

# Public Document Pack

Committee Administrator  
Carole Oliphant  
Tel: 01884 234209  
E-Mail: [coliphant@middevon.gov.uk](mailto:coliphant@middevon.gov.uk)

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

Join Zoom Meeting

<https://zoom.us/j/96925417664?pwd=UIByMyt3Z1IHV0pwTUF4VSsrMVNrzd09>

Meeting ID: 969 2541 7664

Passcode: 124874

One tap mobile

08002605801,,96925417664#,,,,\*124874# United Kingdom Toll-free

08003582817,,96925417664#,,,,\*124874# United Kingdom Toll-free

Dial by your location

0 800 260 5801 United Kingdom Toll-free

0 800 358 2817 United Kingdom Toll-free

0 800 031 5717 United Kingdom Toll-free

Meeting ID: 969 2541 7664

Passcode: 124874

## MID DEVON DISTRICT COUNCIL

### PLANNING COMMITTEE

**A MEETING** of the **PLANNING COMMITTEE** will be held in the Phoenix Chamber, Phoenix House, Tiverton on Wednesday, 2 February 2022 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 2 March 2022 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

### STEPHEN WALFORD

Chief Executive

25 January 2022

**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**  
To record any interests on agenda matters.
- 4      **MINUTES OF THE PREVIOUS MEETING** *(Pages 3 - 10)*  
To consider whether to approve the minutes as a correct record of the meeting held on 19<sup>th</sup> January 2022.
- 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 11 - 42)*  
To consider the planning applications contained in the list.
- 8      **APPLICATION 16.01707/MOUT SOUTH OF LEA ROAD, TIVERTON - S106 ALLOCATION** *(Pages 43 - 46)*  
To consider a report of the Interim Development Management Manager.
- 9      **MAJOR APPLICATIONS WITH NO DECISION** *(Pages 47 - 48)*  
List attached for consideration of major applications and potential site visits.
- 10     **APPEAL DECISIONS** *(Pages 49 - 50)*  
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](mailto:Committee@middevon.gov.uk) by no later than 4pm on the day before the meeting. This will ensure that your name is on the list to speak and will help us ensure that you are not missed – as you can imagine, it is easier to see and manage public speaking when everyone is physically present in the same room. Notification in this way will ensure the meeting runs as smoothly as possible.

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

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

Public Wi-Fi is available in all meeting rooms.

This page is intentionally left blank

## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **PLANNING COMMITTEE** held on 19 January 2022 at 2.15 pm

### **Present**

#### **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

### **Also Present**

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

B Holdman

### **Present**

#### **Officers:**

Stephen Walford (Chief Executive), Richard Marsh (Director of Place), Karen Trickey (District Solicitor and Monitoring Officer), Dean Emery (Corporate Manager for Revenues, Benefits and Recovery), Angharad Williams (Interim Development Management Manager), Christie McCombe (Area Planning Officer), Carole Oliphant (Member Services Officer) and Sally Gabriel (Member Services Manager)

### **Also Present:**

Michelle Woodgates (DCC Highways Authority)

## 141 **APOLOGIES AND SUBSTITUTE MEMBERS**

There were no apologies.

## 142 **PUBLIC QUESTION TIME (00-03-53)**

The Chairman read a set of questions from Mrs Bingham referring to Item 6 (application 21/00454/MARM) on the agenda:

Why are Redrow Homes being allowed to place 20 properties against the boundary of the existing 10 Blundell's Road properties, which is a ratio of 2-to-1 and yet David Wilson placed only 11 properties against the 14 existing properties at The Fairway - a ratio of 0.8?

Why are Redrow Homes being allowed to present that there are no amenity impacts by having this higher density housing against the existing 10 Blundell's Road properties?

Why are Redrow Homes only providing 2 bungalows when there is a pressing requirement for more bungalows in Tiverton?

The Chairman also read a set of questions from Hannah Kearns with regard to the same application:

How can it be justified for the Planning Officer to state “that Members also noted ongoing concern in relation to road safety? However, road crossings on Blundells Road/Linking Road Spine Road lie outside the parameters of this Reserved Matters application”. The matter of road safety surely cannot simply be dismissed in this manner?

If road safety matters cannot be discussed by Planning Committee Members in relation to this application, then when have they been discussed in the past, or when will they be in the future?

Why are Redrow Homes being allowed to totally ignore the road safety concerns highlighted by the belatedly formed Specialist Design Review Panel?

Why have Redrow Homes been allowed to totally remove the fully segregated off road cycle lanes either side of the Linking Road and Spur Road?

Why are Redrow Homes being allowed to totally remove the Green Boulevard to the north of Blundells Road i.e. the Linking Road?

Mr Salter referring to the same application and referring to an email written by the Cabinet Member for Planning with regard to the Ministerial Statement of 22 November 2021 with regard to the provision of EV charging and stating that despite this statement it is observed that Redrow Homes are only intending to install working charging points to market homes, and only ducting, with no cables to affordable homes. Can the Planning Officers please explain what has changed, and. why do Redrow Homes appear to be discriminating against Affordable Home owners?

Again referring to the Ministerial Statement or a change in policy he asked: as the policy has changed will the Planning Committee now give material consideration to the fact that Redrow Homes are not providing active charging points to all, irrespective of tenure?

Referring to the approved revised Building Regulation L – Conservation – Fuel and Power which would come into effect in June 2022: Do the Redrow Homes already meet this standard, and do Redrow Homes currently meet all the other revised standards in the new Regulation Part L?

Given that Redrow Homes have stated in a separate document that they do not expect completion of this first phase of the Tiverton EUE Development until 2026, is this just one more material consideration for the Planning Committee Members to consider?

Mr Elstone again referring to Item 6 on the agenda asked the following questions:

Why did the MDDC Area Planning Officer in an email, dated 9 December 2020 say she felt both pressured and backed into a corner to sign off on the key Urban Design and Architectural Principles Document?

Why did the MDDC Area Planning officer send an email on the same day as signing off the UDAP stating the importance of the urgent sign off of the document?

Why did MDDC Planning Officers allow Redrow Homes to totally ignore the prerequisite and prescribed requirement to consult with the stakeholders and the general public at the key UDAP stage of the masterplan design process?

Why did MDDC Planning Officers allow Redrow Homes to totally ignore the prerequisite and prescribed requirement to engage with the important external and specialist Design Review Panel prior to submission of their reserved matters application?

Why did MDDC Planning Officers allow Redrow Homes to totally ignore even their own UDAP flow chart requiring them to engage with the Design Review Panel prior to the submission of the reserved matters application?

Why did it take the persistence of a member of the general public and not the MDDC Planning Officers to make Redrow Homes even engage in a Design Review Panel despite it being far too late in the process?

Why did MDDC Planning Officers not intervene when the Design Review Panel had been given to believe that the UDAP document was an MDDC protected document when it was not?

Why did MDDC Planning Officers say in an email that the MDDC Ward Councillors had been consulted about the UDAP prior to sign off?

Why did the MDDC officers not intervene when the Design Review Panel were critical in being introduced into the design process very late and therefore again felt restricted in the comments it could make?

Why did the Planning Officer not intervene when the Design Review Panel primarily restricted themselves to looking at the development to the south of Blundells Road and with consequential results for the north?

Are the committee aware that the former Head of Planning participated in a video which is available on You-Tube in which she extols the importance of Design Review Panels?

Why did Redrow Homes say they had consulted with Post Hill residents when they only sent a letter to a few properties and only after submitting the reserved matters application?

Sir David Jephcott again referring the same application spoke about the high density centre of the application from the centre to the edge and asked why had Redrow been allowed to locate the largest density by the school and put their show home there? Why was Redrow allowed to overturn the centre to edge policy by having high density on the Spur Road?

Mrs Seaton again referring the item 6 on the agenda asked whether committee members were aware that Redrow Developments have already submitted a Condition 14 application which shows both their proposed phasing and end build date for their development proposals? Were Members aware that in this Redrow are trying to totally overturn the original phasing plans by first building to the south of Blundells Road as opposed to the north? Were Members aware that should Redrow Homes, Condition 14 be approved, they will be permitted to make another two entrances to Blundells Road, one to the north and one to the south being the use of West Manley Lane, for heavy vehicles, creating noise, disturbance and further traffic problems on a stretch of road which has suffered at least 4 road fatalities to my knowledge? Also were Members aware that if this Condition 14 application is approved and allows Redrow to use West Manley Lane as a heavy goods and workers entrance existing residents would be surrounded?

Emma Way again referring to item 6 on the agenda asked the following questions:

Why is the applicant permitted to cut back branch canopies of oak trees which are over 200 years old and which have TPO's?

Why is the applicant being permitted to build over the tree root protection zone of a tree over 100 years plus and subject to a TPO?

Are you aware that the applicant's arboriculture report states that the root protection zone need only be 8 metres when according to standards it is closer to 12?

Why is the applicant not providing EV charging points to all homes particularly in the light of imminent changes of legislation?

Please explain why the applicant is only installing ducting and not cabling for everyone and does this discriminate against the affordable homes occupants?

Why is the applicant not following the example of the recently approved Willand development which will have electrical vehicle charging points installed for all affordable homes from day 1?

Why has the applicant chosen to site the playground right on a ferociously busy main road spur with a busy T junction leading to other houses and the car park of a possible care home?

Is this truly the best outcome for the initial phase of the EUE Plan? Will this set the bench mark?

Separate to the public questions, but with the agreement of the Chairman, Cllr B Holdman asked the following questions:

Regarding the S9 Policy, can we have more mature trees if those have to be taken out and can we have more than 1 like for like replacement?

Regards to Policy S2, will all houses have heat source pumps?



Regarding Policy SP2, I am concerned about the mix of housing, we do not have enough bungalows or social housing for the needs of the community, how will you address this?

The Chairman indicated that answers to questions would be provided when the application was considered.

#### **143 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (00-26-00)**

The following declarations were declared:

Cllrs 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, P J Heal and F W Letch made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had received emails and attended meetings with regard to application 21/00454/MARM.

Cllr B G J Warren also made a declaration as set out above with the additional reasons that he had received information, complaints and allegations as the Chairman of the Scrutiny Committee.

