journeys.

Furthermore, in addition to an increase of traffic with large vehicles trying to exit and access the site, small country lanes, often single track rural lanes of unsuitable construction, lead to the site which will undoubtedly have a detrimental effect on the condition of the road, where it is known that DCC do not have funding for repairs, and the safety of other road users.

3. It seems strange that this Application states the clamps are required for agricultural use where there are no cattle on the site. This then begs the question as to whether an Application on a commercial basis should be submitted.

If the clamps are required for agricultural use, it must be incorporated into any consent given that an upgrade to commercial use is prohibited and part of the condition of planning approval.

4. Can it be confirmed that the clamp for silage is for animal feed, or is it a storage facility for the anaerobic digester?

If the storage is to be for AD feed, then there will be the requirement to return the resulting digestate back to the grass originating fields in order to be eligible for renewable/sustainable taxpayer subsidies, thus doubling the transport impacts.

5. There will potentially be considerable run-off resulting in environmental risks, given the number of tributaries to multiple rivers in the area.

6. Can it be confirmed where the all the silage will eventually go? If it has to be a source from within a 6 mile radius, is this Application feasible? There is bound to be a significant impact on the area in terms of noise and vehicle emissions.

7. Will this application if granted ensure this operator neither has the ability nor the need for creating any future field heaps specifically as he apparently no longer farms livestock and purely services Willand AD?

8. In view of MDDC responsibility for the local Environment and DCC Highways for road safety - combined with recent statements regarding 'Climate emergency' and future GHG reductions - have the full cumulative effects attributable to this application been assessed; in combination with present daily traffic journeys (approx. 15 miles) already made by this operator to service Willand AD; and the two 'Care in the community' project applications for 'vulnerable adults' presently being considered, all within the same locality and all requiring to walk, drive, cycle utilising the same overcrowded class C infrastructure. We are told by DCC highways workmen that Shell Lane, marked as a 'farm track' on the application, will likely no longer be maintained as 'it has growing in the middle'.

8 February 2020

Templeton Parish Council wish to recommend refusal on the grounds of traffic issues, with resulting pollution that will be created and industrialisation in the countryside.

This is not a conventional silage clamp (a) because of its sheer size and (b) because there are no cattle on the farm.

Templeton Parish Council query what it is going to be used for and if it is to be storage for the digester, then is not agricultural use but commercial energy use and in that case, the incorrect planning application has been made.

21 October 2021

Objection due to industrial use, more traffic and more pollution

TIVERTON TOWN COUNCIL

22nd October 2021: Not in our parish so unable to comment

WASHFIELD PARISH COUNCIL

28 November 2018

Washfield Parish Council has decided not to comment on this application as it does not affect the parish.

NORTH DEVON DISTRICT COUNCIL

27 November 2018

Thank you for your consultation received on 29 October 2018 and the opportunity to comment on the above application.

I note that your correspondence states that our comments should reach the Head of Planning and Regeneration no later than 13th November 2018 and that if no comments are received within this period it will be assumed that we have no observations to make. I have however looked at your website and note that the application has yet to be determined as it has not been demonstrated that the application is reasonably necessary for the purposes of agriculture. It would appear that whilst additional information has been submitted in support of the application the planning officer has commented that they are of the opinion that the storage of silage used to feed an anaerobic digester is not an agricultural activity and is an industrial form of development. The use of small quantities of this to feed cattle on the farm holding would be considered ancillary to the primary industrial activity.

Consequently the development cannot be considered under the current application, due to the entirely different policy considerations for an industrial development, along with the requirement of significantly more information to be submitted for considered in the determination of an application. The correspondence states that "*entirely changing the nature of the proposal during the current application process would also be prejudicial to the stakeholders involved in the process, including the statutory consultees and other interested parties*".

I note that planning officer has advised of the following additional information that would be required in conjunction with an application for an industrial development of this scale:

- o A waster audit statement
- o A full and detailed surface water drainage strategy
- o Ecological survey and report

o Pollution impact assessment and mitigation scheme

o Transport assessment

They have however stated that they are unwilling to receive this additional information for consideration under the current application.

In light of the above, until such matters are addressed North Devon District Council have no comments at this stage.

19 August 2020

I cannot find any record of NDC advising that a silage store/clamp would be industrial. I have asked the planning officers if anyone has given this advice but I have not had any response that they have.

27 May 2021

Thank you for your consultation received on 20 May 2021 and the opportunity to comment on the above application. You have stated that any observations are required no later than 27 May 2021.

You have commented that further information has been submitted in support of the application as follows:

- ☐ Waste audit statement received 26 April 2019
- ☐ Full and detailed surface water drainage strategy received 09 September 2020
- ☐ Ecological survey and report dated March 2019
- ☐ Pollution impact assessment and mitigation scheme
- ☐ Transport assessment - submitted 29 July 2019 and I note transport figures were submitted 5 November 2020

In the determination of a planning application Section 38 of the Planning & Compulsory Purchase Act 2004 is relevant. It states that for the purpose of any determination to be made under the planning Acts, the determination is to be made in accordance with the development plan unless material considerations indicate otherwise. I note that Mid Devon Local Plan was adopted 29 July 2020. The National Planning Policy Framework (NPPF) is a material consideration.

North Devon District Council previously commented on 26 November 2018 under reference C115470. It would appear that whilst additional information has been submitted Lynton House, Commercial Road, Barnstaple EX31 1DG | www.northdevon.gov.uk in support of the application the Mid Devon planning officer at that time commented that they were of the opinion that the storage of silage used to feed an anaerobic digester was not an agricultural activity and was an industrial form of development.

I note that the application was taken to planning committee in June 2020 where members deferred the application pending further information on a number of issues including drainage and updated transport figures.

The minutes of the planning committee detail that the Area Team Leader clarified that the development had been reassessed and the storage of silage on agricultural land was now considered to be agricultural development and not an industrial development.

I acknowledge that the Highway Officer at Devon County Council has commented that the proposed use would not be significantly greater than the extant use so as to have a severe impact on highway safety and raises no objections to the proposal. On the grant of approval they have recommended two conditions which would need to be imposed to make the development acceptable.

I note that DCC Flood Risk have recommended a pre-commencement condition be imposed on the grant of approval. This would allow further details of the size of Hydro-Brake to be submitted as well as technical specification plans/sheets. I note that maintenance details for the basins have not yet been provided.

Local Planning Authorities have a statutory duty to ensure that the impact of development on wildlife is fully considered during the determination of a planning application under the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations 2017). Works should be carried out in accordance with recommendations and mitigation measures as detailed in the Ecological Appraisal by Richard Green Ecology. The proposals should be assessed using the Defra metric 2 to quantify the losses associated with these changes and to identify an appropriate landscaping plan which will provide an overall net gain for biodiversity.

Informative

In accordance with the agreed protocol, the District Council, as a consultee to Mid Devon District Council, has the following observations to note:

The proposals should be assessed using the Defra metric 2 to quantify the losses associated with these changes and to identify an appropriate landscaping plan which will provide an overall net gain for biodiversity. Mid Devon District Council may wish to secure further information in relation to size of the

Hydro-Brake as well as technical specification plans/sheets and maintenance details for the basins to negate the need for imposing the pre-commencement condition on the grant of approval.

FLOOD and COASTAL RISK MANAGEMENT TEAM

15 November 2018

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:

The applicant has not provided any information in relation to the disposal of surface water from the site to enable me to make observations on the proposal. The applicant must therefore submit a surface water

drainage management plan which demonstrates how surface water from the development will be disposed of in a manner that does not increase flood risk elsewhere, in accordance with the principles of Sustainable Drainage Systems. The applicant is therefore advised to refer to Devon County Council's draft Sustainable Drainage Design Guidance, which can be found at the following address:

<https://new.devon.gov.uk/floodriskmanagement/sustainable-drainage/>. It is recommended that the applicant consults the Environment Agency on the pollution risk from the effluent associated with the silage pit.

23 April 2019

The yard area should drain to a separate system as hydrocarbons and metals (coming from rainfall washing off plant and machinery) could be present within this runoff. This surface water drainage system should be sized for the 1 in 100 year (+40% allowance for climate change) rainfall event for the area draining to it. This surface water should be managed via infiltration or discharge to the nearest ordinary watercourse (upon further review of the site, there appears to be a watercourse bounding the south of the site) and should be treated.

The silage clamp should be sized to the 1 in 100 year (+40% allowance for climate change) rainfall event. An overflow system may be needed if the tank is partially full, but it may be that the applicant can demonstrate where the system will overflow from. The area surrounding the overflow point should be designed/planted to ensure that erosion does not occur. A gently falling cut-off ditch (with appropriate planting) may be appropriate for overflows to allow some nutrients within the water to filter out. The overflow from this ditch should be appropriately designed

We wouldn't require any details to be submitted regarding the frequency of emptying the tanks as the frequency will be dependent on a few variables (such as, how much water is in the tank). We would require that an appropriate overflow from the tank is designed in the event that the tank is not empty.

5 June 2019

The Environment Agency guidelines state the minimum storage that should be provided for surface water. However, Devon County Council (Lead Local Flood Authority) requires further storage to be provided as this silage clamp will be large in size.

Devon County Council also require overflow from the system to be assessed. If the tank is overwhelmed by a rainfall event, or the tank has not been emptied before a rainfall event, then the tank will overflow. If the silage clamp is full then there is potential that this water will contain nutrients from the silage that need to be filtered out before the water makes its way to a watercourse.

The yard area requires drainage but I cannot see anything proposed to drain this yard area. The yard area could have a large number of vehicle (including tractor) movements and could pick up sediments from wheels or transporting silage. The surface water from the yard area should be treated to remove sediments and any pollutants.

17 March 2020

No objection, subject to the following condition in respect of drainage of surface water from the hardstanding:

No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system relating to the concrete yard and access track has been submitted to, and approved in writing by, the Local Planning Authority. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Proposed Silage Clamps, & Access Road with Storm Attenuation (drawing No. DRAWING 1; dated 16th January 2020) and the Surface water storage requirements for sites report (dated 8th November 2019). The details should confirm:

- The proposed construction of the surface water basins (referred to as Attenuation Ditches), including any planting
- The proposed flow control
- The route of the existing ditch (which is understood to be culverted beneath the road) to the eventual stream/spring/river.

No part of the development shall be brought into use until the surface water management scheme serving that part of the development has been provided in accordance with the approved details and the drainage infrastructure shall be retained and maintained for the lifetime of the development.

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

30 October 2020

Although the details provide more clarity of the proposals, I would still recommend the condition for the detailed design. The applicant has confirmed that the flows will be restricted by a Hydro-Brake, however, we do not know the size of this Hydro-Brake.

The applicant will need to submit the Technical Specification plans/sheets for the Hydro-Brake. These details are produced by Hydro International (manufacturer of the Hydro-Brake) and confirm the diameter of the Hydro-Brake as well as the head of water.

It would be useful to have some photographs of the ditch and the culvert (inlet and outlet) beneath the road (Stoney Lane Hill / Bulworthy Knap) to confirm the condition of these features. The applicant will need to submit maintenance details for the basins (referred to as attenuation ditches).

HIGHWAY AUTHORITY

5 August 2019

On the basis that Gibbet was being used already we would have no objections.

4 February 2020

The silage clamps would generate less traffic and a more seasonal generation than that of a milk distribution depot which could store and distribute milk from a number of farms before onward journeys so the average daily traffic movements will be more than that of the silage hence the junction requirement for the previous consents. I would agree with your legal advice as the silage can be transported to any destination.

10 November 2020

Although the County Highway Authority has already commented on this Application, I have been asked to re look and observe the Transport Figure details submitted.

I have visited the site which is accessed off a C Classified County Route which is restricted to 60 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 access condition is in poor condition and the proposal shows alteration to be carried out as Drawing Number 3.

The Traffic Figures submitted on 5th November show the trips from the field to the proposed open clamp and then delivery from the clamp to Willand via the A361. These low daily figures it is not considered that the impact will be severe or that there will be a safety concern with the proposal.

The tractor and trailer figure shows that these are low daily figures and therefore as this is traffic generated for agricultural uses these do not create a severe impact in terms of congestion which is the test under the Nation Planning Policy Framework. Therefore the

County Highway Authority would have no objection to this proposal.

Recommendation:

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

1. The site access shall be constructed, laid out and maintained thereafter in accordance with the submitted Drawing 3 prior to any construction.

REASON: To provide a satisfactory access to the site

2 In accordance with details that shall previously have been submitted to, and approved by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway

REASON: In the interest of public safety and to prevent damage to the highway

HISTORIC ENVIRONMENT TEAM

25th October 2018

Comments from Stephen Reed, Senior Historic Environment Officer

Devon County Historic Environment Team ref: Arch/DM/MD/33417a

I refer to the above application and your recent consultation. Previous archaeological investigations - excavation and geophysical survey - undertaken in support of earlier applications for this area have demonstrated that there are no significant archaeological deposits or features within the proposed application area and that the site is largely archaeologically sterile, with the exception of several shallow post-medieval features.

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

4th October 2021

No comments to make on this planning application.

NATURAL ENGLAND

8 August 2019

Natural England has no comments to make on this application.

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

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

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

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

ENVIRONMENT AGENCY

30 October 2018

Thank you for consulting us on this planning application. Technically, silage storage is outside of the scope of the matters that we request being consulted on as per the advice for local Planning Authorities guidance, however, we provide advice to the applicant below regarding SSAFO regulations.

Advice - SSAFO Regulations

The proposed development must fully comply with the terms of The Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) (SSAFO) Regulations 2010 and as amended 2013. These regulations aim to prevent pollution from stores of silage, slurry and agricultural fuel oil. They set out requirements for the design, construction and maintenance of new facilities for storing these substances. Site operators should ensure that there is no possibility of contaminated water entering and polluting surface or underground waters.

The applicant must inform the Environment Agency, verbally (Tel: 03708 506 506) or in writing, of a new, reconstructed or enlarged slurry store, silage clamp or fuel store at least 14 days before starting any construction work. The notification must include the type of structure and the proposed design and construction. Please send us a completed WQE3 notification form before you start using the facility.

Further information can be accessed on our website at: <https://www.gov.uk/storing-silage-slurry-and-agricultural-fuel-oil>.

Environmental good practice advice is available in The Code of Good Agricultural Practice (COGAP) for the protection of water, soil and air (produced by DEFRA):

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/268691/pb13558-cogap-131223.pdf

Please contact us again if you require any further advice.

MDDC CLIMATE CHANGE OFFICER 16 October 2021

Verbal response with regard to potential environmental impact, the embedded climate impact of construction especially use of concrete, potential loss of soil carbon due to works, potential greenhouse gas production from silage and would the clamp improve matter compared to current silage management. Traffic generation and climate impact compared to current arrangements. How will pollution control with regard to effluent be monitored and enforced. What are the issues with functional integrity should faults occur.

