

# Public Document Pack

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

Join Zoom Meeting

<https://zoom.us/j/96897363553?pwd=UDZoalkraC9WYVhVWFFoTDZzOWIBQT09>

Meeting ID: 968 9736 3553

Passcode: 207685

One tap mobile

08003582817,,96897363553#,,,,\*207685# United Kingdom Toll-free  
08000315717,,96897363553#,,,,\*207685# United Kingdom Toll-free

Dial by your location

0 800 358 2817 United Kingdom Toll-free

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Meeting ID: 968 9736 3553

Passcode: 207685

## **MID DEVON DISTRICT COUNCIL**

### **PLANNING COMMITTEE**

**A MEETING** of the **PLANNING COMMITTEE** will be held in the Phoenix Chamber, Phoenix House, Tiverton on Wednesday, 23 June 2021 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 14 July 2021 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

#### **STEPHEN WALFORD**

Chief Executive

15 June 2021

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

## A G E N D A

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

- 1     **APOLOGIES AND SUBSTITUTE MEMBERS**  
To receive any apologies for absence and notices of appointment of substitute.
  
- 2     **HYBRID MEETING PROTOCOL** *(Pages 3 - 10)*  
Members to note the Hybrid Meetings Protocol.
  
- 3     **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.
  
- 4     **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT**  
Councillors are reminded of the requirement to declare any interest, including the type of interest, and reason for that interest at each item.
  
- 5     **MINUTES OF PREVIOUS MEETING**  
Members to consider whether to approve the minutes as a correct record of the meeting held on 16<sup>th</sup> June 2021.  
  
Minutes to follow.
  
- 6     **CHAIRMAN'S ANNOUNCEMENTS**  
To receive any announcements the Chairman may wish to make.
  
- 7     **DEFERRALS FROM THE PLANS LIST**  
To report any items appearing in the Plans List which have been deferred.
  
- 8     **THE PLANS LIST** *(Pages 11 - 134)*  
To consider the planning applications contained in the list.

### Covid-19 and meetings

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

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

requirements in the new protocol for meetings. You must follow any directions you are given.

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

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

If you would like a copy of the Agenda in another format (for example in large print) please contact Carole Oliphant on:  
E-Mail: [coliphant@middevon.gov.uk](mailto:coliphant@middevon.gov.uk)

Public Wi-Fi is available in all meeting rooms.

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## Mid Devon District Council – Hybrid Meeting Protocol

### 1. Introduction

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

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

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

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

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

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

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

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

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

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

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

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

### **3. Zoom**

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

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

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

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

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

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

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

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

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

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

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

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

<b>Day of meeting</b>	<b>Notice given by</b>
Monday	Previous Wednesday
Tuesday	Previous Thursday
Wednesday	Previous Friday
Thursday	Monday
Friday	Tuesday

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

(b) Public Participation (speaking):

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

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

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

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

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

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

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

## **8. Starting the Meeting**

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

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

## **9. Declaration of Interests**

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

## **10. The Meeting and Debate**

- (a) For Members and Officers physically present

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

(b) For any person attending via Zoom

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

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

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

## **11. Voting**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## Phone only access to zoom meetings

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

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

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

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

- **Enter Meeting ID followed by #**

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

- **Press #**

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

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

Wait for the following two messages:

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

**Wait.....**

*"You have now entered the meeting"*

### Important notes for participating in meetings

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

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

## PLANNING COMMITTEE AGENDA - 23rd June 2021

### Applications of a non-delegated nature

- | <u>Item No.</u>                                      | <u>Description</u>  |
|--|---|
| 01.  | <p>20/01174/MOUT - Outline for the erection of up to 179 dwellings, including the conversion of Tidcombe Hall and outbuildings to 12 dwellings, a shop, a cafe, an open sided shelter, community allotments, community orchards, public open space, associated infrastructure and access with all other matters reserved at Tidcombe Hall, Tidcombe Lane, Tiverton.</p> <p><b>RECOMMENDATION</b><br/>Refuse permission.</p> |
| <p><b><u>The following NOT before 4.00pm</u></b></p> |   |
| 02.  | <p>21/00128/MFUL - Erection of 86 dwellings to include public open space, landscape planting, pedestrian, cycle and vehicular links; and associated infrastructure at Land at NGR 298634 113714 (Braid Park), Uplowman Road, Tiverton.</p> <p><b>RECOMMENDATION</b><br/>Grant permission subject to conditions and the signing of a S106 agreement to secure.</p>   |
| 03.  | <p>20/01483/TPO - Application to shorten the lowest branches on the South and East side of 1 Oak tree by 2m and reduce regrowth from previous pruning back to old pruning points , protected by Tree Preservation Order 99/00002/TPO at 4 Cornflower Close, Willand, Cullompton.</p> <p><b>RECOMMENDATION</b><br/>Grant consent.</p>  |
| 04.  | <p>20/01484/TPO - Application to shorten the lowest branches overhanging the garden(s) on the South side of 1 Oak tree to give approximately 4m clearance above ground level; reduce the canopy over the garden(s) by 2-3m and reduce branch on North side by 1-2m, protected by Tree Preservation Order 88/00004/TPO at 9 Hawthorne Road, Tiverton, Devon.</p> <p><b>RECOMMENDATION</b><br/>Grant consent.</p>             |
| 05.  | <p>21/00678/TPO - Application to reduce overhanging branches by 1.5m and 2m of 1 Oak tree protected by Tree Preservation Order 88/00004/TPO at Land at NGR 296672 113777 (East 7 Jasmine Close), Tiverton, Devon.</p> <p><b>RECOMMENDATION</b><br/>Grant consent.</p>   |
| 06.  | <p>20/01825/TPO - Application to fell 1 Ash and 2 Oaks and remove deadwood/limbs from 2 Ask and 2 Oak trees protected by Tree Preservation Order No 96/00006/TPO at Land at NGR 305855 112143, (Woodland East of Harvesters), Uffculme.</p> <p><b>RECOMMENDATION</b><br/>Application Part Granted/Part Refused</p>  |