#### **144 MINUTES OF THE PREVIOUS MEETING (00-28-57)**

The minutes of the meeting held on 4 January 2022 were agreed as a true record and duly signed.

#### **145 CHAIRMAN'S ANNOUNCEMENTS (00-29-56)**

The Chairman explained his proposed process for discussing the application before the Committee.

#### **146 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 (00-30-50)**

The Committee had before it a \*report of the Interim Development Management Manager with regard to the above application.

The Area Planning Officer addressed the questions posed in public question time: referring to the questions received in writing prior to the meeting, she advised that she had provided a written response to members which would be attached to the minutes. She advised that:

With regard to questions relating to procedure, these were not directly related to the application.

With regard to the question highlighting the centre to edge policy, the officer's report of 28 July 2021 detailed the centre to edge policy.

Referring to the question about Condition 14 and the phasing of the scheme; the application had been submitted but no decision had been made.

With regard to questions referring to the trees – she would like more details and then could provide an answer. Addressing the questions with regard to the local vernacular and the proposed red brick properties, this had been raised before. With regard to the location of the play area and its proximity to the linking road, the masterplan identified play areas to the south of Blundells Road. The play area to the north of Blundells Road had been at the request of members – she would provide a further written response.

Addressing questions with regard to policies: she referred to more mature planting, she would seek clarification from the questioner and provide an answer to the concerns raised. With regard to the heat source pumps, the applicant had followed the Fabric First approach through the proposed constructions and was meeting the standards as required. Referring to the lack of social housing and a request for more bungalows, this was the first phase of the larger development; this scheme included social housing and bungalows had been introduced into the scheme at the request of Members.

Referring to the EV charging points, the cabling and ducting would all be installed, all that would be missing was the final plug in box and this was referred in Condition 12.

The officer then outlined the contents of the report by way of presentation highlighting the site location plan, the table of events as set out in the officer report which included the committee dates, the officer/member and stakeholder meetings that had taken place, the key changes following engagement and the issues that had been raised during those meetings. She outlined the issues raised from the meeting of 6 December 2021 that would be addressed today: that of the inclusion of visitor parking and a review of landscape planting at the play area north of Blundells Road. She also explained the illustrative framework plan, an aerial view of the site, the parking layout and visitor spaces which had been achieved by extending the hard landscaping and the informal play space which had included a full review of the planting scheme.

The objector then addressed the Committee highlighting the following:

- The planning process and the failings of the developer to meet the requirements of the masterplan and design guide
- The fact that the developer had only conceded on some of the requests from members and local stakeholders
- The adverse impact of the development on existing properties north of Blundells Road
- The affordable housing close to the linking road and close to the industrial buildings and the care home
- The similarity of the development proposals to other developments by the developer, something which the masterplan and design guide had attempted to prevent.

The applicant then addressed the Committee highlighting the following:

- He recognised the importance of the development and that provision had been made over and above that outlined within policies
- The work that had taken place with the design team and officers
- The EV provision exceeded the policy requirements
- The number of properties had been reduced
- Green buffers had been introduced
- Building regulations would be complied with and the use of the Fabric First approach to construction

Members then posed questions which were addressed relating to:

- Clarification with regard to Condition 7 (H) within the report
- Building materials and whether alternatives to the red brick could be requested to include natural stone
- Further details required with regard to the tree canopies and root-ball work
- The position of the play area close to the linking road and air quality issues
- The centre to edge policy
- Road safety concerns with regard to the positioning of the play areas north and south of Blundells Road with regard to road crossings and the consultation process that had taken place
- Disappointment with regard to the location of the additional play space
- The visitor parking spaces and whether they would be used by residents
- The Condition 14 application and issues with regard to work that had commenced prior to approval
- The parking courts and whether provision had been considered for a disabled parking space

During the debate consideration was given to:

- The involvement of members and the public in large scale developments
- Further concerns with regard to road safety and engagement with the Highways Authority and local County Councillors
- Road safety assessments
- The impact of the development on existing properties north of Blundells Road
- Construction traffic and the impact of this on local residents
- Whether all the concerns raised by members had been addressed

It was therefore:

**RESOLVED** that planning permission be granted subject to conditions as recommended by the Interim Development Management Manager with an amendment to Condition 7 (H) as set out in the report to correctly refer to Condition 14 of the outline planning permission with further conditions relating to: a wide disabled parking space, building materials to include natural stone and an arboricultural method statement that would be required prior to construction.

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

#### Notes:

- i) Cllr R J Dolley requested that his abstention from voting be recorded;

- ii) Cllrs G Barnell, S J Clist and L J Cruwys requested that their vote against the decision be recorded;
- iii) The following late information was reported: a correction to the number of visitor parking spaces north and south of Blundells Road;
- iv) \*Report previously circulated, copy attached to minutes.

(The meeting ended at 4.41 pm)

**CHAIRMAN**

## PLANNING COMMITTEE AGENDA - 2nd February 2022

### Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	<p>21/02158/FULL - Variation of condition 2 of planning permission 21/00443/FULL to allow substitute plans - Change of use of land for the siting of 2 glamping tents and associated facilities at Deer Park Camping, Hockworthy, Wellington.</p> <p><b>RECOMMENDATION</b> Grant permission subject to conditions.</p>
02.	<p>21/01956/FULL - Erection of a three-storey block of 6 dwellings with associated soft and hard landscaping works at Garage Site 10 to 19, St Andrews Road, Cullompton.</p> <p><b>RECOMMENDATION</b> Grant permission subject to conditions.</p>

Application No. 21/02158/FULL

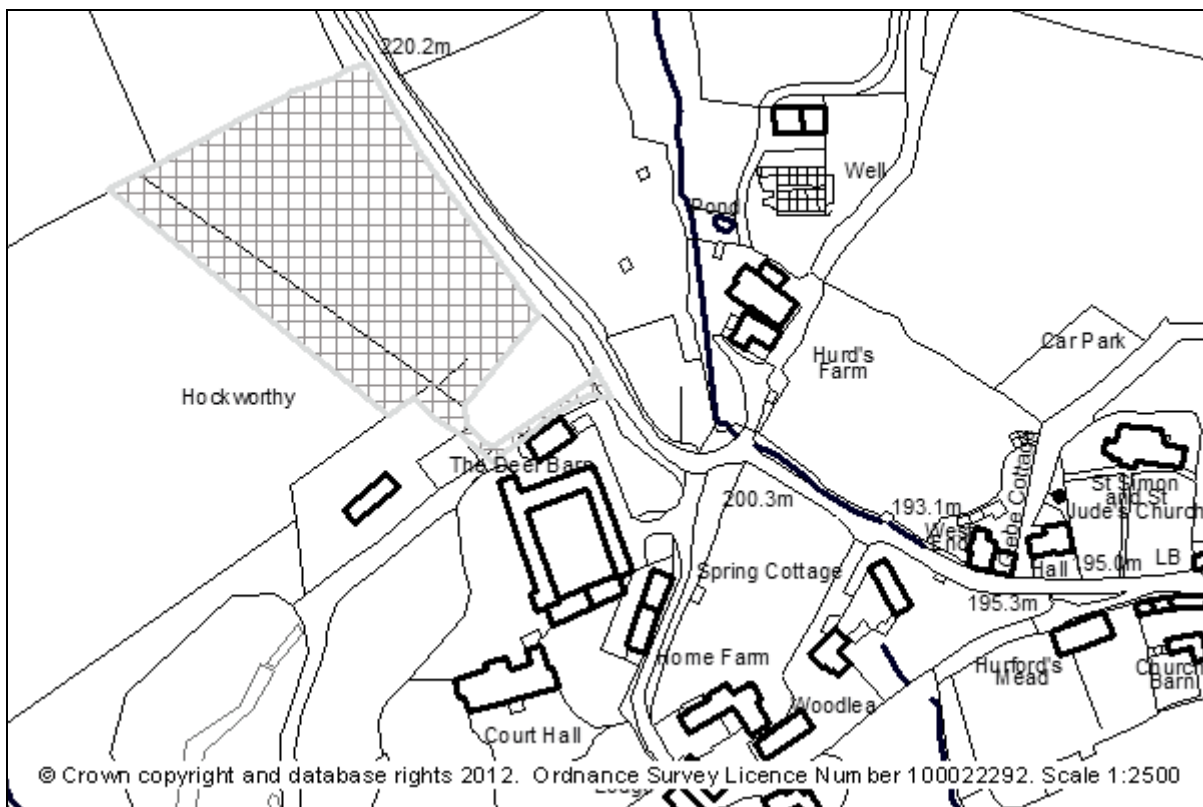
Grid Ref: 303735 : 119592

Applicant: Mr and Mrs J and E Taylor

Location: Deer Park Camping  
Hockworthy  
Wellington  
Devon

Proposal: Variation of condition 2 of planning permission 21/00443/FULL to allow substitute plans - Change of use of land for the siting of 2 glamping tents and associated facilities

Date Valid: 25th October 2021



## **APPLICATION NO: 21/02158/FULL**

**Site Visit: No      Date of Site Visit: N/A**

**Decision Delayed Reason: Due to a change in Case Officer and a need for the application to be considered by the Development Management Committee.**

## **MEMBER CALL-IN**

Not applicable. The application is with the Committee for a decision as the original application was a Committee decision and objections have been received.

## **RECOMMENDATION**

Conditional approval subject to the consideration of further information in relation to external lighting and clarification relating to the scaling of the submitted plans. Final wording and drafting of conditions to be delegated to the Interim Development Management Manager.

## **PROPOSED DEVELOPMENT**

Variation of condition 2 of planning permission 21/00443/FULL to allow substitute plans - Change of use of land for the siting of 2 glamping tents and associated facilities.

The application is to vary the approved plans of planning permission reference 21/00443/FULL. Reference 21/00443/FULL was granted permission on the 15<sup>th</sup> July 2021 for the change of use of agricultural land for the siting of two glamping tents and associated facilities for holiday use. Access is proposed from the south via the access track and public right of way with associated parking proposed within the site at the gate entrance.

The revised plans will reposition the two holiday accommodation units within the site, amend the form of one of the units to a canvas lodge rather than a safari tent and increase the size and facility offer of the shower/wc blocks to provide a block for each of the units containing a shower and wc with the third block containing a pantry for use by the occupants of the holiday units. The revised plans include external lighting by way of a solar lantern for each holiday unit, a low energy pathway light on a PIR sensor and timer switch which will run from each of the units to the shower/wc blocks, a low energy wall lantern to the shower/wc blocks and an low energy outdoor post light on a PIR sensor to the car parking area.