REPRESENTATIONS

18 letters of objection from 8 individuals. A summary of issues raised is set out below:

- Risk of contamination through effluent from silage
- Access means removing a Devon bank which has been recently re-instated. The access is also very wide
- Silage would have to be imported from applicant's other land. Narrow country lanes access to site
- Increase in heavy lorries will make Stonelands Cross a much more dangerous crossing
- The proposed silage clamps indicate an industrial unit rather than an agricultural one
- Allowing such an application would have a detrimental impact on value of surrounding properties
- The increase in traffic will harm highway safety
- Concern that the granting could lead to further expansion of site
- At peak silage making periods there are going to be between 20 and 30 trips per day on narrow country lanes
- Where is the grass from Gibbett Moor farm going; the 21.5 ha holding would produce 1,000 tonnes. The transport assessment accounts for all of the 20,000 tonne clamp capacity
- Unclear how the digestate would be dealt with
- The proposal is unsustainable due to the large amount of diesel required to transport the silage from the various locations as indicated on the updated transport assessment to the site

A later submission on 16th October 2021 from a third party made no comment.

SITE DESCRIPTION AND PROPOSAL

The site is relatively level with a slight fall from north to south. The field is bounded by a mature hedge to the west and a line of trees to the south beyond a drainage ditch. To the north is the site of the agricultural storage building granted under prior notification (ref: 18/01527/PNAG) but not yet constructed. Beyond is the historic farmstead of Gibbet Moor Farm comprising the old farmhouse and a range of traditional and mid-20C buildings.

To the north-west of the site there are fields which have recently been used for the storage of silage of varying quantities.

The proposed development comprises a large silage clamp constructed on a concrete base with concrete panel walls on three sides. A further concrete yard area would be formed between the clamp and the proposed storage building. A new access road would be formed from the hardstanding to the public highway approximately 95m to the north. Two underground effluent storage tanks are proposed at the north-west corner of the clamp.

The clamp would measure 86m/60m long and 63m wide, a total 4630 sqm in area. The walls would be 3m high with a 1.25m safety rail on top. The hardstanding would be 2075 sqm in area.

Gibbet Moor Farm extends to 21.5 hectares (53 acres) of land predominantly laid to grass, which is grazed or cut for silage for livestock or as feedstock for the Willand biogas plant.

MAIN CONSIDERATIONS

The main considerations in this application are

- the lawful use of the site and nature of the proposed development
- The principle of development
- landscape and visual impact,
- highways impact,
- surface water drainage and pollution control
- other

THE APPLICATION SITE

Members raised concern about whether the development was for agriculture and as such comment is made further on the existing use and proposed development.

The applicant owns the AD Plant biogas digester, Gibbet Moor Farm and other farms owned or tenanted by the applicant. The field heaps on the application site are composed of grass crops harvested on other farms operated by the applicant. The proposed use is intend to replace the existing field heaps.

The current use of Gibbet Moor Farm (GMF) is for growing of grass crop and grazing of cattle, is agricultural with the creation and storage of silage being part or at least ancillary to that use. The silage is taken from the GMF field heaps to other farms for reloading, principally (i.e. not only) due to the lack of hardstanding at GMF and the inability of lorries to access the site. Vehicle movements will be reduced or traffic neutral (if the clamp is simply used as an alternative to the field heaps).

The move to clamp storage is a requirement of the Environment Agency (EA) and the applicant cannot continue to use other parts of his land for field heaps.

The County has approved the road importation of up to 120,000 tonnes of feedstock to the said plant. Open silage heaps are already in existence on the site. The amount stored on site had increased in recent years from 15000 to 20000 tonnes. Consideration has therefore been given to whether the current use of the application site is agriculture (whether as part of a larger agricultural planning unit or in itself) given it appears to form part of the wider business comprising other farms as opposed to simply an agricultural planning unit. Agriculture use of land (as opposed to the construction of the clamp for example) does not amount to development and therefore is outside the control of the LPA. The definition includes horticulture (e.g. production of silage), keeping of livestock and use of the land for grazing and uses ancillary to that (e.g. storage of silage) would fall

within the confines of agriculture. Providing the use is part of agriculture, which does not amount to development under planning law, any intensification of the agricultural use will not amount to a material change of use.

Having carefully considered the matter, as noted above, Officers consider that GMF is a single planning unit for agriculture. The use of the proposed clamp (which construction does in any event require planning permission and hence the need for the application) is considered to be part of the GMF planning unit and also is a key part of the wider agricultural business made up of the other farms.

As indicated in any event, the application before the committee covers the proposed clamp and limits its proposed use to the storage of silage which is considered to be part of the wider agricultural business.

In summary, this is an application for agriculture related development which the LPA needs to determine.

PRINCIPLE OF DEVELOPMENT

Policy S1 of the Local Plan outlines the strategic priorities to achieve the Plan vision. It states that all development within Mid Devon will be expected to support the creation of sustainable communities by conforming to a list of criteria. Amongst those (d) Supporting a prosperous rural economy through the conversion of suitable existing buildings and well-designed new buildings in suitable locations, diversification of agricultural and other land-based businesses, (e) Promoting sustainable transport by delivering appropriate infrastructure, reducing the need to travel by car, integrating public transport and other forms of sustainable travel such as walking and cycling, and providing safe environments while recognising Mid Devon's rural locality, and (j) Meeting the challenge of climate change by supporting a low carbon future, energy efficiency, increasing the use and supply of renewable and low carbon energy, managing flood risk and conserving natural resources. Encourage the effective use of land, taking into account the economic and other benefits of the best and most versatile agricultural land.

As the application site is located in the open countryside Policy S14 is relevant to any determination. This policy states that development outside of defined settlements will preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy by permitting agricultural and equestrian development in accordance with detailed development management policies.

Paragraph 174 of the National Planning Policy Framework states that planning decisions should recognise the economic benefits of the best and most versatile agricultural land. Paragraph 175 states that where significant development of agricultural land is demonstrated to be necessary for development, areas of poorer quality land should be preferred to those of a higher quality. The classification scale grades are from 1-5, with 1 being the best quality. The site falls within Agricultural Land Classification grade 3 (Good-Moderate). The overall land classification grading in the parish of Stoodleigh and adjoining parishes is a mix of grade 3 (Good to Moderate) and grade 4 (Poor). The proposed development would not involve development on 'excellent' or 'very good' quality agricultural land. It is considered that the proposed development would not be in conflict with paragraphs 174 and 175 of the NPPF and to accord with the requirements of the Environment Agency.

On the basis that the proposed development would be an agricultural development the application should be correctly assessed under policy DM20, and in the first instance criterion (a) which permits development reasonably necessary to support farming activity on that farm or in the immediate agricultural community. Officers also consider that having regard for the location of

land parcels where the grass for the clamp would be obtained that the proposed development would serve to support farming activity in the immediate agricultural community.

Officers are mindful that the proposed development and its connection to the agricultural community as outlined in the supporting information represents a snapshot in time and that without restrictions being placed on any approval there is no guarantee that the proposed development would continue to be operated in the manner proposed. Having established the use would be agricultural and that it would operate as part of a single planning unit, it is therefore considered appropriate that conditions restricting the use to agricultural only and insist that only those land parcels identified in the transport figures and operated by applicant would be used to serve the proposed clamp, to be satisfied that the proposed development would continue to operate as a single planning unit in the future.

LANDSCAPE AND VISUAL IMPACT

Policy S9 supports development that will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through (e) The preservation and enhancement of the distinctive qualities of Mid Devon's natural landscape, supporting opportunities identified within landscape character areas. Policy DM20 (b) permits agricultural development which is well designed, respecting the character and appearance of the area.

The site is within Landscape Character Type 1F (Farmed lowland moorland and Culm grassland). This LCT is characterised by flat to gently rolling moorland plateau with regular field patterns and areas of unenclosed moorland heath. The site is enclosed on two sides by mature vegetation. A hedgerow runs the full extent of the eastern boundary of the field. The hedgerow has been allowed to grow over the years, contains a large proportion of Beech and appears to be in good health with few gaps. There are also a number of mature trees growing within the hedge. The southern boundary is enclosed by a line of trees growing on a small earth bank. To the north is the historic farmstead and the proposed new large agricultural storage building. Beyond the eastern boundary along the lane there is a line of mature trees growing. Despite the site being relatively elevated there are few public vantage points providing opportunities to view the proposed development. There are no public rights of way in the vicinity and no raised common land. Views towards the site from Stoneland Cross are dominated by the farm machinery training site and associated buildings at Highfield Farm (within North Devon District).

Silage clamps are a common feature in an agricultural landscape. While the size of the silage clamp proposed under this application and hardstanding would be undoubtedly large, officer visits and photographs demonstrate that the site is remarkably well contained despite its size. The concrete panels which would form the enclosures of the clamp would be utilitarian in appearance. They would not make a positive contribution to the character of the area and no mitigation has been suggested in terms of additional landscaping or ecological enhancement. Notwithstanding their appearance and length any impact appreciated by local traffic viewing the panels through existing established hedgerows would be localised to those using the lane immediately to the east of the site. Nevertheless it is considered proportionate to attach a landscaping condition to mitigated any potential impact of the development.

Updated information from the applicant informing that the material within the clamps may be at time mounded in the centre and therefore visible above the concrete panel would not significantly alter the appearance of the development in the landscape. The lane does not form part of any designated recreational route and on the basis of the officer visits is only sporadically used. The new access to the site is proposed at the location of the access approved under 07/01849/FULL and 10/01531/FULL for the milk distribution depot. This access was formed under the 2007 approval but has been subsequently closed up. Re-opening would involve removing a bank with

low lying vegetation on-top which has been formed on the boundary. The impact of re-establishing the access would be limited in terms of local character.

While no mitigation is explicitly proposed as part of proposal, officers consider that there are visual and ecological enhancement opportunities which would arise as a by-product of the construction of the proposed clamps. Notwithstanding the gentle contours of the site the sheer scale of the proposed development will inevitably result in the excavation of a significant amount of earth. There have been no details submitted as to how this might be dealt with and officers consider this presents an opportunity for a new hedgebank to be formed around concrete panels which would over time help to soften the appearance of the panels and provide a natural habitat for wildlife.

Having regard for the above, and subject to a condition requiring a new hedgebank to be formed around the clamp, it is considered that the proposed development would meet the criteria set out in DM20 (b) in respect of protecting local amenity and landscape.

HIGHWAYS IMPACT

Concern has been raised locally by residents, local Members and relevant Parish Councils regarding the implications of the proposed development on local traffic movements both in terms of the use of narrow country lanes by large vehicles to access the site and the suitability of the junction with the A361 for the types of vehicles anticipated to serve the proposed development. It has also been questioned why the proposed development does not include any specific highways improvements when the previous planning permissions for the milk distribution depot on the same site (refs: 07/01849/FULL and 10/01531/FULL) was required to provide improvements to the A361 junction.

Policy DM22 (d) states that development will be permitted where it will not have an unacceptable traffic impact on the local road network.

It was stated in the applicant's supporting statement submitted 26 April 2019 that there was 15,000 tonnes of material being stored on site in field clamps at Gibbett Moor Farm between April to October. The transport assessment submitted with the application on 29 July 2019 informed the local planning authority that the proposed permanent clamp would have a capacity of 20,000 tonnes. It was later confirmed by email on 6 August 2019 that the capacity of the existing field clamps is 20,000 tonnes and that therefore there would be no additional traffic movements associated with the proposed development.

Since the last committee meeting officers have been provided with updated traffic figures. These show that the proposed clamp would be served by 11 different land parcels of varying distances from the application site, ranging from 0.6 to 13 miles (10 to 21 kilometres). The grass from these land parcels would be transported to the site by tractor and trailer. HGV's would then transport the silage from the site to the anaerobic digester plant at Willand, a journey of approximately 17 miles (27 kilometres), via the A361 using the Stoneland Cross junction a half kilometre to the north-west of the site.

The Highways Authority has assessed this updated information and has raised no objection to the proposed development subject to conditions requiring the site access to be laid out prior to any construction and provision for surface water to be directed so that it does not drain onto the Highway.

On this basis of the Highways Authority has raised no objection to the application and the proposal is considered, on balance to be in accordance with policy DM20 (d).

SURFACE WATER DRAINAGE

Policy S9 requires development to provide measures to reduce the risk of flooding to life and property, requiring sustainable drainage systems including provisions for future maintenance, guiding development to locations of lowest flood risk by applying a sequential test where appropriate, and avoiding an increase in flood risk elsewhere. Policy DM1 requires new development to demonstrate appropriate drainage including sustainable drainage systems where available. Policy DM4 states development that risks negatively impacting on the quality of the environment through noise, odour, light, air, water, land and other forms of pollution must be accompanied by a pollution impact assessment and mitigation scheme where necessary. Development will be permitted where the direct, indirect and cumulative effects of pollution will not have an unacceptable negative impact on health, the natural environment and general amenity.

The applicant has prepared a waste audit statement which outlines the method for storage of effluent and its disposal. The surface water drainage strategy for the proposed development is proposed to be split into two systems. Effluent emanating from the storage of silage within the clamp would be drained to two underground storage tanks to the north-eastern corner of the site. The Environment Agency sets minimum effluent tank capacity levels based on the cubic capacity of the clamp. For a clamp the size as proposed at Gibbet the minimum size of tank would be 113 cubic metres. The capacity of the proposed tank to serve the proposed development would be 226 cubic metres – double the minimum capacity.

Surface water from the hardstanding is proposed to be collected and transported to a network of three attenuation ditches each with a capacity of 60 cubic metres which would be located adjacent to the access track immediately to the west of the main group of farm buildings. The ditches would then drain to an existing culvert which crosses the land between the farm and the road. This form of drainage is in line with principles set out in the Devon County Council Sustainable Drainage Guidance and paragraphs 163 and 165 of the NPPF and is supported by the LLFA subject to details of the construction of attenuation ditches (including planting), the proposed flow control mechanisms and the precise route of the culvert where the ditches would drain, to be submitted prior to commencement of works any works on site.

Members will recall raising concern regarding the adequacy of the drainage proposals when this application was previously discussed and were reluctant to accept a condition requiring details to be submitted post decision. Further information was requested by officers in an attempt to have the details provided and assessed pre-decision, and while some information has been provided, Devon County Council's Lead Local Flood Authority (LLFA) maintains that the original condition as set out in the previous report will be required to confirm the detailed drainage design prior to any commencement of any development on site, and is satisfied with this arrangement. A condition is also proposed to ensure that along with the storage tank and drainage channels details and further details including photographic details are to be submitted, approved and implemented prior to the development being first brought into use.

POLLUTION CONTROL

Policy DM4 states that applications for development that risks negatively impacting on the quality of the environment through noise, odour, light, air, water, land and other forms of pollution must be accompanied by a pollution impact assessment and mitigation scheme where necessary. Development will be permitted where the direct, indirect and cumulative effects of pollution will not have an unacceptable negative impact on health, the natural environment and general amenity.

The site is within a Drinking Water Safeguard Zone (Surface Water) catchment area and is approximately 100m east of the boundary of the Taw Estuary Nitrate Vulnerable Zone.