Application No. 20/01174/MOUT

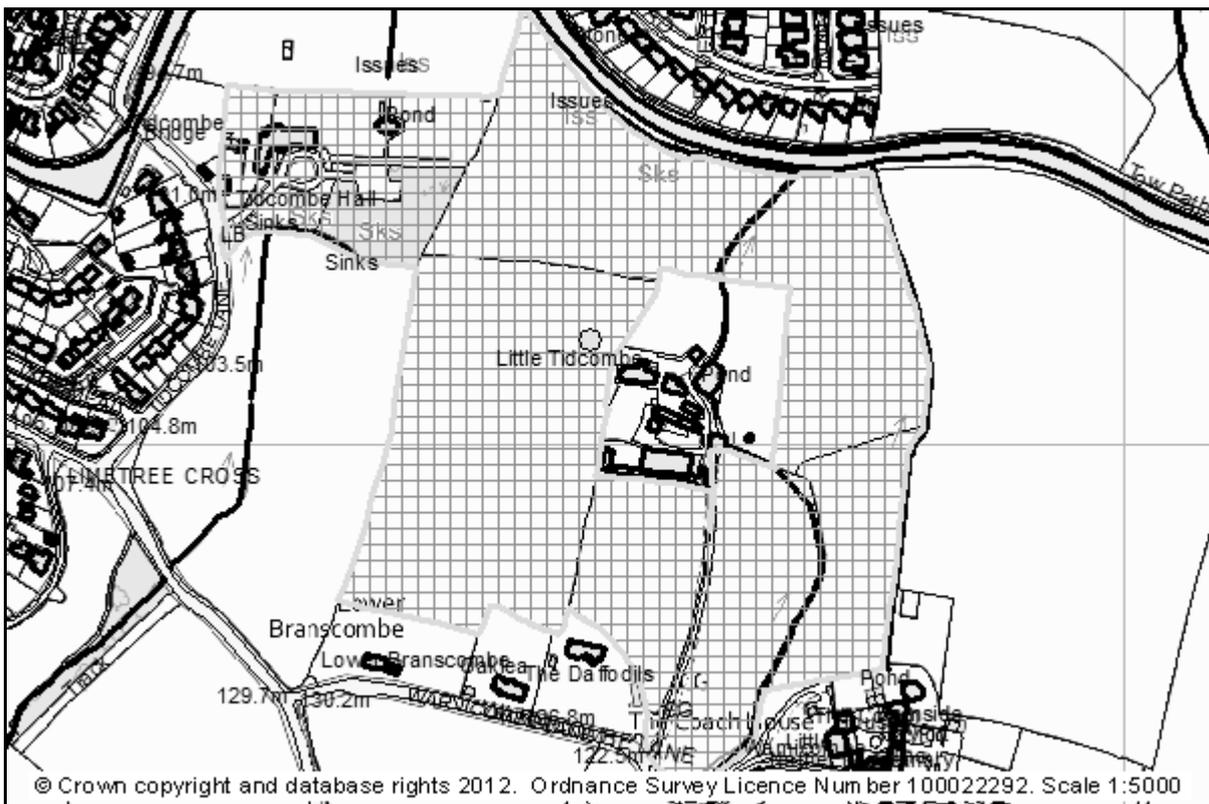
Grid Ref: 297452 : 112203

Applicant: Tidcombe Holdings LVA LLP

Location: Tidcombe Hall  
Tidcombe Lane  
Tiverton  
Devon

Proposal: Outline for the erection of up to 179 dwellings, including the conversion of Tidcombe Hall and outbuildings to 12 dwellings, a shop, a cafe, an open sided shelter, community allotments, community orchards, public open space, associated infrastructure and access with all other matters reserved

Date Valid: 27th July 2020



## **APPLICATION NO: 20/01174/MOUT**

### **MEMBER CALL-IN**

Cllr Griggs has called in this application to be determined by Planning Committee to consider:

1. Whether there will be an adverse impact upon wildlife.
2. Whether the proposals will have an unacceptable impact upon the safety of road users, cyclists and pedestrians with particular reference to the cycle track coming out onto a dangerous double bend, traffic coming in and out of the site at either entrance and proximity to the primary school access and whether this would become more dangerous.
3. Whether the proposal would have an acceptable impact upon the canal.

### **RECOMMENDATION**

Refuse planning permission

### **PROPOSED DEVELOPMENT**

Outline for the erection of up to 179 dwellings, including the conversion of Tidcombe Hall and outbuildings to 12 dwellings, a shop, a cafe, an open sided shelter, community allotments, community orchards, public open space, associated infrastructure and access with all other matters reserved.

The site is located to the east of Tiverton and is formed of the Tidcombe Hall building, associated outbuildings, access, parking and garden areas as well as agricultural land to the east. The agricultural fields forming the eastern part of the site surround Little Tidcombe, a grade II listed building, although the building and associated outbuildings, are excluded from the site area. The site area extends to 12.08 hectares. There is an existing access from Tidcombe Lane. A second access lane leads from Warnicombe Lane at the southern edge of the site, this provides access to Tidcombe Farm (also known as Little Tidcombe) and access to the agricultural fields can also be achieved from here. To the north the site borders the Grand Western Canal (a Conservation Area) and towpath, on the other side of which is the residential area leading off Glebelands Road. To the east the site adjoins agricultural land, to the south there are a number of residential properties located off Warnicombe Lane. To the west the site borders agricultural land and Tidcombe Lane.

The application seeks outline planning permission together with means of access which is also sought for approval at this stage. The layout, scale, appearance and landscaping are reserved matters and not for approval as part of this application. It is proposed that a new access would be provided into the site from Tidcombe Lane which is proposed to be sited approximately 5m north of the existing access. The application is supported by an indicative masterplan which indicates the provision of;

- 179 new sustainable dwellings (up to 12 being by conversion of Tidcombe. The application sets out that these would be 2, 3, 4 and 5 bedroom properties. Hall/outbuildings) (28% as affordable units). The indicative plan suggests that some residential development could be provided within the existing walled garden area with the majority indicated to be in the east part of the site in clusters to the east, south and west of Tidcombe Farm.
- Conversion of Tidcombe Hall and outbuildings for up to 12 dwellings.
- A total of 6.05 hectares of public open space including provision of a 2.34 hectare community canal parkland along the northern edge of the site to provide an enhanced buffer for the Grand Western Canal, informal open space including attenuation features,

native parkland tree planting community shelter, trim trail, natural play area and wildflower meadow.

- Community hub including shop, allotments and orchard- indicated to be provided in the site area immediately surrounding the Tidcombe Hall building.
- Provision of a new vehicular access from Tidcombe Lane utilising an existing secondary gateway access approximately 5m north of the current main entrance to Tidcombe Hall.