The landscaping proposed previously remains unchanged by the revised proposals.

It is noted that the Ecological Survey submitted as part of the original application submission noted that no external lighting was proposed and that any lighting could impact foraging and commuting bats. As a result of this the applicant has been asked to provide an addendum to this report that considers the impact of the lighting proposals.

## **APPLICANT'S SUPPORTING INFORMATION**

Site Location Plan P/SLP/02 Rev 1  
Plans and Elevations Glamping Site 1 P/GS/02 V2

Plans and Elevations Glamping Site 2 P/GS2/01 V2  
Block Plan P/BP/02 V2  
Planning Statement  
Build Instructions for the Canvas Lodge (including 3D images and plans/elevations)  
Application Form

## **RELEVANT PLANNING HISTORY**

21/00443/FULL - Change of use of land for the siting of 2 glamping tents and associated facilities - Approved

## **OTHER HISTORY**

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

## **DEVELOPMENT PLAN POLICIES**

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

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

National Planning Policy Framework

National Planning Practice Guidance

## **CONSULTATIONS**

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

Contaminated Land: No concerns 16.11.21

Air Quality: No concerns 16.11.21

Environmental Permitting: Not applicable 16.11.21

Drainage: No concerns 16.11.21

Noise & other nuisances: No concerns 16.11.21

Housing Standards: No comment 03.11.21

Licensing: Please advise to contact licensing as a site licence may be required 01884 255255  
licensing@middevon.gov.uk 03.11.21



Food Hygiene: Not applicable 03.11.21

Private Water Supplies: If a private supply is to be used by more than one property or has a commercial function, The Private Water Supply (England) Regulations 2016 as amended will apply. A risk assessment and sampling regime will be necessary. The supply must not be used until the Local Authority (Mid Devon District Council) is satisfied that the supply does not constitute a potential danger to human health, including single domestic use. You must also register with the Local Authority (Mid Devon District Council) any private water supply. Failure to do so may result in a Section 85 Notice, with which failure to comply is an offence. Please contact Public Health at Mid Devon District Council on completion of proposal. IF MAINS WATER IS TO BE USED, WOULD HAVE NO COMMENT 03.11.21

Health and Safety: No comment 03.11.21

## **REPRESENTATIONS**

There have been 3 representations of objection to the proposal. These are summarised as follows:

- Concerns regarding permanence of the canvas tent
- Concerns regarding the increased size of the canvas tent
- Concerns regarding the stability of the canvas tent and need for a permanent concrete base
- Concerns regarding additional footprint of shower/wc blocks
- Concerns regarding need for electrical, water and sewerage connections
- Reference to potential for a wood burner within the canvas lodge
- Concerns regarding year round holiday accommodation use
- Concerns that the proposal will not be off grid
- Concern of change from 'glamping tents' to 'glamping sites'
- Need for restrictions on number of guests
- Concerns regarding impact on dark skies
- Concerns for impact on listed building and conservation area
- Impact on highway safety
- Impact on character and appearance of the area
- Concerns that a section 73 application cannot be used to change description to refer to glamping sites rather than tents

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The application is to vary the approved plans of planning permission reference 21/00443/FULL. Reference 21/00443/FULL was granted permission on the 15<sup>th</sup> July 2021 for the change of use of agricultural land for the siting of two glamping tents and associated facilities for holiday use. Access is proposed from the south via the access track and public right of way with associated parking proposed within the site at the gate entrance.

The revised plans will reposition the two holiday accommodation units within the site, amend the form of one of the units to a canvas lodge rather than a safari tent and increase the size and facility offer of the shower/wc blocks to provide a block for each of the units containing a shower and wc with the third block containing a pantry for use by the occupants of the holiday units. The revised plans include external lighting by way of a solar lantern for each holiday unit, a low energy pathway light on a PIR sensor and timer switch which will run from each of the units to the shower/wc blocks, a low energy wall lantern to the shower/wc blocks and an low energy outdoor post light on a PIR sensor to the car parking area.

The landscaping proposed previously remains unchanged by the revised proposals.

It is noted that the Ecological Survey submitted as part of the original application submission noted that no external lighting was proposed and that any lighting could impact foraging and commuting bats. As a result of this the applicant has been asked to provide an addendum to this report that considers the impact of the lighting proposals.

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

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

**1. Policy and procedure**

S.38 of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The National Planning Policy Framework [the Framework], published by the Government in March 2012 and revised in 2018 and later in 2019 and 2020, is noted as one such material consideration.

Therefore in light of the above, the Local Authority needs to determine this proposal on the basis of a number of policies contained within the Local Plan 2013-2033. In this instance, the relevant policies are S9, S14, DM1, DM5, DM18, DM22 and DM25 of the Local Plan.

It is noted however that a number of matters were established by the original application, including the principle of holiday accommodation in this location. This revised application has been submitted under section 73 of the Town and Country Planning Act 1990 which allows applications to be made for permission to develop without complying with a condition/s previously imposed on a planning permission. Where there have been no changes in planning policy or site context, the purpose of this application is not to revisit each consideration again but to assess those matters that have changed as a result of the amendments. The proposal continues to include the change of use of agricultural land for the siting of holiday accommodation units and associated facilities. The form of these units of holiday accommodation, their location within the site, the form and type of the associated facilities and the provision of external lighting has however been revised as part of this application.

For the purposes of clarification and in light of comments received within the public representations, the definition of a tent and whether such a definition would apply the holiday accommodation proposed as part of this revised application has been considered. The development approved by the original application was both, a use of the land and operational development albeit conditions imposed ensured that the holiday units be removed should they become redundant.

A tent is described as a 'portable shelter made of cloth, supported by one or more poles and stretched tight by cords or loops attached to pegs driven into the ground'. The original application included two glamping tents which were positioned on a raised deck, the raised deck had an element of permanence to it in that it was fixed to the ground however could be considered to be

fairly easily removed and the land returned to its previous condition should the development become redundant. The proposed canvas lodge is positioned on a raised deck, is built using a series of poles, and is enclosed using canvas. Both the canvas lodge and the glamping tent would be considered moveable in some form. Whilst the concerns of the objectors are noted regarding the change in description, the character of both forms of enclosure are not demonstrably different. Their use as holiday accommodation would be the same in both instances.

A section 73 application is a minor material amendment, there is no statutory definition of this but paragraph 017 of the National Planning Practice Guidance states that it is likely to include any amendment where its scale and/or nature results in a development that is not substantially different from one which has been approved. In this case both the original development and the revised development include the siting of two units of holiday accommodation and three units of associated facilities. The scale of development in terms of the number of units has not changed. The size of the individual units has increased but this is not considered to be so substantial as to result in a different form of development. The size of the units would not be considered to facilitate a large increase in footfall to the site beyond that already established by the original consent (this is considered further in later paragraphs) nor is the size or location of the units so substantially different as to result in a significantly greater impact on other material considerations (again this considered further below). For example the facilities units are still in a similar location being proposed to the south of the site and the holiday units to the north of the site. The landscaping proposed is the same in both the original and the revised application. The inclusion of lighting as part of this application is not considered to alter the nature of the development.

Having considered the revisions proposed and the public representations made, it is considered that this type of application is appropriate for the revised proposal.

The use of the site for holiday accommodation and associated facilities has been established in principle by the extant permission on this site, reference 21/00443/FULL. There have been no material changes in policy or site circumstance since the original application was approved and therefore it is considered that there is no reason to now deviate from this position.

In line with the previous decision on this site, it is considered that there is no objection in principle to the creation of a tourist facility in this location. This consideration is subject to other material considerations relating to design, the suitability of the location for the use and how the development will achieve a high quality tourism use that meets demand. Whilst being mindful of the previous decision and the revisions to the proposal, these matters are considered further below.

## **2. Need for the development**

Policy S1 acknowledges that the promotion of sustainable rural tourism and leisure will be important to supporting a prosperous rural economy and the creation of sustainable communities. Policy S14 continues that development outside of settlements will preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. This policy states that appropriately scaled tourism and leisure related development will be permitted in these locations. Policy DM22 states that proposals for new tourism, visitor or leisure facilities will be supported within or adjacent to defined settlement and that for those elsewhere, the nature of the proposed development must justify the countryside location and minimise environmental impacts, avoiding unacceptable traffic impact on the local road network. Development proposals are required to respect the character and appearance of the location, where appropriate involve conversion and replacement of existing buildings and demonstrate that the need cannot be met by existing provision within nearby settlements.

The proposed use in this location has already been established by the original permission which remains extant. The amount of development remains the same, in that, the permission is still for two units of holiday accommodation and three units of facilities provision. The applicants were able to successfully demonstrate that the need for the development has not been met by existing provision within nearby settlements at the time of this application and it not necessary to reassess this as part of this application as the use and nature of the development is not substantially different.

Whilst the concerns raised within the public representations relating to the potential use of electricity and connections to water and sewerage supplies are noted, the essence of the business plan as a glamping experience would continue within the revised proposals. These are not traditional buildings nor typical tents and would provide an alternative experience to both these forms of tourism provision. Whilst concerns raised regarding the potential use of electric and the impact of this on the applicant's original business plan are noted, the existing permission did not expressly omit connection to main power supplies and nonetheless one of the holiday units continues to be in the form of a 'off grid' safari tent unit with an outdoor kitchen and dining area. Whilst the canvas lodge would move further away from the outdoor living type experience, it would continue to offer an opportunity for 'off grid' power connections and it is not expressly noted within the revised application that this will not be the case. It is noted that the lighting proposed is not expressly noted as solar powered and this may be a move away from the originally proposed scheme, but again this is not unacceptable and would not be considered to substantially change the nature of the development. The Management Plan submitted as part of the originally approved application is not proposed to change and will remain a condition of the permission that the development is in accordance with this plan. There is no indication within the application submission that there is any intention to change the holiday offer of the site, utilising local suppliers for food, drinks, toiletries and maintenance and the fire pit for stargazing opportunities. In light of the pandemic and the need to distance from others, the proposal to provide a facilities unit per unit of accommodation would not be uncommon and is likely to be considered as a benefit to potential visitors. The proposal will continue to support other rural businesses through drawing holiday visitors to the local area as the case with the original application.