The applicant has prepared a waste audit statement which outlines the method for storage of effluent and its disposal. The rules around the storage of Silage, Slurry and Agricultural Fuel (SSAFO) are part of the The Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England)/ (Wales) Regulations 2010. These regulations set standards for storing silage, slurries and agricultural fuel oil, so as to minimise the risk of water pollution. Under the regulations the farmer or land manager is responsible for meeting the rules. There are specific rules for making and storing silage. Where silage is stored in a permanent clamp it must have an impermeable base extending beyond any walls and have impermeable drainage collection channels around the outside flowing into an effluent tank. The tank must have adequate capacity to give at least two days storage. Details of the size of the tank are set out above. The farmer or land manager is obliged to notify the Environment Agency 14 days before construction of the clamp and is responsible for carrying out maintenance of the overall development to ensure there is no risk of pollution. According to the applicant's supporting statement the stored liquid would be taken by tanker onto the applicant's land for disposal, in accordance with agricultural best practice.

A key factor to consider is the dry matter of the crop. Grass harvested at 18% dry matter (DM) will produce approximately 150 litres of effluent per tonne. Grass harvested at 25% DM will produce around 25 litres of effluent per tonne. An up to date Silage clamp therefore could lead to a significant reduction in effluent created per tonne. The proposed development will be subject to the above regulations, which are separate from planning legislation. However on the basis the proposed development would need to be compliant with the above there are no concerns regarding the impact of the proposal on the environment in terms of pollution.

HISTORIC ENVIRONMENT

Policy DM25 applies a presumption in favour of preserving or enhancing all designated heritage assets and their settings and requires development proposals likely to affect the significance of heritage assets, including new buildings, alterations, extensions, changes of use and demolitions, to consider their significance, character, setting (including views to or from), appearance, design, layout and local distinctiveness, and the opportunities to enhance them.

Paragraph 203 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Gibbett Moor Farm appears on the Devon Historic Environment Record (HER) and is considered a non-designated heritage asset as an historic farmstead of local importance. The farmhouse is shown on the 1841 Tithe map as two cottages; on the 1888 map it had been amalgamated into a single farmhouse. In addition there are other archaeological features/artefacts showing on the HER within the field. The proposed development would be located between 60-80m to the south of the farmhouse. It would be beyond the large storage building granted under 18/01527/PNAG which will form a significant visual break. Having regard for the separation and the continued agricultural use of the site it is not considered that the proposed development would result in harm to the setting of the Gibbett Moor Farm heritage asset. The application has been screened by Devon County Council's Historic Environment Team who state that the field is largely archaeologically sterile and have no further comments to make in respect of the proposal.

ECOLOGICAL IMPACT

Paragraph 174 (c) of the NPPF states that planning decisions should contribute to enhance the natural environment by) minimising impacts on and providing net gains for biodiversity, including

by establishing coherent ecological networks that are more resilient to current and future pressures. Policy S9 requires new development to support opportunities for protecting and enhancing species populations and linking habitats.

The site is within a field comprising arable land. It does not fall within any designated site for wildlife interest and there are no statutory designated sites within 500m of the site. The site has been appraised and an ecological report submitted. The report advises that habitat loss arising from the proposed development (clamps, hardstanding and associated access) would be no more than a minor ecological impact on a local scale. The formation of the planted hedgebank around the clamp formed using earth from the site (to be secured through condition) will provide a modest contribution to biodiversity, in accordance with the NPPF and policy S9

Natural England has no comments to make in respect of the proposal. However a Landscape and environment management plan (LEMP) condition is considered appropriate with regard to mitigating impacts and promoting biodiversity net gain (BNG) for the site.

SUSTAINABILITY

The Climate Change officer verbally raised questions with regard to the potential environmental impact. It is considered that whilst the use of concrete in the construction of the clamp would generate greenhouse gases, it would add to the security, effectiveness and longevity of the clamp. Construction works will be subject to a management plan condition requiring details of several aspects to seek to minimise the impact including climate impacts on the site during the construction phase.

As the clamp will replace the open field clamps, it is not considered that soil loss will be a material factor in its development. It is considered that the improved longevity of the clamps, the reduction in effluent produced and its satisfactory treatment in line with Environment Agency requirements and the continued use of the same locations from which to import the grass is considered to on balance be beneficial compared to the existing open field heaps in practice. As such the proposal is considered on environmental terms to have net positive impact environmentally and as such in accordance with Policy S1 of the adopted Local Plan.

IMPACT ON RESIDENTIAL AMENITIES

The nearest residential properties are between 240-280m from the site. Having regard for the type and scale of the proposed development Public Health do not consider that the proposals would give rise to a complaint of statutory nuisance. The proposed access would be onto the class 3 road to the north of the site. It is not considered that the proposed access and traffic movements likely to be associated with the proposed development would have an unacceptably adverse impact on the amenities of the occupiers of neighbouring properties. On this basis officers consider that the proposed development is in accordance with DM1 (e) and DM20 (b).

CONCLUSION/REASON FOR APPROVAL

The proposal is for a large silage clamp within a field south of the A361. Notwithstanding the public comments in respect of the scale and the potential use of the storage of silage product for anaerobic digestion officers consider the application to be agricultural and therefore appropriate in the countryside location. The use of grade 3 land for the purposes of agriculture is considered acceptable in-line with Government guidance.

The land does not fall within a recognised landscape or ecological designation; the site is contained by mature hedgerows and there are limited public views into or across the site. The

proposed development is not considered to cause demonstrable harm to the character and appearance of the rural landscape or result in harm to local ecological networks.

Drainage of the clamp is through attenuation with the effluent being deposited on the land in accordance with best practice. The Highways Authority has raised no objections on the basis that the proposal is not considered to have a severe impact or raise a safety concern with the proposal and the proposed development would not create a severe impact in terms of congestion.

The proposed development would be required to comply with The Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England)/ (Wales) Regulations 2010. These regulations set standards for storing silage, slurries and agricultural fuel oil, so as to minimise the risk of water pollution. The proper storage of silage would result in less effluent generated and this is managed by the requirements of planning.

Limiting condition in relation to use of the land and lands with regard to the depositing material on site the preclusion of other open field heaps of silage on the land and the requirement to dismantle and remove the silage clamp once no longer operational are all considered necessary to limit the potential impacts of the proposed development and are attached.

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.

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 site access shall be constructed, and laid out, and maintained thereafter in accordance with the submitted revised site plan or Drawing '3' prior to any construction.
4. The site access road shall be hardened, surfaced, drained and maintained thereafter for a distance of not less than 6.00 metres back from its junction with the public highway.
5. Prior to their construction, details of the concrete panels and safety railings proposed around the silage clamp, shall first be submitted and approved in writing by the Local Planning Authority. Only the approved details shall be implemented for the development and retained thereafter.

6. Notwithstanding the details submitted to the Local Planning Authority, no part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system relating to the concrete yard and access track has been submitted to, and approved in writing by, the Local Planning Authority. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Proposed Silage Clamps, & Access Road with Storm Attenuation (drawing No. DRAWING 1; dated 16th January 2020) and the Surface water storage requirements for sites report (dated 8th November 2019). The details should confirm:
- The proposed construction of the surface water basins (referred to as Attenuation Ditches), including any planting
 - The proposed flow control
 - The route of the existing ditch (which is understood to be culverted beneath the road) to the eventual stream/spring/river.
 - Provisions made within the site for the disposal of surface water so that none drains on to any County Highway.

7. Additional details have been submitted for approval by the local planning authority of:
- Photographic details of the ditch and the culvert (inlet and outlet) beneath the road (Stoney Lane Hill / Bulworthy Knap) to confirm the condition of these features.
 - Maintenance details for the basins (referred to as attenuation ditches)
 - The surface water management scheme serving that part of the development

These approved details along with along with the already approved details of the drainage infrastructure shall be implemented prior to first use and maintained for the lifetime of the development.

8. The storage tanks and drainage channels as shown on the approved drawings shall be constructed and fully operational prior to the first use of the silage clamp hereby approved.
9. Prior to the operation of the development hereby approved, details of the external lighting and times of its use shall be submitted to and approved in writing by the Local Planning Authority. Lighting shall be installed, operated and retained in accordance with the approved details. No other external lighting shall be erected on site without the prior consent in writing by the Local Planning Authority.
10. Prior to commencement of any groundworks on site, details of the finished floor levels of the silage clamp shall be submitted to and approved in writing by the Local Planning Authority. Such levels shall be relative to an ordnance datum or such other fixed feature as may be agreed in writing by the Local Planning Authority.
11. Material deposited at the site shall only be moved from the land parcels identified in the Transport Figures document received on 5 November 2020 and from no other sites, unless otherwise agreed in writing by the Local Planning Authority. A record shall be kept of all vehicle movements and loads relating to the site, which shall be made available to the Local Planning Authority for inspection at any time; this shall include details of the date and time of vehicle movements, the type of vehicles involved, the start and finish locations of the journey, the route taken and the weight of the vehicle and its contents.

12. The development hereby permitted shall be used for silage storage only.

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

- (a) Retained Ecological and Landscape Features
- (b) Proposed Habitats, Ecological and Landscape Features including length, height, width and specification of the new hedgebank around the perimeter of the silage clamp
- (c) Habitat and landscape Management Measures for the lifetime of the development
- (d) Monitoring and Review of Plan.

The development shall not be carried out other than in accordance with the approved details and planted up within the next planting season.

14. Prior to the commencement of development a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. In respect to the protection of residential amenity and the local environment, the CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. The following specific details should also be included in respect to highway safety:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9:00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) 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;
- (g) hours during which no construction traffic will be present at the site;
- (h) the means of enclosure of the site during construction works; and

(i) details of wheel washing facilities and road sweeping measures with the respective obligations

(j) The proposed route of all construction traffic exceeding 7.5 tonnes.

(k) Details of the amount and location of construction worker parking.

That the construction phase on site shall be carried out in complete accordance with the approved details.

15. That at the end of the operational use of the clamp hereby permitted that the clamp shall be dismantled and removed from the site and the site cleared of all related materials and debris within 3 months of the end of the said operational use.

16. That the existing field heaps be removed from the land within 3 months of the date first use of the development hereby approved.

17. That no additional field heaps are to be constructed on the land parcels identified in the Transport Figures document received on 5th November 2020 and from no other sites.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. To provide a satisfactory access to the site.
4. To prevent mud and other debris being carried onto the public highway.
5. In the interests of visual amenity, in accordance with policies DM1 and DM20 of the Mid Devon Local Plan.
6. To ensure that the development is appropriately drained and to prevent groundwater pollution, in accordance with policy DM1 of the Mid Devon Local Plan.
7. To ensure that the development is appropriately drained and to prevent groundwater pollution, in accordance with policies DM4 and S9 of the Mid Devon Local Plan.
8. In the interest of safeguarding the character and amenity of the rural area and preventing light pollution, in accordance with policy S9 of the Mid Devon Local Plan.
9. In the interest of safeguarding the character and amenity of the rural area and preventing light pollution, in accordance with policy S9 of the Mid Devon Local Plan.
10. For clarity and in the interests of visual amenity, in accordance with policies DM1 and DM20.

11. For clarity purposes, to deliver sustainable development and to ensure that the development is served by land located immediate agricultural community, in accordance with policy S9 and DM20 of the Mid Devon Local Plan.
12. For the purposes of clarity and in the interests of ensuring the development does not become severed from the primary agricultural use.
13. To mitigate the impact of the approved development and in the interests of improving biodiversity, in accordance with Policies DM1, DM2 and S9 of the Mid Devon Local Plan 2013 – 2033.
14. To minimise the impact upon the highway network and the neighbouring residential properties during the construction period.
15. In the interest of safeguarding the character and amenity of the rural area and preventing light pollution, in accordance with policy S9 of the Mid Devon Local Plan.
16. For clarity purposes, to deliver sustainable development and to ensure that the development is served by land located immediate agricultural community, in accordance with policy S9 and DM20 of the Mid Devon Local Plan.
17. For clarity purposes, to deliver sustainable development and to ensure that the development is served by land located immediate agricultural community, in accordance with policy S9 and DM20 of the Mid Devon Local Plan.

INFORMATIVES.

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

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

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

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

Application No. 21/00782/FULL

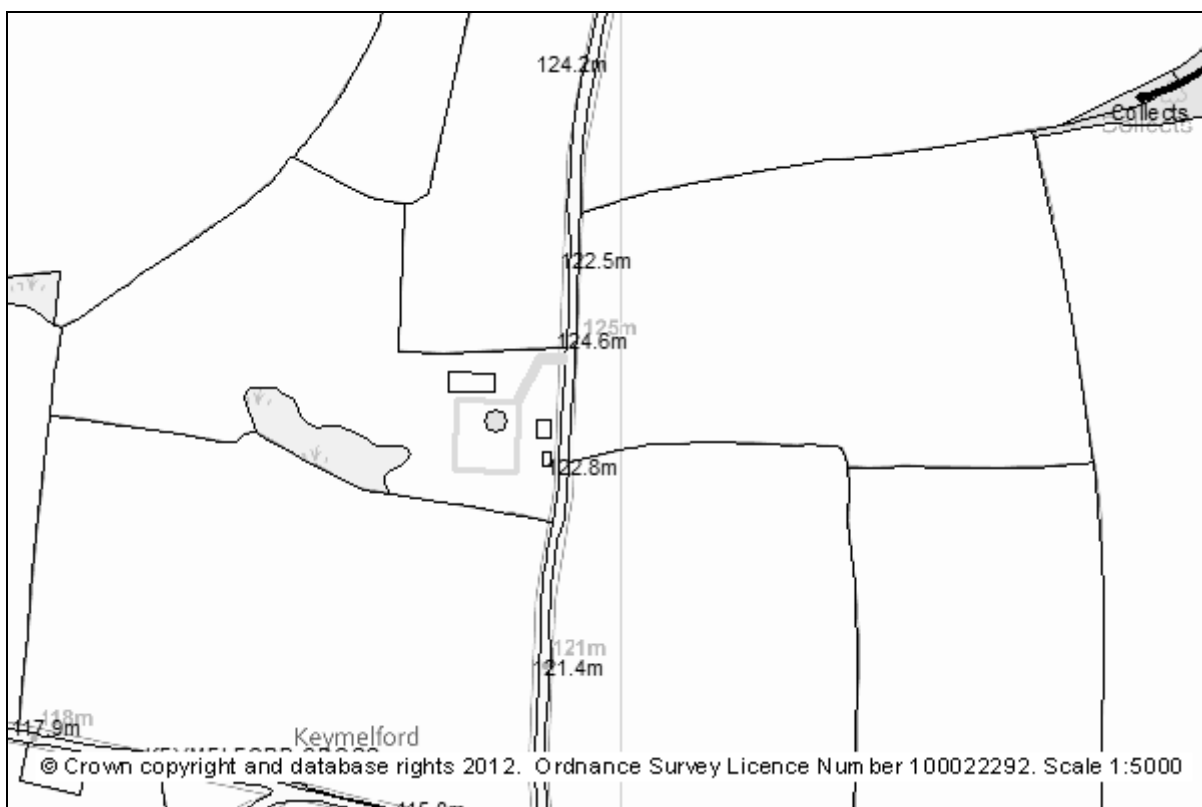
Grid Ref: 278802 : 99688

Applicant: Mr A Polhill

Location: South West Game Birds
Crediton
Devon

Proposal: Siting of a temporary rural workers dwelling (mobile home)

Date Valid: 2nd June 2021



CONSULTATIONS

County Highway Authority standing advice provided

Contaminated Land: No concerns. (19.06.21).