## **APPLICANT'S SUPPORTING INFORMATION**

Application form

Planning statement

Design and access statement

Draft heads of terms

Arboricultural impact assessment report, tree survey, tree constraints plan, tree removal plan

Ecological impact assessment

Energy statement (including carbon reduction statement and waste audit statement)

Historic environment assessment

Preliminary geotechnical investigation and contamination assessment

Geophysical survey

Statement of significance (archaeological)

Flood risk assessment

Verification study- agricultural land classification

Landscape and visual impact assessment

Statement of community involvement

Transport assessment

Site location plan

Illustrative masterplan

Public open space plan

Design principles plan

Ground floor contextual plan

Existing plan- topographical survey, floor plans

Additional information received on 6<sup>th</sup> April 2021;

Addendum transport technical note

Air quality assessment

Draft conditions document

Project design for an archaeological trench evaluation

Statement of intent

Technical note- response to landscape and visual matters

Structural appraisal

Flood risk assessment

Artists impression from Tidcombe Lane

Additional information received on 26<sup>th</sup> May 2021;

Revised access arrangement plan

Results of archaeological trench evaluation

Response to arboricultural objections

A revised copy of the addendum transport technical note was received on 27<sup>th</sup> May which amends the references of Warnicombe estate to Wilcombe estate.

## RELEVANT PLANNING HISTORY

There is an extensive list of applications relating to the site however are not generally considered to be of significant relevance to determination of this application and therefore have not been listed in this report.

## 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 S10 - Tiverton  
Policy S14 – Countryside  
Policy TIV13 – Tidcombe Hall CONTINGENCY SITE  
Policy TIV15 - Tiverton 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 DM9 - Conversion of rural buildings  
Policy DM25 - Development affecting heritage assets  
Policy DM26 - Green infrastructure in major development  
Policy DM28 - Other protected sites

## CONSULTATIONS

### TIVERTON TOWN COUNCIL-

25<sup>th</sup> August 2020- This application is beside a contingency site, shown on the Mid Devon Plan for 100 dwellings. This is not part of the five year housing bank. Tiverton Town Council is very concerned at the impact that this proposed development would have on Tidcombe Lane and the local road network. There are also concerns about the lack of access to the proposed park area and the possible problems relating to the proposed pond area and the lack of details regarding the protection of trees and wildlife. This is a very scenic part of the town and the proposal would alter that dramatically. For these reasons Tiverton Town Council is unable to support this development

27<sup>th</sup> April 2021- Tiverton Town Council's earlier comments still stand. The council wishes to object to the suggestion by the developer to the closing of the historic bridge to other than residence of the proposed new site. The council also notes the large number of objectors to this proposal.

3<sup>rd</sup> June 2021- previous comments apply.

### PUBLIC HEALTH-

13<sup>th</sup> August 2020-

Contaminated Land: No objection to this proposal. (03.08.20).

Air Quality: The proposed development may have the potential to impact on local air quality.

Prior to development commencing, the applicant shall carry out a detailed air quality impact assessment (AQIA). The assessment should be based upon the approved traffic impact assessment (TIA) for the development and include validated modelling with 'baseline' and 'with development' predictions of the air quality impact of the development at all relevant receptor locations.

The AQIA shall not be commenced until Environmental Health Services have been approached to provide its latest air quality monitoring data and have granted approval of the proposed AQIA methodology.

A report of the AQIA and its recommendations shall be submitted for approval to the Local Planning Authority for consultation with Environmental Health Services (and other agencies if required).

Reason: In the interests of public health and protection of the environment. (03.08.20).

Environmental Permitting: No objection to this proposal. (30.07.20).

Drainage: No objection to this proposal. (03.08.20).

Noise & other nuisances: Before the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. Once approved the CEMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority. (03.08.20).

Housing Standards: No comment. (31.07.20).

Licensing: If licensable activities or the sale of alcohol are proposed contact the licensing team for further information via email [licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk) . (30.07.20).

Food Hygiene: No objection to this proposal. Informative: Provision of a café. 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>

Please consult environmental health on requirements if needed. 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/> . (30/07/2020).

Private Water Supplies: Not applicable. (13.07.20).

Health and Safety: No comments. (30.07.20).

22 April 2021- I have considered the Air Quality report submitted by Kairus Ltd dated April 2021. A comprehensive assessment has been carried out and we agree with the methodology and conclusions. They have found that there will be a negligible impact on vehicle related air pollutants in the vicinity of the site as a result of traffic from the built out development, and that the

proposal will not introduce any new receptors into a poor air quality area because this location does not have poor air quality. An initial low emissions assessment has been done and this will be updated once further detail is available on the various mitigation measures to be incorporated, such as the green travel plan. This is likely to be a reserved matters issue but I am not sure if you already have a suitable condition for including in any approval? If you would like me to review a suggested condition then please let me know.