Concerns regarding the potential for a year round tourism business are also noted. The original application did not include any restrictions on the duration of the tourism season for this proposal, only that the units be removed when they are made redundant and that they be used for holiday purposes only and not as permanent residential accommodation. Whilst the intention to limit the tourism season to between April and September has been outlined within the Planning Statement submitted as part of the original application, a move away from this would not be unacceptable nor would it change the nature or scale of the original permission. The Planning Statement originally submitted suggested that the land would be used for sheep grazing in winter months. Although not expressly stated within the Planning Statement of the revised application, it would not be unusual for small scale holiday uses to continue to operate alongside farming activities where appropriate safeguards are in place. Such a pairing of activities could assist in attracting visitors to the site. Irrespective of this the original application was approved allowing a change of use of the site from agricultural land to land for the siting of two units of holiday accommodation and associated facilities and therefore the siting of these units year round has already been established by this original consent.

The scale and nature of the proposals continue to suggest that the development will be aimed at individuals, couple, small families and groups of friends. The marketing strategy has not been proposed to change.

The need for the development within the countryside has been demonstrated by the original application and in line with the above, it not considered that the revisions to the proposal would result in a different decision being made with respect to the matter of need.

### **3. Highways matters**

As was determined within the previous application, due to the location of the development visitors will be predominantly reliant on the use of motor vehicles. No objections have been received from the Local Highway Authority noting standing advice should be used. The existing access continues to have ample advance visibility and enables vehicles to sit clear of the highway. Within the site, manoeuvring and visitor parking will be provided adjacent the field entrance in line with the original permission. Visitors will then be transferred with their luggage on arrival and departure to the tents. It is not proposed to alter this arrangement as part of this application.

The revisions to the scheme would result in one additional bed space being provided than was previously approved. The safari tent continues to provide for a maximum of 4 bed spaces whereas the proposed canvas lodge would provide 5 bed spaces as shown on the submitted floor plans. The addition of 1 bed space is not considered to result in a substantially greater impact on highway safety, parking provision or the number of vehicle trips to the sites. The level of proposed parking provision is considered to remain in accordance with policy DM5 of the Local Plan 2013-2033 and the intention to encourage sustainable modes of transport within the submitted Management Plan (original application) are noted.

### **4. Design of holiday accommodation**

As was approved as part of the original application, the proposal is for the creation of two units of holiday accommodation which continues to be supported by local policy. It would represent a small scale tourism proposal across the site.

As was determined previously and whilst being mindful of the proposed revision, in terms of the character and appearance, the proposed tent and canvas lodge will continue to utilise a pole and canvas structure on a wooden deck. The tent remains of a simple traditional design whereas the canvas lodge is slightly more complex in its design but continues to utilise a canvas style enclosure and would continue to be akin to appearance of a tent rather than a log cabin or park home type lodge. The form and scale of the canvas tent differs from that previously approved however the footprint when compared to the decked base of the safari tent is not considered to be substantially different. Similarly to the safari tent, the canvas of the exterior walls will continue to allow for natural weathering of external finishes, albeit the canvas is proposed to be green to further lessen its impact.

As was the case previously, the proposal will change the appearance of the field through the introduction of the glamping tent and canvas lodge which are semi-permanent structures with permanent ancillary infrastructure. In terms of sustainability, the proposed tents continue to take advantage of solar gain to ensure natural daylight within the accommodation is maximised, reducing the demand on electricity for lighting, the proposed lighting scheme includes solar lights. The addition of the timber decks and social area around each unit continues to be considered acceptable and of minimal impact.

It is considered that the development, as revised by this application would continue to comply with policy DM1. The scale of development continues to be for a total of two holiday units and is considered to be in accordance with policies DM18 and DM22 of the Local Plan 2013-2033.

## 5. Impact on the character of the area and ecology

The site area and the proposed landscaping scheme remains the same as previously approved. Conditions will continue to be included as they were within the original permission. As was previously the case, a new double row native hedgerow is proposed within the application site, on the southern boundary and around the car park. It is noted that the ecological survey submitted as part of the original application made reference to the need to remove ash trees which have ash die back and that the development would result in the loss of improved grassland.

As part of the revisions to the approved scheme, the location of the two holiday units has been proposed to change, as has the footprint and form of one of the holiday units. The three facilities units have also increased in size. The location of the holiday units has been amended to provide greater privacy to guests by increasing the separation distance between them. The units still remain within the northern portion of the site and will be partially screened by existing vegetation. The form and footprint of the canvas lodge is proposed to be larger than the previously approved safari tent. Whilst views maybe possible from some vantage points, the small scale nature of the holiday units paired with their form and design is such that the impact is considered to be no greater than previously approved.

The changes to the scale of the facilities units are considered minor in nature and due to their location will continue to benefit from screening as a result of the proposed native double hedgerow.

Whilst the increase in scale and bulk is acknowledged, the difference is not considered to result in a significantly greater impact on the character or appearance of the area beyond that already approved. As was the case previously, the presence of the holiday units and facilities units are unlikely to result in significant adverse impacts to the wider landscape. The revisions proposed are not considered to warrant the refusal of the application.

The revised submission includes external lighting proposals. Such proposals include a solar lantern for each holiday unit, a low energy pathway light on a PIR sensor and timer switch which will run from each of the units to the shower/wc blocks, a low energy wall lantern to the shower/wc blocks and an low energy outdoor post light on a PIR sensor to the car parking area. Whilst it was noted within the ecological report submitted with the original application that no lighting was proposed and if it were proposed it could have an impact on commuting and foraging bats, this does not prevent lighting being applied for. Condition 6 of the original approval provided a mechanism by which the external lighting could be assessed by the Local Planning Authority but this would not prevent the applicant from submitting this information as part of a revised application.

Noting that these lighting proposals include the use of PIR sensors and timers, ensuring that any effects will be time limited and where possible are low level or include a hood, helping to ensure that there is limited upward light spill, the impacts of such lights are considered likely to be limited. However to allow for a full assessment, further information has been requested from the applicant including an assessment of the lighting proposals by an Ecologist and technical specifications for the proposed lighting. This information will also inform considerations as to whether the lighting proposals will have an impact on the character and appearance of the area. On receipt of this information it will considered and Members will be updated on this at the Committee.

Conditions relating to the development proceeding in accordance with the previously approved ecological report will continue to be included as part of the revised application.

A query has been raised by the Case Officer regarding the scale annotated on each of the plans. The applicant has been asked to clarify the scale of each of the plans and Members will be updated on this point at the Committee.

Public representations have highlighted concerns regarding the impact on the nearby heritage asset of the Conservation Area and the listed building at Court Hall and Home farm. In coming to this decision the council must be mindful of the duty as set out in section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving or enhancing the character or appearance of a conservation area and the desirability of preserving the listed building, its setting and features of special architectural or historic interest which it possesses, and have given it importance and weight in the planning balance.

The proposed units are located outside the Conservation Area and are not considered to cause harm to the special character of the Conservation Area. The listed buildings of Court Hall and Home Farm are some 200m and 220m from the proposed site with no direct line of vision from the properties to the site. It is considered that the proposed development, as revised, will not have a detrimental impact on the setting of the listed buildings or Conservation Area and as such the setting of the listed buildings and Conservation Area will be preserved.

## **6. Impact on amenity of occupiers of residential property**

The relocation of the holiday units and the increases in scale and bulk and not considered to give rise to any greater impact to residential amenity than was previously assessed as part of the original application. As assessed as part of the original application, in light of the distances involved from the proposed holiday units to neighbouring residential properties, it is not considered that there would be a significant detrimental impact on the amenity of neighbouring residents.

The condition relating to external lighting to allow consideration of proposals prior to installation and development operating in accordance with the previously approved management plan will continue to be applied to this development.

## **7. Other planning matters**

Matters previously considered relating to drainage remains the same as the original approved application and do not require reassessment. For information, the roof of the proposed structures will be of canvas, accordingly the surface water run-off from same will be tempered compared to a hard, impervious roofing material. No guttering is possible and thus what rainwater does shed from the roof will shed naturally onto the surrounding pasture in a dispersed and irregular pattern allowing natural greenfield percolation and run-off to be maintained.

Foul and grey water, will be dealt with by the existing on site systems, and it is noted that the site of the tents is located within flood zone 1 where this type of development is acceptable.

The development therefore complies with policies S9 and DM1 of the Local Plan.

## **8. Conclusion:**

The proposal is for a minor material amendment to an existing extant permission for the change of use of land for the siting of 2 glamping tents and associated facilities. The proposal would not substantially alter the nature or scale of the proposed development. The proposal continues to include two units of holiday accommodation and three facilities units. Whilst four of the five units will be larger in scale and the position of the two holiday units has been amended within the site limits, the revisions are not considered to result in any significantly greater impacts than previously

assessed in relation to the character and appearance of the area, highway safety, residential amenity and, subject to the submission and further consideration of further lighting information, ecology. The proposal is for a tourism facility within the countryside which is considered to be of an appropriate scale and design which will support the rural economy in this locality. The proposal is considered to remain in accordance with policies S9, S14, DM1, DM5, DM18, DM22 and DM25 of the Mid Devon Local Plan and therefore is recommended for conditional approval subject to the consideration of further information in relation to external lighting and clarification relating to the scaling of the submitted plans.

## CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the 15<sup>th</sup> July 2021.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. (i) The holiday accommodation units (Safari Tent/Canvas Lodge) shall be occupied for holiday purposes only.  
(ii) The holiday accommodation units (Safari Tent/Canvas Lodge) shall not be occupied as a person's sole, or main, place of residence.  
(iii) The owners/operators shall maintain an up-to-date register of the names of all occupiers of the holiday accommodation units on the site and of their main home addresses and the period(s) of their occupation of the unit for such purposes (i.e. the dates of commencement and the end of each period of occupation), and shall make this information available at all reasonable times to the Local Planning Authority.
4. The development of one Safari Tent and one Canvas Lodge hereby approved shall only be occupied for holiday purposes only, limited to two units of holiday accommodation on site with any further holiday units requiring subsequent planning approval. On the holiday units becoming redundant for such purposes, they shall be demolished and all resultant materials removed from the site within 3 months of them becoming redundant for their approved use.
5. The development of the two holiday units (Safari Tent/Canvas Lodge) hereby approved shall not be occupied until such time as the parking and turning area indicated on the approved site layout plan have been provided on site and made available for use by holiday visitors. Following their provision, these facilities shall be so retained.
6. Prior to the first occupation of the holiday units (Safari Tent/Canvas Lodge) hereby approved, details of any external lighting within the application site shall be submitted to and agreed in writing by the Local Planning Authority. Any external lighting installed shall be in accordance with the agreed details.
7. The holiday units (Safari Tent/Canvas Lodge) hereby approved shall be operated in adherence with the approved Management Plan (Deer Barn - Management Plan received on the 10th June 2021), at all times.
8. All planting, seeding, turfing or earth reprofiling comprised in the approved details of landscaping shall be carried out within 9 months of the substantial completion of the development or within the first planting season following completion (whichever is sooner) and any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species. Once provided, the landscaping scheme shall be so retained.
9. The development hereby approved shall be carried out in accordance with the recommendations outlined within the Ecological Appraisal Report dated March 2021 and prepared by Richard Green Ecology covering avoidance of harm to protected species and nesting birds, mitigation, compensation and enhancement.



## REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt in the interests of proper planning.
3. The use of the holiday let accommodation as a separate dwelling would require planning permission whereby the location, relationship to surrounding dwellings, parking facilities and areas of amenity would need to be considered further. However the application for holiday let accommodation is considered to be in accordance with policy DM22 of the Mid Devon Local Plan.
4. To ensure removal of the holiday units if no longer required for holiday occupation in order to protect the character, appearance and general amenity of the area of countryside in accordance with policy S14 of the Mid Devon Local Plan.
5. In the interest of highway safety and to ensure that adequate on-site facilities are available for traffic attracted to the site in accordance with policy DM5 of the Mid Devon Local Plan.
6. In the interests of preserving the character and visual amenity of the rural area in accordance with policy DM1 of Mid Devon Local Plan.
7. In the interests of residential amenity and to safeguard the amenities and character of the area, in accordance with policies S9, S14, DM1, DM2, DM5, DM18 and DM22 of Mid Devon Local Plan.
8. To ensure that the development makes a positive contribution to the character and amenity of the area and to protect the setting of the listed building in accordance with policy DM1 of the Mid Devon Local Plan.
9. To ensure the protection of endangered species and in accordance with policy DM2 of Mid Devon Local Plan.

## INFORMATIVES

1. This development may require a tent site licence. Please contact the licensing Team for more information [licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk)

2. If food or drink is provided, stored, processed this is considered a food business. All new food businesses are required to register with their Local Authority 28 days prior to opening. The appropriate form can be found in this link.

<https://www.middevon.gov.uk/media/114739/foodregistrationform.pdf>

Free advice on requirements can be given by Environmental Health. For structural requirements this is ideally sought before works start. The Food Standards Agency's website is also a useful source of information <https://www.food.gov.uk/>.

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

## **REASON FOR APPROVAL OF PERMISSION**

The proposal is for a material minor amendment to an existing extant permission for the change of use of land for the siting of 2 glamping tents and associated facilities. The proposal would not substantially alter the nature or scale of the proposed development. The proposal continues to include two units of holiday accommodation and three facilities units. Whilst four of the five units will be larger in scale and the position of the two holiday units has been amended within the site limits, the revisions are not considered to result in any significantly greater impacts than previously assessed in relation to the character and appearance of the area, highway safety, residential amenity and subject to the submission and further consideration of further lighting information, ecology. The proposal is for a tourism facility within the countryside which is considered to be of an appropriate scale and design which will support the rural economy in this locality. The proposal is considered to remain in accordance with policies S9, S14, DM1, DM5, DM18, DM22 and DM25 of the Mid Devon Local Plan and therefore is recommended for conditional approval subject to the consideration of further information in relation to external lighting and clarification relating to the scaling of the submitted plans.

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

Application No. 21/01956/FULL

Grid Ref: 302013 : 107517

Applicant: Mr Mike Lowman, Mid Devon District Council

Location: Garage Site 10 to 19  
St Andrews Road  
Cullompton  
Devon

Proposal: Erection of a three-storey block of 6 dwellings with associated soft and hard landscaping works

Date Valid: 8th November 2021



## **APPLICATION NO: 21/01956/FULL**

### **CALL-IN**

Mid Devon District Council is the applicant

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

The application seeks approval for the erection of a three-storey block of 6 dwellings with associated soft and hard landscaping works on the Garage Site 10 to 19 St Andrews Road, Cullompton. The site is located off St Andrews Estate, Cullompton being located within the settlement limits and outside of the Conservation Area. The site has been cleared but was previously occupied by 10 garages. The application site is bounded to the southeast by the St Andrews Road public car park, to the south and west is bounded by St Andrews Estate road and to the north are existing residential properties.

The 3 storey block would contain 6 single storey apartments of which 3 are to be 1 Bed, 1 Person apartments with floor area of 38.13 square metres and 3 are to be 2 Bed 3 Person apartments with floor area of 61.4m<sup>2</sup> square metres. All of the units are built to be national space standard compliant and are intended for social rent as part of the HRA portfolio. Solar PV panels would be installed on the roof slope of the building.

All the units would be served by a central communal staircase in the centre of the block and external walkways providing connections to enter the units. Each unit would feature a private balcony space which would provide a minimum of 5m<sup>2</sup> of private outdoor amenity space. New areas of hard and soft landscaping are proposed as part of the scheme. Adjacent to the sitting of the block, 7 new open car parking bays are proposed to retain local parking capacity. A private communal green space would be created at the rear of the block to ensure privacy for occupants whereas the green space located along St. Andrews Road would be retained but with additional shrub planting.

### **APPLICANT'S SUPPORTING INFORMATION**

Complete application form, plans, 3D aerial views, Design and Access Statement, Planning Statement, Wildlife Trigger List, Preliminary Ecological Appraisal, Transport Statement, Flood Risk Assessment, Daylight and Sunlight Assessment

### **RELEVANT PLANNING HISTORY**

98/00399/FULL - PERMIT date 21st April 1998  
Erection of a replacement garage

### **DEVELOPMENT PLAN POLICIES**

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

Policy S1 - Sustainable development priorities  
Policy S2 - Amount and distribution of development

Policy S3 - Meeting housing needs  
Policy S4 - Ensuring housing delivery  
Policy S5 - Public open space  
Policy S8 – Infrastructure  
Policy S9 – Environment  
Policy S11 – Cullompton  
Policy CU20 - Cullompton Infrastructure  
Policy DM1 - High quality design  
Policy DM2 - Renewable and low carbon energy  
Policy DM3 - Transport and air quality  
Policy DM4 – Pollution  
Policy DM5 – Parking  
Policy DM25 - Development affecting heritage assets

National Planning Policy Framework  
National Planning Practice Guidance

Cullompton Neighbourhood Plan 2020 – 2033 Policies

SD04 Solar Design in Housing Schemes  
SD05 Connectivity  
HS02 Social and Affordable Housing  
HS04 Parking on Housing Schemes  
EN01 Protecting and Enhancing the Natural Environment  
TC01 Designated and Non-designated Heritage Assets  
TC02 Character of the Built Environment  
TC05 Art in the Public Realm  
WL08 Dementia Friendly Town

## **CONSULTATIONS**

**Local Highway Authority - 29.11.2021**

The site is accessed off an unclassified County Route which is restricted to 30 MPH, although observed traffic speeds are considerably lower. The number of personal injury collisions which have been reported to the police in this area between 01/01/2016 and 31/12/2020 is one slight accident on the estate in 2017 but not in the location of this proposal. This proposal is providing 7 parking spaces for 6 dwellings which is less than the requirement to meet the Mid Devon Policy DM5. Although this would not be a reason for refusal from the County Highway as the location of this proposal is within walking distance to the Town Centre, Bus Stops and a Car Park. The Number of trips these 6 dwellings could create have been calculated using TRICS database which is a Nationally accepted Database and this shows these trips would not have a severe impact on highway network.

Therefore the County Highway has no objections to this application.

Recommendation:

The Head of Planning, Transportation and Environment, on behalf of Devon County Council, as Local Highway Authority, has no objection to the proposed development

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

(a) the timetable of the works;

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

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

#### **Public Health - 25.11.2021**

Contaminated Land - No concerns (23.11.21)

Air Quality - No concerns (23.11.21)

Environmental Permitting - Not applicable (23.11.21)

Drainage - No concerns (23.11.21)

Noise & other nuisances - No concerns anticipated once constructed but the standard CEMP condition should be included on any approval (23.11.21)

Housing Standards - No comments (15/11/21)

Licensing - No comments (10.11.21)

Food Hygiene - No comment (10.11.21)

Private Water Supplies - No comment (10.11.21)

Health and Safety - No comment (10.11.21)

#### **Natural England – 24.11.2021**

Natural England has no comments to make on this application.

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

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

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

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

**RSPB - 03.12.2021**

The RSPB would like to comment on the above, we fully support the steps set out in the Ecologist's Report to protect and enhance the Biodiversity of the site.

We would however like more details regarding "Provision constructed into the new structure for bird nesting features, to include those specifically for swifts."

We have found that most boxes designed for swifts will be used by house sparrows, starlings, swifts, house martins (all red listed) and other crevice nesting species see attached, we would recommend that a standard entrance hole of 32mm X 65 mm is specified to cater for starlings and as the majority are colonists a minimum of two rather than one box per flat would be appropriate. We recommend that plans showing the type of box and locations selected are made available for inspection and made a condition of the consent if granted.