Air Quality: No concerns. (19.06.21).

Environmental Permitting: No objection to this proposal. (08.06.21).

Drainage: Holding objection as compost toilets are not acceptable on a permanent basis and our professional opinion is that the employer has a responsibility to their worker to install a safe and hygienic toilet provision in their accommodation.

Holding objection removed with submission of details on 19th October (22.10.21)

Noise & other nuisances: No concerns. (19.06.21).

Housing Standards: No comment. (10.06.21).

Licensing: No comments. (08.06.21).

Food Hygiene: No comments. (08.06.21).

Health and safety: No comments (08.06.21)

REPRESENTATIONS

Crediton Hamlets objects most strongly to this application. The application states it is for the siting of a temporary rural workers dwelling (mobile home). It measures 16 metres x 6 metres. This is too large to be a mobile home and has already been erected.

Later submissions repeated the objection and their wish to have the application called in and the site visited.

Two short statements of support for the proposal were submitted on the grounds of supporting a growing business and employment opportunities that would arise.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

- Would the proposed development be in accordance with local and national planning policy regarding residential development associated with agriculture in the open countryside, and whether there is still sufficient justification to permit the siting of a temporary rural worker's dwelling in the countryside
- Impact on landscape character, visual amenities of the area;
- Highway safety and access.
- Other planning matters

Site and Surroundings

The applicant seeks planning permission for a further temporary permission for a temporary workers home incidental to agriculture to a mixed use of incidental to agriculture and temporary residential for the management of a rurally based business on land at NGR 278802 099688 (South West Game Birds), Keymelford Cross, Colebrooke.

The farm is known as View Farm. The caravan is sited but not yet occupied, at the centre of the site. The previous mobile home in relation to the previous scheme is under reference MDDC 18/02074/FULL. Due to its repositioning outside of the original site plan, officers advised the applicant to resubmit a planning application.

An appraisal has been submitted with this planning application which outlines that this application is made having been previously approved for a period of three years but which, due to unforeseen avoidable circumstances has not been able to progress within the initial period as expected. This is due to a mixture of personal circumstances and the global pandemic which effectively halted the business ability to function throughout 2020 and 2021.

Principle of Development

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

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

Policy DM8 continues:

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

The Game Farmers Association and South West Games Birds Vets advised in their statement of support various reasons why a residual worker is essential:

- Monitoring of essential power supply for agricultural business especially due to inclement weather
- Security- theft and predators
- Electricity is required on a constant basis
- Year round requirement for business/business cycle
- Animal welfare-disease and wellbeing

Defra Code of Practice for Gamebirds supports the above with the need for well-maintained sheds, separation of activities, and oversight required its management.

The submitted business plan indicates a business that will be profitable year on year and would require a full time worker on site.

It is an important material consideration that temporary planning permission was granted for such a change of use under 18/02074/FULL and that the disruption of the business due to unforeseen circumstance, not least the COVID-19 pandemic is plausible.

In conclusion, offices are satisfied that the business plan is a viable one and the essential need for a live on site worker is demonstrated for the purposes of Policy DM8.

Impact on landscape character, visual amenities of the area

The proposal is for a mobile home which is within the limitations set out in the Caravan Act. The site itself is shielded from the road given the topography. The land itself is not a protected

landscape and the impact is considered to be not materially greater than that for the mobile home approved under 18/02074/FULL.

The visual impact will be further mitigated by the proposed planting on site and it is considered that the size of the proposal is acceptable and matters relating to its requirement to be removed and to provide ongoing business information for its viability if requested by the LPA will ensure that the dwelling remains proportionate to the essential needs of the business at any given time.

Highway safety and access.

The County Highway Authority has no objections as was the case with the previous scheme and there is an existing access track and turning area open site. Accordingly, no objections are raised by officers in this regard.

Other planning matters

The holding objection with regard to the proposed drainage details has been overcome with the proposed septic tank proposed by the applicant. A condition will require its full installation prior to occupation and its retention thereafter.

With regard to ecology, a Wildlife Trigger was completed and no issues arise. In addition, the proposed planting is anticipated to provide some ecological enhancement to the site.

Power and water supply will be provided on site with a view to maximising the site's off grid capabilities and minimise impacts on the site and surrounding area due to services provision.

Conclusion/Planning Balance

This proposal is for a temporary rural workers dwelling to allow the development of an agricultural enterprise. The proposal in many respects is materially the same, in all planning terms, as the one previously approved but the related business was interrupted.

It has been demonstrated that the need for a worker permanently on site is relevant in this instance and conditions are attached to require proof of ongoing viability and limitation to occupancy of the said mobile home should planning permission be granted.

In conclusion it is considered that the scheme accords with Policies S1, S9, DM1 and DM8 of the adopted Mid Devon Local Plan and accordingly, it is recommended that conditional planning permission be granted.

CONDITIONS

1. The development hereby permitted shall be carried out and retained in accordance with the approved plans listed in the schedule on the decision notice.
2. The use shall be permanently discontinued, the caravan removed and the land restored to its former state three years from the date of this permission hereby granted.
3. The dwelling hereby approved shall be occupied only by a person solely working in relation to the agriculture use at SW Game Birds a widow or widower and to any resident dependants.
4. The approved landscaping and planting proposals shall be implemented in full no later than during the first planting season following the date when the development is brought into use and thereafter retained.

5. That within 5 working days of a request in writing by the Local Planning Authority, a business statement for that current financial year shall be produced and made available for inspection by the Local Planning authority. Such a report would include separate statements for the different business(es) in situ at the application site and the current gross and not profit and/or losses and the year-end forecast of gross and net profit and/or losses. Where it can be demonstrated that the business is no longer viable. The use shall be permanently discontinued, the caravan worker's dwelling removed and the land restored to its former state within 3 months of the date of the said inspection
6. That prior to occupation of the mobile home, the approved drainage details and connections, as well as the details and connections of the plant room shall be implemented in full and retained thereafter.

REASON FOR CONDITIONS

1. For the avoidance of doubt in the interests of proper planning.
2. Given the essential need relates to a new agriculture venture on the holding a temporary planning in recommended in accordance with Policy DM8 of the Mid Devon Local Plan
3. In accordance with application details and because the site is located outside defined settlement limits in the open countryside, where national and local planning policy would normally restrict new residential development unless there are specific circumstances which in this case is that there is an essential need for a worker to live on the site to manage the proposed activities on the site, and to be in accordance with Policy S9, S14, DM8 of the Mid Devon Local Plan.
4. To ensure that the visual impact of the development is satisfactory, and in accordance with Policy DM1 of the Mid Devon Local Plan
5. Given the essential need relates to a new agriculture venture on the holding a temporary planning in recommended in accordance with Policy DM8 of the Mid Devon Local Plan
6. In accordance with application details and because the site is located outside defined settlement limits in the open countryside, where national and local planning policy would normally restrict new residential development unless there are specific circumstances which in this case is that there is an essential need for a worker to live on the site to manage the proposed activities on the site, and to be in accordance with Policy S9, S14, DM8 of the Mid Devon Local Plan.

INFORMATIVES

Conditional Approval (with negotiation)

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

Equality

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

Human Rights Act

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.

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.

Agenda Item

Application No. 20/01458/FULL

Grid Ref: 295889 : 113746

Applicant: Mr Pradham

Location: Ashdowne Care Centre
Ashdowne House
Orkney Mews
Tiverton

Proposal: Erection of single storey extension to Care Home

Date Valid: 18th September 2020



REPORT OF THE HEAD OF PLANNING AND REGENERATION

Reason for Report:

At the Planning Committee meeting on 3rd November 2021, Members advised that they were minded to refuse the above application and invited an implications report for further consideration.

RECOMMENDATION(S)

Grant planning permission subject to conditions.

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 3rd November 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 3rd November 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 reasons for refusal, with regard to:

- *Overdevelopment of the site and that the application did not comply with Local Plan policy DM5.*

2.0 **CONSIDERATION OF THE PROPOSED REASONS FOR REFUSAL:**

- 2.1 With regards to the concerns raised by Members at their previous meeting, your officers would advise as follows:
- 2.2 Overdevelopment of the site and that the application did not comply with Local Plan policy DM5
- 2.3 In considering the impact of the proposed development, Members discussed concerns that the existing care home had reached capacity and further development would lead to an increased demand for off-street parking, noting the current under provision of parking space serving the existing care centre, in respect to policy DM5, and ongoing parking issues along Orkney Mews.
- 2.4 Policy DM5 requires that new development of care homes should provide 1 car parking space per bedroom. In this case, there is a parking plan submitted in support of the application suggested that there were up to 15 spaces available within the existing car park, however with the presence of a portacabin serving as an office within the car park, this essentially leaves 12 parking spaces available, with Ashdowne Care Centre as a whole having 60 registered bed spaces. As a result of this under provision concerns were raised about previous proposals to extend the property and provide additional bedrooms. As a result, the proposal was amended to provide only additional ancillary space, as detailed within the application. As the proposed extension did not provide additional bed space, nor did it provide additional space that would lead to additional staff being employed, the Highway Authority withdrew their previous objection.
- 2.5 Notwithstanding the existing concerns regarding the under provision of parking within the carpark on site, and the pressure currently experienced in respect to off-street parking, in considering the proposal against policy DM5 it is necessary to consider whether the resulting development would lead to an increase in the need for parking provision. The proposals comprise the extension of the existing kitchen, reconfiguration of existing office and lobby, provision of a visiting pod and a new treatment room/store. By its very nature, the accommodation within the proposed extension is ancillary to the existing use of Pinnex Moor and therefore cannot be said to give rise to additional residents, or generate additional staff or the associated need for further parking space.
- 2.6 One of the concerns identified by Members was that by providing new facilities, such as the treatment room, there may be existing rooms within the care home that could then be made available to convert into bedrooms, which would be beyond the control of the Local Planning Authority. Having given this further consideration, a floor plan of Pinnex Moor Care Home was requested and provided. This indicates that all the rooms within the building are bedrooms, with the exception of the existing kitchen, office, lobby and store, which would be altered as part of this proposal. Additionally on the ground floor, there is a laundry room, dining room, lounge, garden room, wet room and resident room. It has been confirmed that the resident room is laid out for hairdressing. It is not likely

that any of these rooms would be considered surplus to provide additional bed space, as this would remove the only available amenity space for residents of Pinnex Moor. The resident room is a very small room of approximately 6 square metres. Current Care Quality Commission (CQC) requirements are that new bedrooms should be at least 12 square metres, meaning that this space is much too small to provide an additional bedroom. While it is not considered relevant to this planning application, the submitted plans do demonstrate that there is no additional capacity within Pinnex Moor for the provision of additional bed space, without providing a dedicated extension, which would require planning permission and be assessed on its own merits. In regard to the proposed extensions, Members will note that a condition is proposed to ensure that this accommodation cannot be converted into bedrooms without seeking planning permission either.

- 2.7 In considering that the proposed extension would not lead to an increase in resident or staff numbers, that there are no existing surplus rooms that could be converted into bedroom, and that the Highway Authority have removed their objection following the amendment of plans to omit additional bedrooms, your officers do not consider that there is sufficient demonstrable harm specifically relating to the proposed development to defend a refusal at appeal on the reason currently given.
- 2.8 In relation to costs applications, the Planning Practice Guidance (Appeals) advises that costs may be awarded where a party has behaved unreasonably; and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour in the context of an application for an award of costs may be either:
- Procedural - relating to the process; or
 - Substantive - relating to the issues arising from the merits of the appeal
- 2.9 In respect to substantive matters, an example of unreasonable behaviour is given as:
- Failure to produce evidence to substantiate each reason for refusal on appeal.
- 2.10 It is the view of your officers that the proposed extension would not generate any need to provide additional parking provision, a view supported by the Highway Authority in the withdrawal of their previous objection. Unless Members are able to reasonably substantiate a reason for refusal on the grounds of non-compliance with Local Plan policy DM5, on the basis that the proposal will generate need for additional parking provision to be made, your officers would advise that the suggested reason for refusal would be very difficult to defend and that an award of costs is therefore considered to be a distinct possibility should a decision be made to refuse planning permission be followed by an appeal, and corresponding costs application.

3.0 **CONCLUSION**

- 3.1 Should Members resolve to refuse planning permission, they will need to be able to demonstrate that their concerns have been properly debated and cogently articulated in any final refusal reason.
- 4.2 The following refusal reason is suggested below covering the matters raised, however it is still your officers' advice that this would not be defensible, and there may be a risk of an award of costs, bearing in mind the lack of objection from the Highway Authority:
1. The proposed development would comprise over development of the site and an intensification in use of Pinnex Moor House, leading to increased levels of traffic. Taking into account the under provision of car parking facilities on site, and the restricted width of the public highway, this intensification of use will lead to increased likelihood of parking on the public highway, which would create a severe impact on the highway network. The development is therefore considered to be unacceptable and contrary to policies DM3 and DM5 of the Mid Devon Local Plan 2013-2033.

Contact for any more information

John Millar

Background Papers

Application file and previous committee reports

File Reference

20/01458/FULL

Circulation of the Report

Cllr Richard Chesterton

REPORT FROM PLANNING COMMITTEE – 03.11.21

APPLICATION NO: 20/01548/FULL

MEMBER CALL-IN

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

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

Erection of single storey extension to care home.

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

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

APPLICANT'S SUPPORTING INFORMATION

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

RELEVANT PLANNING HISTORY

85/01438/FULL - PERMIT date 10th January 1986
Change of use of Pinnex Moor House to Retirement Home for the Elderly
85/01650/OUT - REFUSE date 16th January 1986
Outline for the erection of a 35 bedroom building as an annexe to proposed Pinnex Moor Retirement Nursing Home
86/00750/FULL - PERMIT date 8th August 1986

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

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

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

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

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

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

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

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

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

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

Temporary siting of a portable office building

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

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

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

Erection of covered and elevated walkway

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

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

Erection of two storey extension

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

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

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

Erection of single storey extension

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

Erection of a two storey extension (Revised Scheme)

RELEVANT PLANNING POLICY/GUIDANCE

Mid Devon Local Plan 2013-33

S1 - Sustainable development priorities

S9 - Environment

S10 - Tiverton

DM1 - High quality design

DM3 - Transport and air quality

DM5 - Parking

National Planning Policy Framework

National Planning Practice Guidance

CONSULTATIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Noise & other nuisances: No work shall be carried out on the site on any Sunday, Christmas Day or Bank Holiday or other than between the hours of 0730 and 1900 hours on Monday to Fridays and 0730 and 1300 on Saturdays.

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

Housing Standards: No comment. (01.10.20).

Licensing: No comments. (22.09.20).

Food Hygiene: No comments. (22.09.20).

Private Water Supplies: Not applicable. (22.09.20).