**Council's Arboricultural Officer – 24.01.2021**

As previously discussed, the current proposal as it stands would require the trees to be removed if approved. As is supported by the Arboriculture Appraisal, Impact Plan, Tree Appraisal and Tree Protection Plan. The proposed building is largely within the root protection area of both trees and would also require a significant amount of live crown removal of the sycamore tree too. The fir tree is not viewed as significant and viewed as below average form for the species. The tree would not merit a Tree Preservation Order. The Sycamore tree is quite prominent in the immediate residential area. The loss of the tree would be noticeable and have some negative impact on the landscape. The supporting Arboriculture reports categorise the tree as see value (low quality). However, it is the officer view that this sycamore tree is categorised as B2 (moderate landscape value) Hence, should be considered for a Tree Preservation Order. Crown management to retain the tree and avoid conflict with the proposal is not viable due to the significant encroachment of the proposed building within the root protection area. The loss of the tree could be mitigated in the long-term by replacement planting. The supporting arboriculture reports highlight an opportunity for additional planting on site. These are typically small and medium sized trees that would add landscape value and diversify the current trees species present in the immediate area. There is also some additional grass verge space along St Andrews Road and St Andrew Estate that could allow for further tree planting of potentially large growing trees subject to the underground services not being present.

In summery the Norway spruce would not merit protection. The Sycamore provides some moderate value to the immediate landscape and could be considered for protection. However, the removal of the tree is mitigated within the additional arboriculture reports. The new tree planting is viewed as a potential benefit in the long-term. Trees offsite do not require comment.

**Council's Arboricultural Officer - 02.12.2021**

The current site is a vacant triangular shaped patch of ground with amenity grass and bare ground present. The land is located between St Andrews Estate to the north, St Andrews Car Park to the east and north of St Andrews Road. Formerly the site consisted of garages surrounded by amenity grassland however these structures have been removed and a bare ground remains in their place.

The site comprises of a large mature Sycamore tree and a medium sized semi-mature spruce that are in very close proximity to one another. The trees are positioned in the east boundary, bordering St Andrew's road car park. The Sycamore is visually significant tree in the local landscape. The Spruce, less due to its size and dominance of the Sycamore tree.

The application has not provided sufficient information on the trees present on site. The Tree Protection Plan does not give sufficient information on trees on site or neighbouring trees if present.

The Protection Plan does not provide adequate measurements of the trees crown radial spreads, Stem diameters and root protection area. The estimated extent of the tree roots is inadequate as it is not been adjusted to take into account the surrounding landscape and features. In addition the application has not provided a tree constraints plan that categorises the trees quality. Despite insufficient information provided on the trees. In reviewing the Tree Protection plan and other drawings. It's clear the current proposal will result in a high level of conflict with the retained trees. The proposed dwelling will highly likely be within the root protection area of the two tree present that would result in a high level of significant root loss. Application highlights a high level crown loss in order to facilitate the dwellings that would not meet BS 3998:2010.

In summary the application has not provided sufficient information on the trees. However, from the information that is provided the current proposal will result in significant conflict with the tree that would cause severe impact resulting in tree decline. Currently the proposal is not feasible in relation to the trees being present.

**Lead Local Flood Authority (D.C.C.) - 12.11.2021**

We continually receive a high volume of consultation requests for major planning applications as well as a considerable number of additional minor applications. Please note that we are not a statutory consultee for minor planning applications. However, where Planning Case Officers have specific concerns with a surface water drainage proposal on a minor planning application, we may be able to provide some advice, depending on our current workload and priorities. If this is one of these instances, we would be grateful if you could outline your concerns before the consultation request is added to our system. If we have been consulted in error, we would be equally grateful if you could let us know.

**Ward Member (Cllr Woollatt) – 09.12.2021**

1. Could the status of the dwellings be clarified please? The application states affordable yet MDDC Housing Strategy refers to these being commissioned as a social rent scheme?

2. It is acknowledged by DCC in their report that parking is at a premium in this area. As Ward member I can confirm this. Due to its proximity to the town centre and primary school residents frequently complain of non residents (visitors and workers from the town centre) using the estate roads as a free car park causing congestion and leaving the actual residents having difficulty finding parking spaces available near their homes. There has been a loss of parking with the removal of the garages and to enable access to the on site parking proposed there will be a loss of current on street parking spaces. The proposed development not being compliant with parking



policies from either MDDC or Neighbourhood Plan will further exacerbate this issue. The planning statement refers to the Council being open to increasing provision on other sites ... given existing issues that may help mitigate issues if nearby and should be considered, if not development should be reworked so it is compliant with parking policies.

3. The sycamore tree on the boundary must be protected, it would not be acceptable for this tree to be damaged or removed.

## **REPRESENTATIONS**

This planning application has been advertised by means of a site notice, neighbour notification letters 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).

One letter of objection has been received. The objection grounds were as follows:

- Restricted access to the site, and the general lack of parking, which is already a problem on the estate, with the school just being over the road, adding more cars to the situation is madness.
- We feel the area is saturated, to the point off someone possible getting knocked down.
- The ground will be best used for parking for the residents.
- Three stories will be an eyesore, and not fit with the area.
- Concern that this is a done deal and people's safety will be second to Mid Devon Council.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main issues in the determination of this application are:

1. **Principle of development/planning policy**
2. **Highways and highway safety**
3. **Drainage and Flood Risk**
4. **Public open space and green infrastructure (GI)**
5. **Design of development and impact on landscape and ecology**
6. **Impact on Heritage Assets**
7. **Living conditions of the occupiers of nearby residential properties**
8. **Sustainable development balance.**

### **1. Principle of development/planning policy**

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

The National Planning Policy Framework (2021) outlines that development should be guided towards the most sustainable locations available, including previously developed or underused land in settlements. The Mid Devon Local Plan 2013-2033 was adopted in 2020 and sets out the growth strategy for the District that seeks to balance social, environmental and economic objectives. Policy S1 states that development will be concentrated at Tiverton, Cullompton, and

Crediton. Policy S11 (Cullompton) which recognises proposals will provide for approximately 3,930 dwellings, of which 1,100 will be affordable.

The National Planning Policy Framework (NPPF) seeks to make the most efficient use of land with the assessment to be made as to whether the layout and density of the residential development is appropriate and fits into the context of the site and surrounding area.

With respect to other relevant policies within the saved Development Plan, Policy S1 (Sustainable development priorities) of the Mid Devon Local Plan 2013-2033 seeks to manage growth in a sustainable way to support the diverse needs of communities, including the provision of affordable housing and making the most efficient use of land. Policy S3 (Meeting housing needs) seeks to meet the diverse housing needs of the community, including the provision of affordable dwellings across the District. It is noted that the 6 apartments proposed will be for social rent, a recognised form of affordable housing.

The layout plan submitted shows how the layout for the residential development of 6 residential units would be achieved which has been considered to be acceptable and below the planning matters of the development are considered further.

## **2. Highways and highway safety**

Policy DM1 of the Mid Devon Local Plan states that new development should be safe and accessible based upon and demonstrating the principle of creation of safe and accessible places that also encourage and enable sustainable modes of travel such as walking and cycling. Policy DM5 states that sufficient vehicle parking and bicycle storage must be provided. In addition to these policies, any proposal must not adversely affect the safe functioning of the highway in line with policies S8 (Infrastructure) and DM3 (Transport and air quality) of the Mid Devon Local Plan 2013-2033.

The main access into the site would be via the adopted highway of St. Andrews Road and would appear to be acceptable in principle. A Transport Statement has been submitted which outlines that the site sits adjacent to Cullompton High Street which contains a variety of retail outlets, schools and local shops which all accessible on segregated lit footways and associated pedestrian crossing points. The development site is also within a residential area which indicates that surrounding roads will have low levels of slow, moving traffic, which is a conducive environment for cycling. For public transport, the site is within 100m of bus stops for both directions along High Street Both and have a shelter and timetable provided.

In addition to the above, with respect to traffic generation the Transport Statement comments that the traffic generated by the whole site will be no more than 3 two-way vehicles per hour and as such the impact is considered to be negligible. The Local Planning Authority has not objected to the development confirming that the impact on the highway network will not be severe.

With regard to the required on-site parking provision, it is noted that the current proposal identifies that 7 parking spaces would be provided. Policy DM5 (Parking) of Mid Devon Local Plan 2013-2033 sets a residential parking standard of 1.7 spaces per unit, however, it should be noted that the Cullompton Neighbourhood Plan became the first to be approved in Mid Devon following its referendum held on 6<sup>th</sup> May 2021 and is therefore more up to date than policies within the Local Plan on matters such as design and parking requirements. Policy HS04 - Parking on Housing Schemes states:

*New residential development should provide off street parking in accordance with the requirements of the Development Plan. Wherever possible, to reduce the potential for parking on the highway the following standards are encouraged subject to the accessibility of the site including to public transport:*

- 1-bed house/flat 1 off-road car parking space
- 2-bed house/flat 2 off-road car parking spaces
- 3-bed house/flat 2 off-road car parking spaces
- 4-bed house/flat 3 off-road car parking spaces
- 5+ bed house/flat 4 off-road car parking spaces

In light of the above, 9 parking spaces would be required, therefore being a shortfall of 2 spaces but three of the units proposed are one bed where the occupier may not drive and the site is within walking distance to public transport facilities. The Local Highway Authority noted during pre-application discussions that the location of these pods are within walking distance to the town centre and bus stops, therefore this would not be a reason for refusal on highway grounds.

Notwithstanding concerns raised by the Ward Member and an objector on highway grounds, on balance, given that the Local Highway Authority have not raised an objection to the proposal on highway safety grounds recommending a condition for a Construction Environment Management Plan and taking into account the sustainable location of the site, the development is considered to comply with the above policies of the Mid Devon Local Plan 2013-2033.

### **3. Drainage and flood risk**

The NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Policy S9 of the Mid Devon Local Plan 2013-2033 guides development to locations with the lowest flood risk and seeks to ensure development does not increase the risk of flooding elsewhere. Whilst the site is within flood zone 1 which is the lowest zone, it is within a Critical Drainage Area and as such a Flood Risk Assessment (FRA) has been submitted.

With regard to surface water drainage, the FRA notes that infiltration testing has been undertaken on site and yielded successful results. It is proposed that where possible individual properties are to be served by their own dedicated soakaway. There are to be 4 proposed private shared soakaways, serving both dwellings and private access and/or private parking courts. The remainder of the site would drain to an adoptable infiltration-based storage feature located within the public open space.