Health and Safety: No comments. (22.09.20).

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

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

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

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

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

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

- The end part of what appears to be a regularly clipped cypress hedge has grown into a significant size tree, the proposed extension appears to be in close proximity to the tree itself, the proposed extension would potentially impact significantly on the tree roots.
- While a raft foundation is generally shallower than strip foundations it would still require significant excavation, where construction is being considered within the RPA of retained trees a pile type foundation should be considered, to avoid excavation that would damage the root system,
- If the hedge/tree is considered important and ought to be retained/protected because it provides a screening for the building/amenity then an arboricultural survey, impact assessment, method statement and tree/hedge protection plan should be submitted in support of the application, this would be more robust & likely to be more successful than relying on a condition to protect the tree/hedge
- To sum up a raft type foundation is unlikely to provide sufficient root protection and a pile foundation may need to be considered, a starting point should be a BS5837 survey of the tree/hedge to determine the RPA, the impact of the proposals can then be assessed and suitable mitigation measures can be outlined in an arboricultural method statement/tree protection plan.

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

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

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

I would recommend that:

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

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

REPRESENTATIONS

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

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

- The properties in Orkney Mews, adjacent to Ashdowne Care Home, are retirement properties for over 55 year olds. The proposed development will lead to additional noise and disturbance that will be detrimental to the residential amenity of neighbours. The proposal would also lead to increased vehicle movements and parking requirements that will add to existing parking issues in the area.
- There are existing parking issues as Ashdowne Care Centre does not have enough parking spaces. Many local properties also have no parking spaces, or parking provision below the usual parking standards due to the type of residences in the area i.e. over 55 year olds housing. This results in parking along Orkney Mews, including in the turning head, making it difficult for larger vehicles such as delivery lorries, refuse vehicles and ambulances, to access the street. The lack of space for turning has also resulted in vehicles having to reverse onto private drives to manoeuvre.
- The identified parking issues have been present even during the coronavirus pandemic, when there have been less visitors to the care home. The situation is expected to be worse following the lifting of restrictions.
- There have been building works carried out to provide a previously approved extension at Ashdowne Care Home, which has caused additional pressure on the on-street parking arrangements.
- There is a need for yellow lines to be provided to restrict parking along the street.
- The proposed development will be closer to existing properties, increasing the likelihood of harm to residential amenity from overlooking, overshadowing and additional noise impact.
- There are ongoing noise issues already, which will be exacerbated by the proposed development. These include the operation of noisy washing machines and dryers, and deliveries and waste collections being carried out, at unsociable hours, in addition to loud noise from staff and residents.
- Orkney Mews was once a quiet, peaceful cul-de-sac but is now affected by Ashdowne Care Centre, which has expanded to become a busy and successful business.
- The proposed development would be too close to the boundary hedge, which currently protects the amenity of neighbouring residents. It is likely that building works would damage the hedge and its roots.
- There are concerns about where building materials will be stored, especially if those were to be stored in the car park area, adding to existing pressures on parking space.
- The care home site is already overdeveloped. The proposal will lead to further overdevelopment.
- The recent construction works at Ashdowne Care Home caused many problems, with deliveries being made along Orkney Mews, as well as skips being stored in the car park,

and contractor vehicles being parked. There are concerns that these issues would be repeated.

- What will the proposed treatment room be used for? Could it be turned into another bedroom in future?
- It is also asked whether the windows and doors would be double glazed, and if extractor fans would be provided.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main material considerations in respect of this proposal are:

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

- 1) Principle of development

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

On the basis that this will be providing improved facilities within this existing business, there are no objections in principle to the proposed development. Consideration will of course need to be given to the acceptability of the scheme in respect to other relevant local and national planning policy and guidance. The key issues are considered further below.

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

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

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

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

Concerns have been raised in respect to the proximity of the extension to an adjoining boundary hedge, which offers protection to neighbouring properties amenity. The hedge is an evergreen Cypress hedge, which is regularly clipped other than its western end, which has grown to form a

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

3) Impact on residential amenity

Policy DM1 e) states that new development should be create "visually attractive places that are well integrated with surrounding buildings, streets and landscapes, and do not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses..."

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

The proposed extension does protrude nearer to the closest properties, of which the nearest is currently approximately 11 metres to the north. The extension will however be separated by the existing hedge and tree, or by the turning head at the end of Orkney Mews. It is considered that there is reasonable separation to avoid harm as a result of noise, and there is also considered to be no unacceptable harm to residential amenity as a result of overlooking or overshadowing following the redesign and noting the position of the boundary hedge. Concerns have been raised about existing noise issues relating to the operation of Ashdowne Care Home, however these are existing issues that would not be expected to increase as a result of this small-scale proposal. The use of the treatment room has been questioned, however it has been confirmed that this would be used for routine doctor visits and at other times would be used to securely store medication. It has been asked if there would be anything preventing this room being turned into a bedroom in future. It is noted that this is possible, in which case it is considered reasonable to impose a condition preventing any of the accommodation proposed being changed into bed space in the future.

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

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

and deliveries to the site. The applicant has formally agreed to the imposition of such a condition.

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

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

4) Parking and access

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

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

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

SUMMARY/REASON FOR APPROVAL

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

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Before the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. In respect to the protection of residential amenity and the local environment, the CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. The following specific details should also be included in respect to highway safety:
 - (a) the timetable of the works;
 - (b) daily hours of construction;
 - (c) any road closure;
 - (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
 - (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority. This may include the establishment of a 'wait away' system for all deliveries;
 - (h) hours during which no construction traffic will be present at the site;
 - (i) the means of enclosure of the site during construction works;
 - (j) Details of the amount and location of construction worker parking, including measures to avoid parking on the adjoining residential streets;
 - (k) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site; and
 - (l) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

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

4. Before the commencement of development, a method statement detailing how works will be carried out within the root protection area (RPA) identified on submitted Tree Protection Plan (Ref: D14 455 P1) shall be submitted to and agreed in writing by the Local Planning Authority. This shall include measures such as:

- The utilisation of pile foundations
- Hand dig only within the RPA
- The presence of an arborist to review works in the RPA and provide advice where roots are encountered.
- Where roots over 2.5cm are encountered that they are suitably pruned back by an arborist.

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

5. For the duration of the development, the submitted scheme of tree and hedgerow protection measures identified in the submitted Tree Protection Plan (Ref: D14 455 P1), shall be installed and shall remain implemented in their entirety for the duration of the construction of the development and may only be moved, removed or dismantled following completion of the development hereby permitted, or with the prior consent of the Council in-writing.
6. The additional space provided within the development hereby permitted shall at no time be used to provide additional bedrooms
7. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no external ventilation or extraction units shall be provided on the extension hereby permitted without the Local Planning Authority first granting planning permission.

REASONS FOR CONDITIONS

1. In accordance with provisions of Section 51 of the Planning and Compulsory Purchase Act 2004
2. For the avoidance of doubt in the interests of proper planning.
3. In the interests of residential amenity, public safety and highway safety, in accordance with policies S9, DM1 and DM3 of the Mid Devon Local Plan 2013 and the aims and objectives of the National Planning Policy Framework. This pre-commencement condition is required to ensure that measures required to protect residential amenity, public safety and highway safety are in place before construction works start.
4. To preserve the health, structure and amenity value of existing landscape features (trees) in accordance with the policies S9 and DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework. This pre-commencement condition is required to ensure that measures required to prevent harm to the adjoining tree and hedge are in place before construction works start.
5. To preserve the health, structure and amenity value of existing landscape features (trees) in accordance with the policies S9 and DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.

6. In the interests of residential amenity and highway safety, in accordance with policies S9, DM1 and DM3 of the Mid Devon Local Plan 2013 and the aims and objectives of the National Planning Policy Framework.
7. In the interests of residential amenity, in accordance with policy DM1 of the Mid Devon Local Plan 2013 and the aims and objectives of the National Planning Policy Framework.

INFORMATIVES

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

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

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

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

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

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

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

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

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Application No. 16/01707/MOUT

Agenda Item

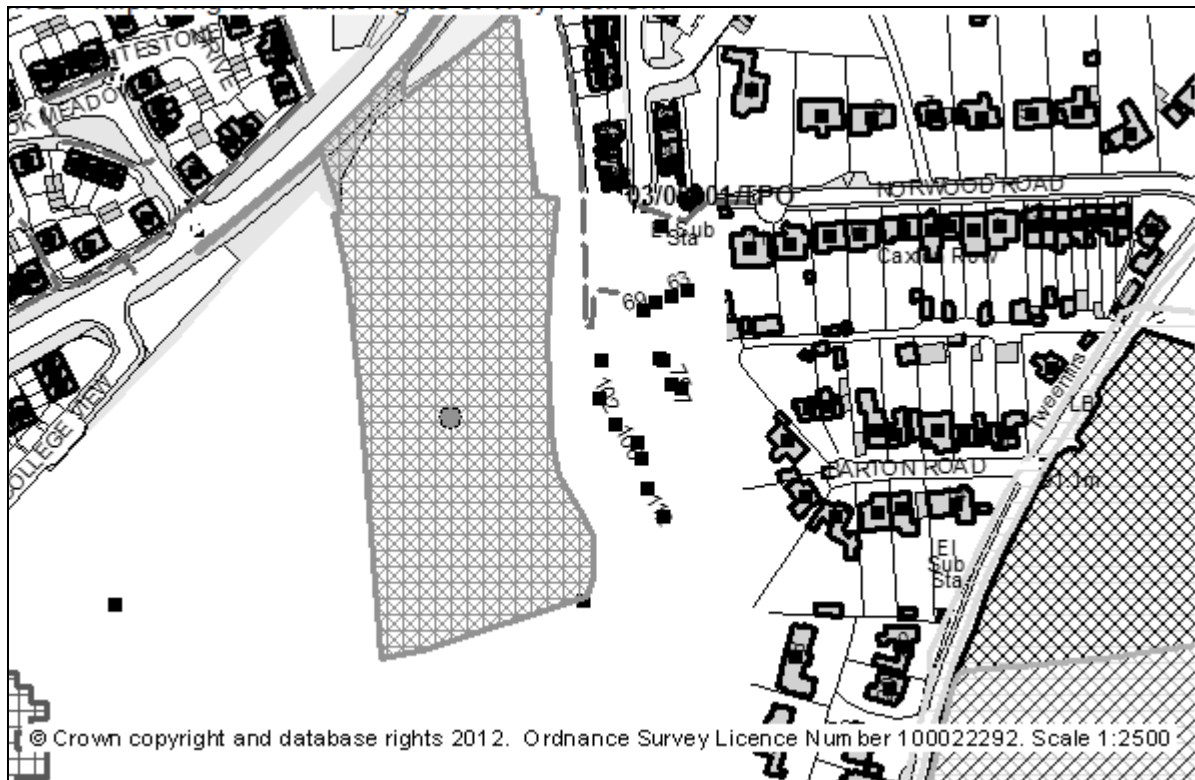
Grid Ref: 113644 : 295527

Applicant: The Frankpitt Family
Trust

Location: Land at NGR 295527
113644 (South Of
Lea Road) Tiverton
Devon

Proposal: Outline for the
erection of 41
dwellings and
formation of vehicular
access

Date Valid: 2nd November 2016



AGENDA ITEM

PLANNING COMMITTEE 1st December 2021

REPORT OF THE DEVELOPMENT MANAGER

16/01707/MOUT - OUTLINE FOR THE ERECTION OF 41 DWELLINGS AND FORMATION OF VEHICULAR ACCESS - LAND AT NGR 295527 113644 (SOUTH OF LEA ROAD) TIVERTON DEVON

Reason for Report:

Outline Planning Permission 16/01707/MOUT was approved on the 10th July 2019, being subject to a Section 106 Agreement. An application has been received for a modification to the S106 planning obligations following conclusions of Financial Viability Assessments (FVA) which outline that the current development approved is unviable and could only be delivered through the removal of the affordable housing provision and reducing of financial contributions from £192,987 to up to £23,000, hence the reason a Variation to the S106 agreement has been submitted by the applicant.

RECOMMENDATION(S)

In light of confirmation from an independent valuer's appraisal of the FVA that the development would be unviable through the planning obligations secured by the S106 agreement, Members are recommended to consider supporting the changes to the S106 agreement. The government's guidance outlined within the National Planning Policy Framework states that the Local Plan should set out the contributions expected from a development but such policies should not undermine the deliverability of the plan. In order for this site to be developed for housing, a policy compliant scheme would not be possible based on the evidence submitted and assessed.

Relationship to Corporate Plan:

Homes

- Work with applicants/organisations to deliver homes retained in perpetuity for local need

Environment

- Protecting the natural environment, enhancing biodiversity and addressing carbon pressures

Financial Implications:

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 why any refusal to accept a Deed of Variation would be 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 a refusal to consider changes to a S106 agreement where it is found that the planning obligations would be too onerous and make a development unviable.

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.

Consultation carried out with:

1. Chair of Planning Committee
2. Ward Members
3. Cabinet Member for Housing & Property Services
4. Tiverton Town Council

1.0 BACKGROUND OF THE APPROVED DEVELOPMENT

- 1.1 Outline application 16/01707/MOUT was approved on the 10th July 2019 for the erection of 41 dwellings (12 affordable) on land south of Lea Road and to the west of the existing Moorhayes development at Oakfields. Access is to be from Lea Road and was determined under this outline application. Layout, scale, appearance and landscaping have been reserved for later consideration under a reserved matters application and the reserved matters application would need to be submitted by the 10th July 2022 to prevent the permission lapsing.
- 1.2 The site comprises approximately 1.29 hectares of sloping pasture land between the existing residential development at Oakfields, Moorhayes, and the school sports pitches fronting Bolham Road. Planning permission was previously granted under reference 07/01559/MFUL for the erection of 95 dwellings on a larger parcel of land including the site the subject of this application, however, that planning permission was not implemented and expired. This site was allocated for residential development in a previous plan but there is no current development allocation but it is within the settlement limits of Tiverton. A suitable surface water drainage scheme with attenuation was also proposed as part of the outline application approved.
- 1.3 The outline planning permission is subject to a S106 agreement securing the following:
 1. The provision of 12 affordable dwellings on site (35%)
 2. A financial contribution of £49,405 towards the provision of a new play area garden at the entrance to Amory Park, including new fencing, entrance gates, furniture and signs
 3. A financial contribution of £139,933 towards the provision of additional primary education facilities

2.0 PROPOSED DEED OF VARIATION TO THE S106 AGREEMENT

- 2.1 In line with the procedural decision made at planning committee and motion carried at Full Planning Council on the 24th April 2019 for requests to vary or delete pre-

existing planning obligations (S106 agreements), set out below is the request to undertake a variation to the Section 106 agreement for outline planning permission 16/01707/MOUT relating to the residential development of 41 dwellings and formation of vehicular access on land at NGR 295527 113644 (South of Lea Road), Tiverton.