The proposed system combines a buried cellular unit, as the main volume provision, with overflow to a shallow open infiltration basin to provide the total design storage requirement. The storage calculations allow for surface water to be stored above/below ground for up to and including the 1 in 100-year event including a 40% allowance for climate change. A factor of safety of 10 has been applied to the calculations due to the site being in a Critical Drainage Area. Exceedance runoff would be intercepted at the site boundaries, by use of bunding, and routed to the existing site low point in the north-east corner, where it would be contained within the proposed basin and will infiltrated to ground.

With regard to foul water drainage, foul water created by the proposal would be served by connecting to the South West Water (SWW) combined sewer to the east of the site. The FRA states that this has been confirmed by SWW. The Public Health Department has raised no objection on drainage grounds. Policy DM1 of the Local Plan requires appropriate drainage including sustainable drainage systems and connection of foul drainage to a mains sewer where available.

The Lead Local Flood Authority (Devon County Council) has raised no objection noting that this is a minor development where they would not comment. On this basis, the FRA submitted including a drainage strategy is considered to comply with policies S9 and DM1 of the Mid Devon Local Plan 2013-2033.

#### **4. Public open space and green infrastructure (GI)**

Public open space is required from residential development of 6 or more dwellings in line with Policy S5 (Public Open Space). However, as this is a development for solely affordable housing, no financial contribution would be required. Notwithstanding this a small area of public open space will be retained on site with further shrub planting to improve the amenity of the area.

Landscaping is to be provided on site with a strategy of planting that features only native species. Reference is made that a hedgerow would be established around the perimeter of the scheme to provide privacy and protection from the adjacent car park with small urban trees to be planted to add further screening and soften the development.

#### **5. Design of development and impact on landscape and ecology**

The NPPF states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services. Development should minimise impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks. If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

The site is not located within a designated landscape although given the topography of the site where the ground levels rise from the south east to the north west so that the application site is at a higher level than the car park and properties along the High Street, the development will be viewed from a number of public vantage points. Policy DM1 (High quality design) outlines:

*Designs of new development must be of high quality, based upon and demonstrating the following principles:*

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

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

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

*d) Creation of safe and accessible places that also encourage and enable sustainable modes of travel such as walking and cycling;*

*e) Visually attractive places that are well integrated with surrounding buildings, streets and landscapes, and do not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses, taking account of:*

*i) Architecture*

*ii) Siting, layout, scale and massing*

*iii) Orientation and fenestration*

*iv) Materials, landscaping and green infrastructure*

*f) Appropriate drainage including sustainable drainage systems (SUDS), including arrangements for future maintenance, and connection of foul drainage to a mains sewer where available;*

- g) Adequate levels of daylight, sunlight and privacy to private amenity spaces and principal windows;*
- h) Suitably sized rooms and overall floorspace which allows for adequate storage and movement within the building together as set out in the Nationally Described Space Standard with external spaces for recycling, refuse and cycle storage; and*
- i) On sites of 10 houses or more the provision of 20% of dwellings built to Level 2 of Building Regulations Part M 'access to and use of dwellings'.*

Details of the appearance of the development have been provided which indicate a three storey building to be constructed which is higher than the neighbouring two storey properties by approximately 1m although having a higher eaves height and the single storey properties opposite although it is noted that these properties are located some distance away. The plans also indicate that the side gable could have a mural on to add interest. This would be supported by Policy TC05 (Art in the Public Realm) of the Cullompton Neighbourhood Plan where proposals to introduce innovative public art which enliven and add positively to the character of the public realm and which facilitate or encourage greater community use of public spaces will be supported .

A solar photovoltaic electric system is proposed which would equate to 16 kWp of PV with 13,300 kWh annual PV energy production. This has been modelled via the Standard Assessment Procedure (SAP) to show the development is capable of offsetting all regulated energy demands and the A-rated Preliminary Energy Assessment (PEA) shows that negative carbon emissions are possible across the site. This would be supported by policy DM2 (Renewable and low carbon energy) of the Mid Devon Local Plan 2013-2033.

With respect to the sustainability credentials of zpods, the modules would be super insulated, airtight and feature triple glazed windows and doors resulting in very high thermal performance. They would also be mechanically ventilated to further reduce energy losses. Combined with on site renewable generation of hot water via solar assisted and air source heat pumps and electricity via the roof mounted solar photovoltaic panels the proposal would be a net zero carbon development.

In terms of the layout and scale of the development, it is considered that this is generally acceptable in principle. The scheme is for 6 residential units which is not considered to represent overdevelopment and final details for materials are to be conditioned, although the plans indicate the lower level and interior communal staircase is proposed as a lighter coloured render with a weather-boarding cladding defining the upper two levels. The general design of the dwellings and orientation are considered to be acceptable and they meet the nationally described space standard.

In relation to the wider landscape, the site is within an urban environment surrounded by adjacent housing with the High Street located lower down. Therefore whilst the development would represent a three storey block, it would be viewed within this context.

With regards to protected species and habitats a preliminary ecological appraisal was submitted which concluded that the site comprises of habitats low grade habitats and of local value with the most valuable habitats being the amenity grassland and mature trees within the earth bank to the north. The earth bank also holds some low value to the east. No further survey effort is required to evaluate the site if the recommendations and enhancements outlined are provided. Biodiversity enhancements for bat roosting and bird nesting were outlined to result in biodiversity gains. A condition is therefore recommended for the development to be carried out in accordance with the recommendations within the ecological appraisal and for confirmation of the biodiversity

enhancement measures installed throughout the development to be provided prior to occupation of the dwellings.

The Council's Arboricultural Officer initially raised concern to the level of information provided in respect to tree protection on site and to the impact from the development on existing trees but further information has now been provided. The Council's Arboricultural Officer notes that the mature sycamore tree would need to be removed in order to facilitate the development which is a tree identified by the Ward Member as a prominent tree in the landscape but comments that replacement planting would be possible which would add to the amenity of the area.

Therefore in light of the above, it is considered that the design, landscape and ecology proposals are capable of complying with policies DM1 and S9 of the Mid Devon Local Plan 2013-2033 and the provisions of the NPPF.

## **6. Living conditions of the occupiers of nearby residential properties**

Paragraph 130 of the NPPF outlines that planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

This is reflected in policy DM1 of the Mid Devon Local Plan 2013 - 2033 which sets out that new development should respect the privacy and amenity of neighbouring residents. The siting of the residential block and orientation of windows is such that it is considered that a residential development has been designed to be in accordance with these two policies, with adequate separation.

The Supporting Statement states that the massing has been set 34.7m back from St. Andrews Road towards the nearby estate, following the same dual pitched roof orientation continuing the topology of the crescent of housing. There is at least a 15m minimum corner to corner and 23.6m façade to facade distance to nearby neighbours. The proposed massing is angled 10 degrees from the road with the front building line sloping towards the adjacent step backed massing of 106 St. Andrews Road. There is to be a minimum distance of 9m to the nearest building which is faced by the proposals gable wall, over 14m to the nearby site office and over 23m to the parallel

bungalows. The massing has been designed to act as a continuation and entrance to the crescent of housing of St. Andrews Estate

A detailed third party daylight and sunlight assessment has been commissioned to support this application that outlines the effects of overshadowing neighbouring gardens, impact on neighbouring windows and daylighting levels and the internal daylight and sunlight factor within the spaces of the proposed development. In conclusion the report highlights that there will be imperceptible impacts on neighbouring buildings and area and that 100% of the spaces proposed within the scheme will far exceed the BRE 209 requirements for internal daylighting levels.

## **7. Impact on Heritage Assets**

The site is located just outside of the Conservation Area and given the proximity of the site to the Conservation Area and elevated nature of the site, there was some concern that a three storey building could appear isolated impacting upon the setting of the heritage asset of the Conservation Area unless it is shown that the development would be read in the context of the adjoining development.

Policy DM25 (Development affecting heritage assets) of the Local Plan outlines that Heritage assets and their settings are an irreplaceable resource. Accordingly the Council will:

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

The Conservation Officer has noted that Heritage Assets have been identified but requests further information in terms of the height and what part of the development if any will be viewable from the High Street, whereby Members would be updated at Planning Committee. However, it was noted that whilst a development may be seen from the Conservation Area, this would not necessarily make it harmful.

Through assessing the development, it is considered that the level of harm in this instance would be less than substantial and the benefits of the development would outweigh this harm given the delivery of affordable housing.

## **8. Planning balance**

The application should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF and the Mid Devon Local Plan, taken as a whole. The application is in full and there are no technical reasons why the application should not be approved, subject to the required mitigation set out in

the report above. Impacts on biodiversity and landscape can be adequately mitigated through the design, layout and landscaping plans submitted, and the increase in traffic on the local road network is acceptable to the Highway Authority, subject to conditions. It is noted that there is a shortfall in parking provision but the site is within walking distance of public transport and other services and facilities.

The delivery of 6 new affordable homes for social rent weighs in favour of approval of the application. Taking all the above into consideration, your officers consider that the balance weighs in favour of approval of the application. Other matters put forward in favour of the development include an absence of harm to ecology, flooding, drainage and highway safety. Nonetheless, these are mitigating factors rather than benefits and the weight to be given to them is therefore limited.

*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 development hereby approved shall be for affordable housing and retained as such. The development shall not be occupied until a scheme for the provision of affordable housing has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in the NPPF(2021) as set out in Annex 2 or any future guidance that replaces it. The scheme shall include:
  - i. the numbers, type and tenure of the affordable housing provision to be made;
  - ii. the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing] (if no RSL involved);
  - iii. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - iv. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced
4. Prior to their use on site, details or samples of the materials to be used for all the external surfaces of the buildings shall first have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved materials and shall be so retained.
5. All planting, seeding, turfing or earth reprofiling comprised in the approved details of landscaping shall be carried out within 9 months of the substantial completion of the development or first planting season (whichever is sooner). Any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species. Once provided, the landscaping scheme shall be so retained.



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

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

8. 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.
9. The development hereby approved shall be carried out in accordance with the recommendations, mitigation and enhancements outlined within the Preliminary Ecological Appraisal, dated October 2021 and produced by HEA Ecology. Prior to occupation of any of the dwellings hereby approved, details shall be submitted to the Local Planning Authority to confirm the location of the ecological enhancement measures installed for the bird nesting provision and bat roosting provision as set out in the Ecological Appraisal which shall be made

available for inspection. For the avoidance of doubt bird nesting features shall also be provided in line with guidance received from the RSPB noting that a standard entrance hole of 32mm X 65 mm is specified to cater for starlings with a minimum of two rather than one box per flat.