- 2.2 As set out above, the outline planning application was approved subject to a S106 agreement which requires:
1. The provision of 12 affordable dwellings on site (35%)
 2. A financial contribution of £49,405 towards the provision of a new play area garden at the entrance to Amory Park, including new fencing, entrance gates, furniture and signs
 3. A financial contribution of £139,933 towards the provision of additional primary education facilities.
- 2.3 The applicant has outlined that the development is no longer viable taking into account the required planning contributions. The applicant sent the Local Planning Authority (LPA) a financial viability assessment (FVA) carried out by Greenslade Taylor Hunt dated 15th June 2020 to make this case and the LPA in turn sought an independent review of this with the outcome being that the independent valuer (District Valuer in this case) agreed that the development would not be viable if the applicant was to provide the above planning obligations.
- 2.4 The conclusion was reached that within the respective FVAs that the Proposed Residential Development Scheme (PRDS) is unviable based upon the current Affordable Housing provision and the Agreement contributions and does not achieve the Benchmark Land Value. In order to make the development viable it was outlined that the affordable housing provision would need to be reduced to 0% (with no off-site contribution) and that the Agreement contributions would need to be reduced from £192,987 to up to £23,000. The fundamental issue with the site is its topography and the associated abnormal build costs, as outlined in both FVAs.
- 2.5 It has been stated that the Applicant, whilst the discussions on the viability were taking place, instructed its Agent to market the site based upon the current S106 agreement package and those interested in it were unable to generate offers due to it being unviable. The Applicant, since conclusion of the viability discussions, has currently instructed its agent to re-market the site based upon the revised package with the aim to prove to the Council that the applicant intends to enter into contract with a buyer and for that party to deliver the PRDS on the Site.
- 2.6 Through consultation with the Chair of Planning Committee, Ward Members, Cabinet Member for Housing and Property Services and Tiverton Town Council, responses were received that this matter should be called in for consideration at planning committee in order that Members could consider the proposed changes put forward to the S106 agreement and whether these could be agreed, as concerns were raised to the removal of affordable housing and reduced planning obligations.
- 3.0 **CONCERNS RECEIVED THROUGH CONSULTATION**
- 3.1 Initially, concerns were raised as to how an outline application approved in 2016 was still live and how an affordable housing contribution at 35% would result in 14 affordable houses and not 12. In answer to these matters, with respect to the outline planning permission 16/01707/MOUT, this was issued on the 10th July 2019 so it is

still extant requiring a submission of reserved matters before the expiration of three years from the date of this permission.

- 3.2 On the matter of the S106 agreement which secures the provision of 12 affordable dwellings on site noted as being 35%, within the committee report the calculation is explained as follows:

'The proposal includes the provision of 12 affordable dwellings on site. This provision accords with the requirements of policy AL/DE/3 of the AIDPD which requires open market housing sites of more than 4 dwellings to provide affordable housing of 35% applied to the number of dwellings by which the site exceeds the 4 dwelling threshold (41 - 4 x 35%), rounded down to the nearest whole. The applicant has agreed to enter into a Section 106 Agreement to secure 12 on site affordable dwellings. Policies AL/DE/4 requires affordable housing to be limited to households in need of affordable housing and this will also be secured within the Section 106 Agreement. Policy AL/DE/5 seeks an inclusive design and layout for the affordable housing and this policy will be addressed at reserved matters stage. Mid Devon's SPD on meeting housing needs provides additional guidance on affordable housing which should also be taken into account at the reserved matters stage.'

Therefore in light of the above, the calculation at the time of the application was for 35% of 37 dwelling (subtracting the first four from the calculation) which meant a figure of 12.95 which was then rounded down in line with guidance.

- 3.3 Turning to the Section 106 and proposed changes, consultee responses were received raising concern that the original outline planning permission would not have been secured if the proposed section 106 contributions had been put forward at the time and secondly the underlying issue of the topography of the site would have been no different in 2016. Therefore the view is that the applicant should still be providing for these contributions.
- 3.4 The Cabinet Members for Housing and Property Services commented that *'The financial viability is not as far as I'm aware a site specific issue but more of a plan wide matrix and the NPPF has been adjusted to reflect this, therefore I would argue that given the LA has an agreed and updated local plan that has been recently tested this outweighs any site specific issues raised and a wider view should be taken as set out in the NPPF. The current agreed price differential in house prices from 2016 until current is set at over 8% (office of national statistics) so I'm curious how an increase of this magnitude has been seen to reflect the need to reduce section 106 contributions that at best remain static with no ability to alter for the evident inflation, given as an average of 2.7% over the period or aprox 11.4% over the whole period. It is not the LA's concern to protect the developers bottom line but to protect and deliver the affordable housing as prescribed in the local plan and recently published (as yet unagreed) housing strategy document.'*
- 3.5 Consultee responses also highlighted the fact that it was noticed that an article in the Tiverton Gazette has the site advertised as providing 41 market houses only which was considered a little forward. In addition to this, having read the papers the conclusion had been reached that given the problems the applicant is seeking to associate with the site and the total removal of any affordable housing or meaningful section 106 contributions the site adds little value to the people of Tiverton or the LPA's ambition on affordable housing. Therefore they asked that the application be sent back to the planning committee for their combined consideration.

4.0 MATERIAL CONSIDERATIONS

- 4.1 Government guidance allows for a LPA to agree to consider varying an existing S106, based on full viability evidence being submitted that meets the guidance in the NPPF/PPG. This should include recent comparisons of land values and revenues elsewhere, on comparable sites with similar S106 requirements, rather than just the price being asked for the land. The price being asked, should of course reflect the policy requirements and the difficulty in developing the site, whilst providing the land owner with the minimum return required for them to part with the land (based on realistic assumptions). The evidence should also consider different formats for the affordable housing, e.g. discounted open market.
- 4.2 The NPPF outlines in respect to Development contributions at Para. 34 that *'Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Such policies should not undermine the deliverability of the plan.'*
- 4.3 With respect to planning conditions and obligations, the NPPF states:
- '58. Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.'*
- 4.4 The Mid Devon Local Plan 2013-2033 outlines that 7,860 dwellings are required over the plan period, equating to 393 dwellings per year. The table within the Local Plan sets out the situation at 31st March 2018 indicating a remaining need for about 3,512 dwellings to be allocated. In Tiverton, there are to be 2,358 houses (which equate to 30%), 478 were completed as of March 2018 with commitments of 1,275 (as of 1 April 2018) leaving a remainder of 605 houses to be found.
- 4.5 This development would have been picked up as a windfall site as whilst the site was previously allocated for housing, the site is not currently allocated within the Local Plan but it is located within the settlement limits. Therefore Members need to weigh up the delivery of houses as outlined within the Local Plan and whether viability concerns preventing the deliverable of these houses would result in acceptance of reduced S106 obligations.
- 4.6 Viability reports were received for this development (both from the applicant and from the District Valuer). Following the initial valuation undertaken by the District Valuer, the LPA sought further clarification from the District Valuer on the matter as to whether it is only the affordable housing which would need to be removed from the S106 agreement for the development to become viable or all of the other S106 contributions also such as Education, Public Open Space etc.
- 4.7 The District Valuer carried out a further appraisal for a scheme providing no affordable housing and also no s106 contributions. The resulting Residual Land

Value (RLV) for a scheme on this basis is £342,337 (see attached). Compared against the opinion of Benchmark Land Value at £319,000, the resulting RLV provides a surplus above this in the region of £23,000. On this basis, the District Valuer is of the opinion that it would be financially viable to provide a scheme comprising 100% Open Market housing and s106 contribution of up to £23,000. As a result of the above, the applicant has submitted a Deed of Variation to remove the requirement to provide affordable housing and to provide s106 contribution up to £23,000.

- 4.8 In response to concerns from consultees whilst it is understood that the topography of the site has not changed and that the applicant should have taken this into account prior to submitting the planning application, the case remains that outline planning permission was approved for a residential development on site and since the signing of the S106 agreement the applicant is now putting forward the case that the approved development is not viable. The independent valuer is of the view that one reason the development was not considered unviable back in 2016 when the application was lodged is that due diligence may not have occurred with site investigations not up to scratch in identifying the high abnormal costs from the development at the time with the S106 agreement entered into. Therefore as a result, if housing is to be delivered, the planning obligations would need to be reduced.
- 4.9 The matter is therefore now in front of Planning Committee for Members to consider whether the changes proposed to the S106 agreement can be agreed, deciding to accept the Deed of Variation or alternatively through weighing up the policy requirements decide to refuse it on the basis that as the development is not viable for a policy compliant scheme the residential development should not be brought forward on this site.

5.0 ASSOCIATED RISKS

- 5.1 The local planning authority makes decisions on applications to modify or discharge planning obligations under S106 of the Town and Country Planning Act (TCPA) 1990. Appeals to modify or discharge a planning obligation are known as S106B Appeals and can be made where an applicant disagrees with it or a decision wasn't made within the specified time limit. In the event of a decision to refuse to agree the changes, the applicant would have the ability to appeal the decision and make the case to the Planning Inspectorate.
- 5.2 The applicant has submitted a FVA which concludes that the development is not viable based on the agreed S106 agreement and this has been independently assessed and agreed by the District Valuer. The applicant has considered alternative developments in terms of providing alternative numbers of houses and with differing tenures but the outcome remains the same that to provide affordable housing would make the development unviable given the high costs involved in developing on this site.
- 5.2 Another risk resulting from this outline planning permission for 41 dwellings lapsing is that this would have an impact on the number of housing to be delivered in Tiverton and the wider district. This would leave a shortfall in housing to be found and delivered within the Local Plan Period. On the matter of affordable housing being provided for residents in Tiverton, whilst this Deed of Variation to the S106 agreement would remove 12 affordable dwellings, it is noted that the Council have recently submitted a scheme for 8 affordable dwellings (21/01957/FULL) on a site within Tiverton which is due to be brought in front of Planning Committee early next year. It is also noted that there is an appeal lodged for the erection of 22 dwellings

(20/01263/MFUL) which is a scheme for 100% affordable dwellings on an exception site which if approved by the Planning Inspector would also assist in meeting affordable housing needs in the Town.

- 5.3 Therefore the recommendation of Officers would be to accept the proposed Deed of Variation to the S106 and for Members to consider how the £23,000 should be allocated, either towards off site affordable housing, a financial contribution towards the provision of a new play area garden at the entrance to Amory Park, a financial contribution towards the provision of additional primary education facilities or a split between the differing obligations. Alternatively, this could be delegated to the Interim Development Management Manager to assign and the Legal Department instructed to complete this change to the S106 agreement.

Contact for any more information

Mr Adrian Devereaux, Area Team Leader
01884 234267

Background Papers

Committee Report

File Reference

16/01707/MOUT

Circulation of the Report

Cllrs Richard Chesterton
Members of Planning Committee

[Attach previous Committee report](#)

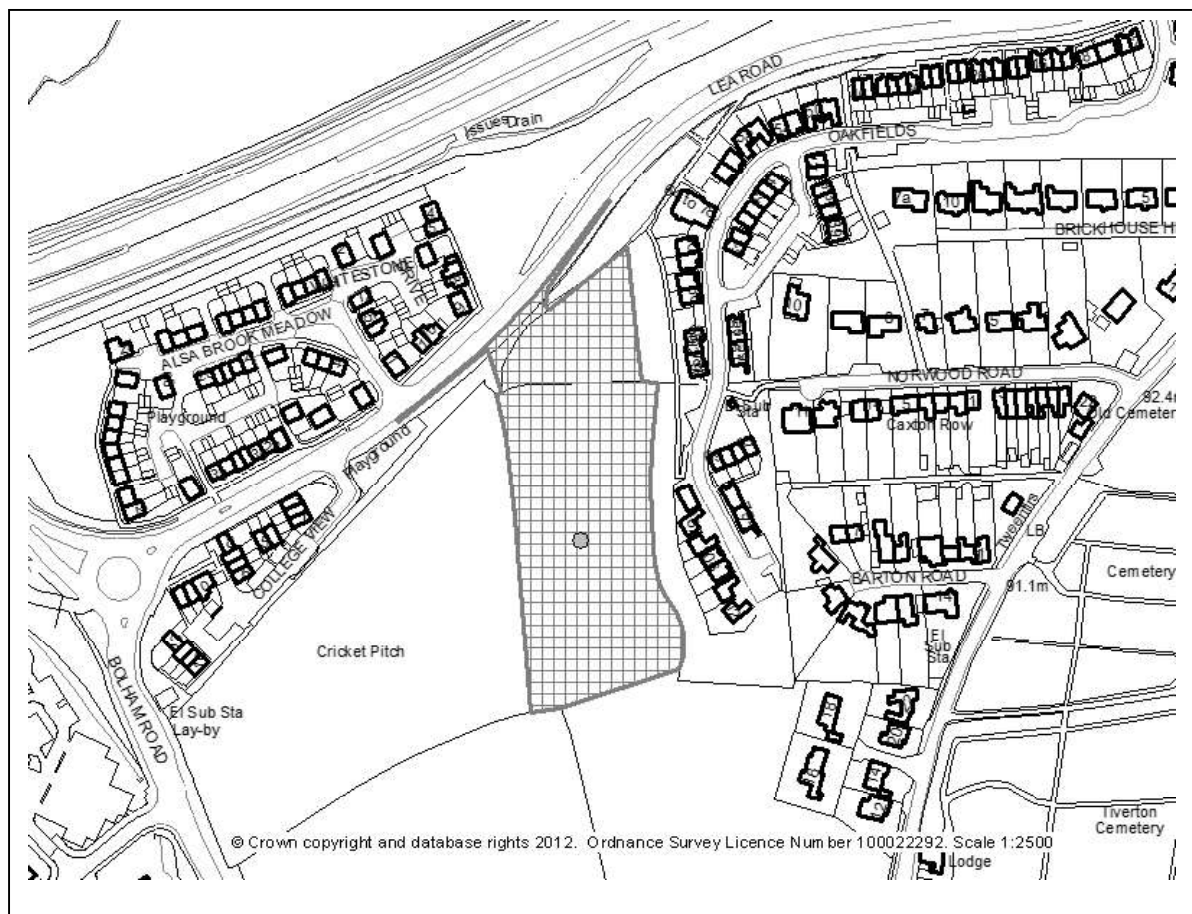
Grid Ref: 295527 : 113644

Applicant: The Frankpitt Family
Trust

Location: Land at NGR 295527
113644 (South Of
Lea Road) Tiverton
Devon

Proposal: Outline for the
erection of 41
dwellings and
formation of vehicular
access

Date Valid: 2nd November 2016



Application No. 16/01707/MOUT

RECOMMENDATION

Subject to the provision of a Section 106 Agreement/Unilateral Undertaking and conditions grant permission.

RECOMMENDATION

Grant subject to conditions and the prior signing of a S106 to secure:

1. The provision of 12 affordable dwellings on site (35%)
2. A financial contribution of £49,405 towards the provision of a new play area garden at the entrance to Amory Park, including new fencing, entrance gates, furniture and signs
3. A financial contribution of £139,933 towards the provision of additional primary education facilities

PROPOSED DEVELOPMENT

The proposal is an outline application for the erection of 41 dwellings (12 affordable) on land south of Lea Road and to the west of the existing Moorhayes development at Oakfields. Access is to be from Lea Road and is to be determined under this outline application. Layout, scale, appearance and landscaping have been reserved for later consideration under a reserved matters application.

The site comprises approximately 1.29 hectares of sloping pasture land between the existing residential development at Oakfields, Moorhayes, and the school sports pitches fronting Bolham Road. Planning permission was previously granted under reference 07/01559/MFUL for the erection of 95 dwellings on a larger parcel of land including the site the subject of this application, however, that planning permission was not implemented and has now expired. This site was allocated for residential development in a previous plan. There is no current development allocation. It is within the settlement limits of Tiverton.

A suitable surface water drainage scheme with attenuation is proposed.

APPLICANT'S SUPPORTING INFORMATION

Design and access statement
Heads of terms
Drainage strategy report
Ecological appraisal
Energy statement
Flood risk assessment
Planning statement
Residential travel plan
Transport statement
Geotechnical and environmental investigation
Storm sewer calculations

PLANNING HISTORY

07/01559/MFUL Erection of 95 dwellings, access roads, pedestrian footpath links, landscaping and associated works - PERMIT - 08.02.2008

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities
COR2 - Local Distinctiveness
COR3 - Meeting Housing Needs
COR9 - Access
COR11 - Flooding
COR13 - Tiverton

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

AL/DE/3 - Affordable Housing Site Target
AL/DE/4 - Occupation of Affordable Housing
AL/DE/5 - Inclusive Design and Layout
AL/IN/3 - Public Open Space

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development
DM2 - High quality design
DM8 - Parking
DM28 - Green infrastructure in major development

CONSULTATIONS

TIVERTON TOWN COUNCIL - 17th January 2017

Having provided the amended information Tiverton Town Council is now satisfied and therefore supports the application.

7th December 2016 - Deferred. Concerns regarding gradient profile, the flooding history in the area and soil characteristic. There are also concerns over drainage plans. Felt that more information was required before a recommendation could be made.

HIGHWAY AUTHORITY - 15 November 2016 -

Observations:

The proposed development has been subject to pre application advice and the site already has the benefit of an existing consent which has lapsed. The proposal is acceptable to the Highway Authority in principle and the point of access in relation to the existing highway network and planned redevelopment of the school is also acceptable.

The application is will all matter reserved except for access therefore the following conditions need to be imposed.

Recommendation:

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

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

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

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

A) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 metres back from its junction with the public highway

B) The ironwork has been set to base course level and the visibility splays required by this permission laid out

C) The footway on the public highway frontage required by this permission has been constructed up to base course level

D) A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority

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

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

A) The spine road and cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;

B) The spine road and cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;

C) The cul-de-sac visibility splays have been laid out to their final level;

D) The street lighting for the spine road and cul-de-sac and footpaths has been erected and is operational;

E) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;

F) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;

G) The street nameplates for the spine road and cul-de-sac have been provided and erected.

REASON: To ensure that adequate access and associated facilities are available for the traffic attracted to the site

4. 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 in accordance with Flood Management Act

5. Within twelve months of the first occupation of the first dwelling in an agreed phase of the development, all roads, footways, footpaths, drainage, statutory undertakers' mains and apparatus, junction, access, retaining wall and visibility splay works shall be completed to the written satisfaction of the Local Planning Authority.

REASON: To ensure that the access arrangements are completed within a reasonable time in the interests of safety and the amenity of residents

6. 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;
- (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) Details of the amount and location of construction worker parking.

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

REASON: To ensure the proper development of the site.

LEAD LOCAL FLOOD AUTHORITY - 3rd January 2017 - stage, assuming that the following pre-commencement planning conditions are imposed on any approved permission:

No part of the development hereby permitted shall be commenced until a programme of percolation tests has been carried out in accordance with BRE Digest 365 Soakaway Design (2016), and the results approved in writing by the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. A representative number of tests should be conducted to provide adequate coverage of the site, with particular focus placed on the locations and depths of the proposed infiltration devices.

Reason: To ensure that surface water from the development is discharged as high up the drainage hierarchy as is feasible.

No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be informed by the programme of approved BRE Digest 365 Soakaway Design (2016) percolation tests and in accordance with the principles set out in the Drainage Strategy Layout (Drawing No. C151789-C100, Rev. P4, dated 13th December 2016).

Reason: To ensure that surface water runoff from the development is discharged as high up the drainage hierarchy as is feasible, and is managed in accordance with the principles of sustainable drainage systems.

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

Observations:

Following my previous consultation response FRM/MD/01707/2016, dated 23rd November 2016), the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

The applicant has submitted a letter (Ref. C151789/MJE/001, dated 16th December 2016) which states that the area used for the calculation of the site's greenfield runoff rates has been reduced to 0.898 ha.

This has been accompanied by a Drainage Strategy (Report No. C151789, Rev. -, dated 13th December 2016), MicroDrainage model outputs (dated 14th December 2016), and a Drainage Strategy Layout (Drawing No. C151789-C100, Rev. P4, dated 13th December 2016), which are all acceptable.

The aforementioned letter also provides, in this instance, an acceptable justification for the use of 30% as the climate change uplift value for the proposed surface water drainage management system.

Furthermore, the aforementioned letter satisfactorily addresses the issues relating to the proposed permeable paving and underground attenuation tanks, as well as long term storage.

23rd November 2016

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 the Mid Devon Local Plan (Part 3) (Development Management Policies), which requires developments to include sustainable drainage systems. The applicant will therefore be required to submit additional information, as outlined below, to demonstrate that all aspects of the surface water drainage management plan have been considered.

Observations:

The Drainage Strategy Layout (Drawing No. C151789-C100, Rev. P2, dated 5th July 2016) shows that the total area being drained is 0.434ha, although the proposals are to discharge the surface water runoff at the greenfield runoff rates calculated for the total site area of 1.24ha. The applicant must note that, in accordance with Chapter 24.2 of CIRIA's SuDS Manual (C753), the runoff areas used in greenfield runoff rate calculations must be consistent. The applicant will therefore be required to revise the proposed off-site discharge rates to accord with the area being positively drained to the proposed surface water drainage management system.

I would also note that the aforementioned drawing refers to the use of the 1 in 100 year (+30% allowance for climate change) rainfall event. However, following the publication of the Flood Risk Assessments:

Climate Change Allowances document (dated 19th February 2016) by central government, the applicant will be required to use a climate change uplift value of 40% when sizing the proposed surface water drainage management system for this development.

The aforementioned drawing also proposes the use of permeable paving, which I would support in-principle as it will serve to manage some of the surface water runoff generated from this proposed development at source, in accordance with the SuDS Management Train. However, in the absence of infiltration testing results at the locations and depths of the proposed permeable paving at this outline stage, the applicant will be required to treat these areas as being lined and therefore positively draining to the attenuation systems. This is also particularly important because the site is located on a steep slope, and as such the use of infiltration devices needs to be carefully considered to ensure that infiltrating water will not raise groundwater levels, emerge further downslope, or destabilise the slope itself.

In the meantime, the applicant must also note that where infiltration is not used, long term storage must be provided in order to store the additional volume of runoff caused by the increase in impermeable area, which is in addition to the attenuation storage required to address the greenfield runoff rates.

Long term storage should therefore be included within the surface water drainage management plan to ensure that each element is appropriately sized, and this should discharge at a rate not exceeding 2 litres/second/hectare.

The aforementioned drawing also refers to the possible provision of an impermeable bund on the western boundary of the site in order to manage exceedance flows. I would support the incorporation of such a feature given the gradient of the site and the need to minimise the risk of off-site flooding during exceedance events.

I also note that the aforementioned drawing shows that the privately maintained attenuation feature is a underground tank. However, the applicant should note that these underground crates cannot be considered as a truly sustainable means of drainage because they do not provide the required water quality, public amenity and biodiversity benefits, which are some of the underpinning principles of SuDS.

Consequently, above-ground attenuation features should be utilised unless the applicant can robustly demonstrate that they are not feasible; in almost all cases, above- and below-ground features can be used in combination where development area is limited.

HISTORIC ENVIRONMENT SERVICE - 7th November 2016

I refer to the above scheme 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 an impact upon any known heritage assets.

Based on the information available in the Historic Environment Record to date the Historic Environment Team has no comments to make on this scheme or any future planning application for the development of this site.

ENVIRONMENTAL HEALTH - 9th November 2016 - Contaminated Land - No objections

Air Quality - No objections

Drainage - No objections

Noise & other nuisances - To reduce the likelihood of nuisance from the storage of refuse the following should be applied:

Three-storey residential flats with communal refuse facilities

Internal Storage

To help residents within the flats to actively move towards a culture of recycling wherever possible, we encourage architects / designers to provide space (typically in the kitchen area of each property) for residents to be able to separate out waste into two different containers - one for recyclable and one for non-recyclable waste.

External Storage

It is recommended that space be provided for communal refuse and recycling facilities in line with the revised British Standard BS5906 Waste Management in Buildings.

Housing Standards - No comments

Licensing - No comments

Food Hygiene - N/A

Private Water Supplies - N/A

Health and Safety - No objection enforced by HSE

NATURAL ENGLAND - 10th November 2016

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

The Wildlife and Countryside Act 1981 (as amended)

The Conservation of Habitats and Species Regulations 2010 (as amended)

Natural England's comments in relation to this application are provided in the following sections.

Statutory nature conservation sites - no objection

Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes.

Protected species

We have not assessed this application and associated documents for impacts on protected species. Natural England has published Standing Advice on protected species. You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence is needed (which is the developer's responsibility) or may be granted.

If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us with details at consultations@naturalengland.org.uk.

Local sites

If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

Biodiversity enhancements

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application.

This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

Landscape enhancements

This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green space provision and access to and contact with nature. Landscape characterisation and townscape assessments, and associated sensitivity and capacity assessments provide tools for planners and developers to consider new development and ensure that it makes a positive contribution in terms of design, form and location, to the character and functions of the landscape and avoids any unacceptable impacts.

Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the data.gov.uk website

DEVON, CORNWALL & DORSET POLICE - 9 November 2016 -

I have read the Design and Access statement and am disappointed to find that there is no mention of Crime and Disorder even though it is a material consideration.

It is appreciated that this is at the outline stage, but early consultation with the police frequently prevents delays further down the process when crime and disorder issues present a problem with the layout of a submitted design.

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.

Based on the limited indicative plans available, the police make the following initial comments from a designing out crime point of view.

A physiological barrier at the entrance to this development such as a change in road colour to define the private road and brick pillars would emphasise privacy and give a gated impression.

Car parking provision will require careful consideration if tension between neighbours from unsocial parking is to be avoided. On street parking, whilst being overlooked can leave vehicles vulnerable to opportunist car crime and vandalism.

Courtyard parking should be small in size and close to the owners homes or it will not be used resulting in vehicles being parked on streets and pavements.

Whilst 'communal open space' is indicated, there appears to be no provision of LAP or LEAP, likely resulting in young people playing in the street and parking courts leading to conflict with car owners.

I would like to see a very strong definition between what is private and what is public land, with strong defensible space. It is unclear what boundary treatments are to be used.

HOUSING ENABLING & BUSINESS SUPPORT MANAGER - 13th January 2017

Good to see all affordable rent, but if not then 60/40 affordable rent/shared ownership.

Percentage would like to see 20% 1 Bed, 50% 2 Bed, 30% 3 Bed

1 Bed 2 units

2 Bed 6 units

3 Bed 4 units

DEVON COUNTY EDUCATION - 12th January 2017

Since the pre-app response we have changed our education infrastructure plan that sets out the contribution rates for primary and secondary education. Please see below for an updated response for the above application. There is currently capacity at secondary level and therefore a contribution towards secondary will no longer be sought.

The proposed 41 family-type dwellings will generate an additional 10.25 primary pupil and 6.15 secondary pupils.

Devon County Council will seek a contribution towards additional education infrastructure at both the local primary school that serve the address of the proposed development. The primary contribution sought would be £139,933 (based on the current DfE extension rate of £13,652 per pupil) which will be used to provide primary education facilities in the Tiverton area. There is currently capacity at the

nearest secondary school and therefore a contribution towards secondary education would not be required.

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.

LEAD LOCAL FLOOD AUTHORITY - 2nd January 2017

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 part of the development hereby permitted shall be commenced until a programme of percolation tests has been carried out in accordance with BRE Digest 365 Soakaway Design (2016), and the results approved in writing by the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. A representative number of tests should be conducted to provide adequate coverage of the site, with particular focus placed on the locations and depths of the proposed infiltration devices.

Reason: To ensure that surface water from the development is discharged as high up the drainage hierarchy as is feasible.

No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be informed by the programme of approved BRE Digest 365 Soakaway Design (2016) percolation tests and in accordance with the principles set out in the Drainage Strategy Layout (Drawing No. C151789-C100, Rev. P4, dated 13th December 2016).

Reason: To ensure that surface water runoff from the development is discharged as high up the drainage hierarchy as is feasible, and is managed in accordance with the principles of sustainable drainage systems.

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

Observations:

Following my previous consultation response FRM/MD/01707/2016, dated 23rd November 2016), the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

The applicant has submitted a letter (Ref. C151789/MJE/001, dated 16th December 2016) which states that the area used for the calculation of the site's greenfield runoff rates has been reduced to 0.898 ha.

This has been accompanied by a Drainage Strategy (Report No. C151789, Rev. -, dated 13th December 2016), MicroDrainage model outputs (dated 14th December 2016), and a Drainage Strategy Layout (Drawing No. C151789-C100, Rev. P4, dated 13th December 2016), which are all acceptable.

The aforementioned letter also provides, in this instance, an acceptable justification for the use of 30% as the climate change uplift value for the proposed surface water drainage management system.

Furthermore, the aforementioned letter satisfactorily addresses the issues relating to the proposed permeable paving and underground attenuation tanks, as well as long term storage.

REPRESENTATIONS

1 representation summarised as follows:

The land is subject to covenants which restrict its use to agricultural only.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in determining this application are:

1. Principle of development
2. Access
3. Drainage and ground stability
4. Indicative layout, including parking and potential effects on neighbouring residents
5. Landscaping and ecology
6. Open space, section 106 and other financial considerations

1. Principle of development

The site is within the defined settlement boundary of Tiverton where the principle of new residential development is acceptable under policies COR1, COR3, COR9, COR12 and COR13 of the Mid Devon Core Strategy which seek to focus development in the most sustainable locations, close to services, facilities and public transport provision.

The site is on the western edge of the Moorhayes development and is close to retail and leisure facilities, bus transport and schools and has previously been granted planning permission for residential development under reference 07/01559/MFUL, although that planning permission was not implemented.

The application is outline with access to be determined and all other matters reserved for later consideration.

2. Access

It is proposed to provide a new vehicular access from Lea Road. The Highway Authority is satisfied with the proposals, subject to conditions relating to provision of the access, estate roads, parking and drainage. The estate road design to be approved by condition and as part of the layout under reserved matters needs to include the design of any retaining walls as the proposed development would be on sloping land.