10. The residential development hereby approved shall not be occupied until the parking spaces have been provided in accordance with the approved plans. Following their provision these facilities shall be so retained.

## **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 retain the use of these residential units for affordable housing in accordance with guidance in the National Planning Policy Framework, as an open market scheme would require a financial contribution towards affordable housing and other infrastructure requirements.
4. To ensure the use of materials appropriate to the development in order to safeguard the visual amenities of the area in accordance with Mid Devon Local Plan 2013-2033 Policies S9 and DM1.
5. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with policy DM1 of Mid Devon Local Plan 2013-2033.
6. In the interests of visual amenity and in accordance with Policy DM1 of the Mid Devon Local Plan 2013-2033.
7. To ensure that the proposed development does not prejudice the amenities of neighbouring occupiers in accordance with Policy DM1 of the Mid Devon Local Plan 2013-2033.
8. In the interest of public safety and to prevent damage to the highway.
9. To ensure the protection of endangered species, under the European Habitats Directive and the Conservation of Natural Habitats and of Wild Fauna and Flora [Council Directive 92/43/EEC] which is implemented in the UK by the Conservation [Natural Habitats & Conservation] Regulations 1994 [Statutory Instrument No 2716] amended in 2007 and in accordance with policy DM1 of Mid Devon Local Plan 2013-2033.
10. In the interest of highway safety, and to ensure that adequate on-site facilities are available for traffic attracted to the site in accordance with Policy DM5 of the Mid Devon Local Plan 2013-2033.

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

The site is located within the defined settlement limit of Cullompton, therefore the principle of residential development on this site is accepted. The access into the site to serve a development of 6 dwellings is considered acceptable to the Highway Authority. It is considered that on balance, the overall design, scale and layout of the residential development is acceptable in this location not resulting in a significant detrimental impact on the landscape. The application should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the

benefits, when assessed against the policies in the NPPF, taken as a whole. There are no technical reasons why the application should not be approved subject to appropriate mitigation as proposed with drainage measures considered to be acceptable and impacts on biodiversity and landscape can be adequately mitigated. The delivery of 6 new homes, of which would be affordable dwellings weighs in favour of approval of the application providing public benefits which would outweigh any harm to nearby heritage assets and notwithstanding the shortfall in parking provision, the site is considered to be a sustainable location within walking distance of service and facilities. Taking all the above into consideration, the application is considered to be acceptable meeting the requirements of Policies S1, S2, S3, S4, S8, S9, S11, DM1 and DM2 of the Mid Devon Local Plan 2013-2033 and Policies SD04, HS02, EN01, TC02, TC05 of Cullompton Neighbourhood Plan 2020-2033.

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

This page is intentionally left blank

Application No. 16/01707/MOUT

Agenda Item

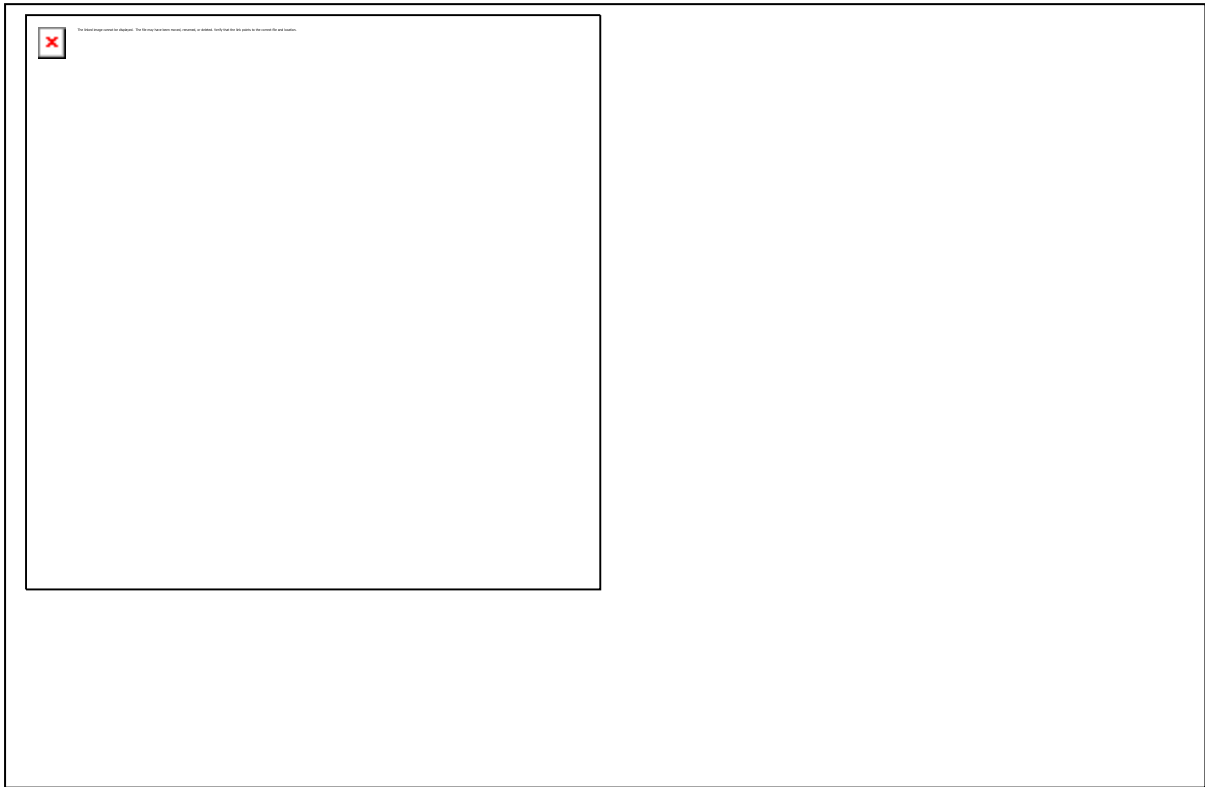
**Grid Ref:** 113644 : 295527

**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



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

**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:**

Members of the Planning Committee resolved on the 1<sup>st</sup> December 2021 to accept changes to the S106 agreement relating to Outline Planning Permission 16/01707/MOUT following independent assessment of the viability which concluded that this development 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. This report is to seek clarification as to how members would like to allocate the £23,000 (i.e. whether they would like the money to be spent on off-site affordable housing &/or Public Open Space &/or Education).

**RECOMMENDATION(S)**

In light of removal of the on-site affordable housing through the proposed changes to the original S106 agreement, it is considered that the priority for the Council would be to allocate the £23,000 to off-site housing provision of affordable housing.

**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

**1.0 BACKGROUND OF THE APPROVED DEVELOPMENT**

- 1.1 Outline application 16/01707/MOUT was approved on the 10<sup>th</sup> 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 10<sup>th</sup> July 2022.
- 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 As noted above Members resolved to accept changes to the S106 agreement in order to make the development viable whereby 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.
- 2.5 Following this resolution, the Council's Legal Department were instructed to make changes. However the Council's Planning Solicitor has raised concerns that the printed minutes of the planning committee dated 1 December 2022 make no reference as to how the members of the committee would like to allocate the monies.
- 2.6 The minutes state on P.171 that the members "**RESOLVED** that the changes to the S106 agreement be supported as recommended". However, the report does not include any recommendation as to how they should allocate the monies. It simply states at Paragraph. 5.3 that "*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 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 two. 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*".
- 2.7 Therefore in the circumstances, to avoid any potential legal challenge of the decision, this matter has been referred back to Members of the Planning Committee to seek clarification as to how members would like to allocate the money (i.e. whether they would like the money to be spent on off-site affordable housing &/or Public Open Space &/or Education which were the three Heads of Terms) before providing the Planning Solicitor with further instructions to complete the agreement.
- 2.8 I can confirm that Education Services at Devon County Council have been contacted following the resolution of Members on the 1<sup>st</sup> December to accept changes to the S106 agreement in order to provide the most up to date information relating to education requirements in Tiverton. Members will be updated on this information prior to Planning Committee in order that they have all the information at hand to make a decision on allocation of the monies from this development.
- 2.9 It is the view of Officers that the £23,000 should be allocated to off-site affordable housing provision which would be deemed as a priority for the Council.

Notwithstanding this Members can consider if the financial contribution should go 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, an off-site affordable housing provision contribution or a split between the two or three Heads of Terms. 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](#)



## Major Applications with no Decision (Since last Committee Close Date)

Members are asked to note that some major applications will be dealt with under the delegation scheme. Members are also requested to direct any questions about these applications to the relevant case officer. It was resolved at the meeting of Planning Committee on 21st March 2018 that with the exception of small scale proposals, applications for ground mounted solar PV arrays recommended for approval be brought before the Committee for determination.

<i>Item</i>							<i>Expected Decision Level</i>	
<i>No.</i>	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>	<i>Delegated</i>	<i>Committee</i>
1	0	18/04/2022	22/00063/MARM	Reserved matter for the erection of 257 dwellings and up to 5 Gypsy and Traveller pitches; associated works in connection with 8.6ha of land to facilitate future Crediton Rugby Club and up to 1.1ha of land for future primary school; details of landscaping, public open space and other associated infrastructure and engineering operations and access and highway work following outline approval 17/00348/MOUT	Land at NGR 284185 101165 (Creedy Bridge) Crediton Devon	Mr James Clements	COMM	
	4	25/03/2022	22/00040/MARM	Reserved Matters for the erection of 60 dwellings and construction of new vehicular access onto highway to the west of the site (with access reserved) following outline approval 17/01359/MOUT	Land and Buildings at NGR 302469 114078 Higher Town Sampford Peverell Devon	Mr Adrian Devereaux	DEL	

This page is intentionally left blank

# LIST OF APPEAL DECISIONS FROM

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
18/01814/MFUL	Change of use of agricultural land for the siting of 3 holiday lodges and alterations to existing access	Land at NGR 299526 113232 Crown Hill Halberton Tiverton Devon	Grant permission subject to conditions.	Committee Decision	Refuse permission	Written Representations	Appeal Dismissed

This page is intentionally left blank