The location and design of the access has taken into consideration the proposals for a future new access to the west of the site to serve the relocated Tiverton High School, should this come forward, and the Highway Authority has confirmed that the proposals under this application will not compromise the school's future plans.

The proposal is considered to comply with policy COR9 of the Mid Devon Core Strategy in respect of transport planning, accessibility and road safety, and policy DM2 of the Local Plan 3 Development Management Policies in respect of creation of accessible places that encourage sustainable modes of travel such as walking and cycling.

3. Drainage and ground stability

The surface water drainage system is intended to be an adoptable network of attenuation tank sewer pipes with an outfall into the public surface water sewer system at rates no greater than the existing greenfield run-off rates. Storm event overflows will be held in a cellular attenuation tank and drain back through into the system once water levels have reduced. A further above-ground attenuation feature along the western hedge boundary is proposed to intercept any further exceedance flows.

Investigations have confirmed that a SUDS system is not suitable for this site due to the borderline suitability of the ground conditions for infiltration and the sloping nature of the site. It may be possible

to use permeable paving, subject to further infiltration testing being carried out. South West Water has confirmed in principle that it will accept storm water into the public system, subject to confirmation of run-off rates.

Following revisions to the surface water drainage strategy, Devon County Council as Lead Local Flood Authority has withdrawn its previous objection to the proposed drainage system and has confirmed the revised surface water drainage strategy is acceptable in principle, subject to conditions relating to further percolation testing and detailed design of the surface water drainage system.

Foul drainage will discharge into the public sewer.

Subject to the implementation of the approved drainage system, it is not considered that the development would increase flood risk elsewhere. The proposed development is therefore considered to comply with policy COR11 of the Mid Devon Core Strategy in respect of flood risk and policy DM2 of the Local Plan 3 Development Management Policies in respect of appropriate foul and surface water drainage systems being provided.

Further to concerns raised by the Town Council, the applicant has submitted a copy of the geotechnical and environmental report originally submitted for the previous 2007 application. This report indicates that around 25-30% of the proposed dwellings will be on raised ground meaning that foundations will need to be piled, but that the remainder of the site would be suitable for traditional foundations. The report confirms that the investigation confirms that the site is suitable geotechnically and environmentally for residential development.

The applicant has also commissioned a further engineers report on ground stability in order to address the Town Council's concerns and Members will be updated on this. However, the report is expected to reflect the report previously submitted.

4. Indicative layout, including parking and potential effects on neighbouring residents

Although the layout of the site is reserved for later consideration under a reserved matters application, an indicative layout plan was submitted which demonstrates that it is possible to construct 41 dwellings on the site, with an appropriate level of parking to meet the parking standards required by policy DM8 of the Local Plan 3 Development Management Policies (average 1.7 car parking spaces per dwelling) and Mid Devon's SPD on parking provision.

The indicative plan shows the parking well-related to the dwellings, however, it shows long ranks of parking in front of the dwellings resulting in a somewhat car dominated environment. Effort has been made to reduce the car dominated appearance by interspersing the parking with planting. Whilst the indicative layout is not considered to demonstrate good design by reason of the car dominated street scene, the application is outline only and the layout plan does demonstrate that the number of dwellings proposed is achievable. At reserved matters stage, the applicant will need to ensure that the proposal represents good design in accordance with Mid Devon's policies.

The indicative plans shows a mix of 1, 2 and 3 bedroom houses and 1 and 2 bedroom flats, with the flats being shown at the northern end of the site, close to the access and in the south western corner. The houses are shown to have a reasonable standard of private amenity space. The flats shown do not have private amenity space, but it is reasonable to expect flats to lack private amenity space.

The reserved matters application will be expected to detail adequate waste storage facilities as required by policy DM14 of the Local Plan 3 Development Management Policies and Mid Devon's SPD on waste storage, and to consider the comments of the Police in terms of providing a safe environment as required by policy DM2 of the Local Plan 3 Development Management Policies. The energy statement submitted to comply with policy DM3 details ways of increasing the development's sustainability including fabric insulation, efficient lighting and heating systems and solar voltaic panels. The detail will be provided at reserved matters stage.

The site is at a lower level than the existing development at Oakfields with a green buffer between the two sites. The existing Oakfields development provides a "hard edge" to the Moorhayes development being three storeys on the visible west elevation, and there is an opportunity for this development to

help to soften that edge. Scale and appearance are reserved matters, however, subject to design, it is not considered that the development would adversely affect the visual quality of the built realm or affect the privacy and amenity of the existing neighbouring residents to any material degree.

5. Landscaping and ecology

The site is well-defined by boundary hedges which are mature and link into a wider hedgerow network and are considered to support nesting birds and may function as commuting routes for bats and other wildlife. It is currently intended that the existing hedges will remain. There are recommendations in the ecology report for landscaping of the site which takes the form of low maintenance wild grassland areas with low intensity tree planting, including fruit trees and native species. Hedging is recommended for boundary treatments.

However, as landscaping is a reserved matter, the final landscaping scheme will depend on the layout submitted at reserved matters stage. As the scheme will require some raising of ground levels due to the sloping nature of the site, the landscaping will also need to act as a screen within the landscape, for example if there are raised parking areas as shown on the indicative plan.

The ecology report recommends a construction ecological management plan to ensure that boundary features are protected and negate the need for further surveys. Subject to this, it is considered that the site can be developed without harming protected species and the landscaping can provide a dual amenity and wildlife role, providing linking habitats, in accordance with policies COR2 of the Mid Devon Core Strategy which seeks design which sustains Mid Devon's environmental assets, DM2 of the Local Plan 3 Development Management Policies which requires development to make a positive contribution to biodiversity assets and use landscaping to create visually attractive places, and policy DM28 which seeks green infrastructure in major development.

6. Section 106 and other financial considerations

The proposal includes the provision of 12 affordable dwellings on site. This provision accords with the requirements of policy AL/DE/3 of the AIDPD which requires open market housing sites of more than 4 dwellings to provide affordable housing of 35% applied to the number of dwellings by which the site exceeds the 4 dwelling threshold ($41 - 4 \times 35\%$), rounded down to the nearest whole. The applicant has agreed to enter into a Section 106 Agreement to secure 12 on site affordable dwellings. Policies AL/DE/4 requires affordable housing to be limited to households in need of affordable housing and this will also be secured within the Section 106 Agreement. Policy AL/DE/5 seeks an inclusive design and layout for the affordable housing and this policy will be addressed at reserved matters stage. Mid Devon's SPD on meeting housing needs provides additional guidance on affordable housing which should also be taken into account at the reserved matters stage.

No formal open space is intended to be provided on site. The site is close to the Mid Devon leisure centre and Moorhayes community centre which provide sport and play areas. There is a children's play area nearby in Marley Close and the site is also within 1.8 km from Amory Park sports ground. Policy AL/IN/3 of the AIDPD and Mid Devon's SPD on open space seek financial contributions towards play areas and open space facilities where no on site provision is made. Accordingly, the applicant has agreed to enter into a Section 106 Agreement to secure a financial contribution of £49,405 towards the provision of a new play area garden at the entrance to Amory Park, including new fencing, entrance gates, furniture and signs.

Policy AL/IN/5 of the AIDPD provides that where new housing development will lead to education facilities being over-subscribed, the development will cover the cost of the additional facilities necessary. Devon County Education has requested a financial contribution of £139,933 towards the provision of additional primary education facilities. No contribution towards the provision of secondary education facilities is being sought. The applicant has agreed to enter into a Section 106 Agreement to secure this sum.

The proposed dwellings would be eligible for counting towards the New Homes Bonus. If the New Homes Bonus is distributed across Council Tax Bands in the same way as in 2015, the award for each house would be £1,028 per year (each affordable house attracting a further £350 bonus). Assuming completion in 2017/18 the award would be paid over a period 5 years, amounting to

£231,740. If completion takes place in 2018/19, the period would be reduced to 4 years, amounting to £185,392.

CONDITIONS

1. Before development begins, detailed drawings to an appropriate scale of the layout of the site, the scale and appearance of the buildings and the landscaping (the Reserved Matters) shall be submitted to and approved in writing by the Local Planning Authority.
2. Application(s) for approval for all the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall begin either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the Reserved Matters which have been approved, whichever is the later.
4. The details required to be submitted by condition 1 shall include the following additional information: boundary treatments, existing and proposed site levels, finished floor levels and sections through the site indicating the relationship of the proposed development with its surroundings.
5. No development shall begin until percolation tests have been carried out and the results approved in writing by the Local Planning Authority. Such tests shall be carried out in accordance with a programme of testing which shall have been previously approved in writing by the Local Planning Authority, based on BRE Digest 365 Soakaway Design (2016) and adequate coverage of the site, with particular focus placed on the locations and depths of the proposed infiltration devices.
6. No development shall begin until a detailed design for the proposed permanent surface water drainage management system has been submitted to and approved in writing by the Local Planning Authority. The design of this permanent surface water drainage management system will be informed by the programme of approved BRE Digest 365 Soakaway Design (2016) percolation tests required by condition 5. above and in accordance with the principles set out in the Drainage Strategy Layout (Drawing No. C151789-C100, Rev. P4, dated 13th December 2016).
7. No development shall begin until a temporary surface water drainage management plan, to demonstrate how surface water runoff generated during the construction phase will be managed, has been submitted to and approved in writing by the Local Planning Authority. The plan must also include details of how eroded sediment will be managed to prevent it from entering the permanent surface water drainage management system and include a timetable for the implementation. Construction shall take place only in accordance with the temporary surface water drainage management plan.
8. No development shall take place until a Construction Ecological Management Plan has been submitted to and approved in writing by the Local Planning Authority, in accordance with the recommendations in the submitted Ecological Appraisal by Crossman Associated dated 22nd February 2016. The development shall proceed only in accordance with the approved Construction Ecological Management Plan.
9. No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall 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
 - 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
- 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) details of the amount and location of construction worker parking.

The development shall proceed only in accordance with the approved Construction Management Plan.

10. 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.
11. No other part of the development hereby approved shall be commenced until:
 - a) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 metres back from its junction with the public highway
 - b) The ironwork has been set to base course level and the visibility splays shown on drawing number 151789-T01 have been laid out
 - c) The footway on the public highway frontage shown on drawing number 151789-T01 has been constructed up to base course level
 - d) A site compound and car park have been provided in accordance with details approved under condition 9.
12. Within twelve months of the first occupation of the first dwelling in an agreed phase of the development, all roads, footways, footpaths, drainage, statutory undertakers' mains and apparatus, junction, access, retaining wall and visibility splay works shall be completed in accordance with the details approved under condition 10.
13. Within twelve months of substantial completion of the development, all landscaping, including planting, seeding, turfing and earth reprofiling, shall be completed in accordance with a landscaping scheme that shall have been previously submitted to and approved in writing by the Local Planning Authority. Within a period of five years from the completion of the development any plants which die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
14. The development hereby approved shall not be carried out otherwise than in accordance with a phasing programme which shall previously have been submitted to and approved in writing by the Local Planning Authority.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004.

2. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004.
3. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004.
4. To ensure that adequate information is available for the proper consideration of the detailed proposals.
5. To ensure that surface water from the development is discharged as high up the drainage hierarchy as is feasible.
6. To minimise flood risk and provide appropriate drainage on site in accordance with policies COR11 of the Mid Devon Core Strategy (Local Plan Part 1) and DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).
7. To ensure surface water run-off does not increase flood risk in the area or deposit mud and debris from the site on the road during the construction period in accordance with policy COR11 of the Mid Devon Core Strategy (Local Plan Part 1).
8. To ensure protected species are not harmed by the development and the existing hedges continue to contribute towards the visual amenities of the area in accordance with policies COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).
9. To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents, in accordance with policy DM2 of the Local Plan Part 3 (Development Management Policies).
10. To ensure that adequate access and associated facilities are available for the traffic attracted to the site in accordance with policies COR9 of the Mid Devon Core Strategy (Local Plan Part 1) and DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).
11. To ensure that the access arrangements are completed within a reasonable time in the interests of safety and the amenity of residents in accordance with policies COR9 of the Mid Devon Core Strategy (Local Plan Part 1) and DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).
12. To ensure the development is suitable for occupation by residents, in accordance with policy DM2 of the Local Plan Part 3 (Development Management Policies).
13. To ensure the development makes a positive contribution to the visual amenities of the area in accordance with COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).
14. To ensure the proper development of the site.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The proposed development is acceptable in that the site is within the defined settlement boundary of Tiverton where the principle of new residential development in a sustainable location, close to services, facilities and public transport, is acceptable. The access onto Lea Road is considered to be acceptable in terms of accessibility and highway safety and the development would provide suitable surface water and foul drainage systems to ensure flood risk is not increased elsewhere. Details of the site layout, landscaping and the appearance of the dwellings are reserved for later consideration under a reserved matters application. However, it is considered that a suitable development is capable of being provided on the site, taking into account parking standards, visual amenity, biodiversity and green infrastructure, and the living conditions of existing residents. The development

will provide 12 affordable dwellings on site and financial contributions towards public open space and improvements to primary and secondary education facilities will be secured by a Section 106 legal agreement. The development will also generate the payment of a New Homes Bonus.

The proposal is considered to comply with the relevant policies: COR1, COR2, COR3, COR9 and COR13 of the Mid Devon Core Strategy (Local Plan Part 1), AL/DE/3, AL/DE/4, AL/DE/5, AL/IN/3 and AL/IN/5 of the AIDPD (Local Plan Part 2), DM2, DM3, DM8 and DM28 of the Mid Devon Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.

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.

Application No	Target Date	Location	Proposal	Name	Expected Decision Level
21/02068/MFUL	14th January 2022	Astra Printing and Crown Works Site Willand Road Cullompton Devon EX15 1AP	Variation of condition 2 of planning permission 20/01577/FULL (Variation of condition 2 of planning permission 17/02020/MFUL to allow substitute and additional plans) to allow substitute plans	Mr Daniel Rance	DEL
21/01887/MFUL	9 th February 2022	Millhayes Lakes Kentisbeare Cullompton EX15 2FQ	Erection of 10 holiday lodges And 1 reception lodge	Mr Daniel Rance	DEL
21/02137/MFUL	28 th January 2022	Land and Buildings at NGR 302094 104175 Westcott Park Westcott	Erection of 21 dwellings with Associated open space, landscaping and infrastructure	Mr Oliver Gibbins	DEL

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LIST OF APPEAL DECISIONS FROM

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
20/01789/FULL	Change of use of hall solely for use by holiday makers to public use	Buildings at NGR 294446 120596 Duvale Priory Bampton Devon	Grant permission subject to conditions.	Committee Decision	Refuse permission	Written Representations	Appeal Allowed
20/01780/FULL	Erection of 2 dwelling following removal of 2 agricultural buildings	Land and Buildings at NGR 276014 96794 (Binneford) Yeoford Devon	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
21/00849/PNCOU	Prior notification for the change of use of an agricultural building to a dwelling under Class Q	Land and Buildings at NGR 270014 105307 (Meadow View Farm) East Leigh Devon	Refusal of Prior Approval	Delegated Decision	Refusal of Prior Approval	Written Representations	Appeal Dismissed

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