## **HIGHWAY AUTHORITY –**

01 September 2020

Observations: The site is accessed off an unclassified County Route which is restricted to 30 MPH. The number of personal injury collisions which have been reported to the police in this area between 01/01/2015 and 31/12/2019 is two one which was a slight accident at the junction of Blundells Road in March 2015, the second was a serious accident at the same junction in 2015.

### Transport Assessment

Trip rate for proposed development seems reasonable, but baseline for junction capacity analysis doesn't account for traffic from Tiverton Eastern Urban Extension and no accounting for cumulative effects of development.

7.4 states that it was agreed with Devon County Council that no committed development needs to be considered. I believe that this is fine for the assessment of the Canal Hill and Old Road / Great Western Way junctions but not for the additional traffic using Tidcombe Lane to access Blundell's Road. The distribution of traffic assumes only 7% of traffic will use Tidcombe Lane but with the provision of the new A361 junction we believe this will increase, so the Tidcombe Lane/Blundell's Road junction should be assessed. There is no mention of the new A361 junction in the Transport Assessment and we think it should be included as this is permitted development. Assessment of Old Road/Great Western Way, Devon County's analysis suggests junction would be over-capacity in AM Peak, whereas Transport Assessment suggests just within capacity, due to overestimation of visibility from minor arm. The Transport Assessment does not consider impacts on Tidcombe Lane/Blundell's Road junction, where significant impacts could be felt, especially with the opening of the new A361 junction.

The proposed pedestrian improvements are not adequate, especially given that Local Plan highlights need for improvements, current proposals would have children walking in road to access Tidcombe Primary School, which the Devon County Council Road Safety Officer has already mentioned to the Applicant that this would not be acceptable even though the proposal includes several pedestrian buildouts, but this would still leave children walking in road for most of journey to Tidcombe Primary School. As the Transport Assessment says this proposed development is next to Tidcombe Lane which is served by circular bus services 353/353. These services are financially supported by D.C C and operated by Dartline. They operate approximately half-hourly, having two longer gaps between 1045 - 1145 and 1345 -1500. The first arrival in Tiverton Bus Station is 0805 and the last departure 1750, meaning it is possible to reach Exeter by 0853, but would need to return on the 1630 from Exeter to connect with the last bus, so not very practical for any work journeys.

We would like to seek a contribution from this development to provide:

An 0730 arrival at the Bus Station Monday - Friday, to connect with the 0735 departure to Exeter, giving an 0818 arrival. An 1820 departure from the Bus Station Monday - Friday, to connect with the 1735 from Exeter which arrives at 1812. Additional journeys from the Bus Station at 1115 and 1415 to fill the present gaps in service and make it half-hourly for most of the day. The addition of these extra journeys takes the service beyond what is operable with one driver, so does entail a significant cost increase. We would therefore like to seek a contribution of £30,000 per annum for a minimum of three years. In the vicinity of the development there is a bus stop on one side of

Tidcombe Lane, suitable for anti-clockwise circulars. The other side of the road has no pavement and no stop. We would like to see a section of footway and stop provided here, as close to the main entry of the development as possible.

A new approach is being considered with regards Travel Plans to ensure getting better travel planning outcomes. This will be implemented by the Developer contributing £500 per dwelling to be secured through a S106 Agreement. DCC will produce a Travel and Action Plan to encourage other modes of transport, which will be including details for monitoring/surveys of assessing the impact including overseeing voucher and their usage. Contributions would be required to towards the Traffic Calming Scheme of £658.00 per dwelling which is to be secured through a S106 Agreement. Contributions would be required towards A361 junction scheme of £2631 per dwelling which is to be secured through a S106 Agreement. The County Highway Authority therefore would recommend refusal for lack of information.

10<sup>th</sup> May 2021- The applicant has submitted a Transport Addendum which proposes a Closure of Canal Bridge in Tidcombe to through traffic. It states in the TA that properties nearby would have access, this proposal will only be accepted if the prohibition was for all vehicles except busses, cyclist and pedestrians. This proposal has been discussed with the County Highway Authority in great detail over the past few months and all the information that has been submitted shows that this closure would make a safe and suitable route for pedestrians and cyclist. This would also help with the impact the Tiverton EUE development would have on the Tidcombe Lane / Blundell's Road junction, by reducing the number by 40 vehicles per day using this junction and the narrow Tidcombe Lane. There will be additional traffic in the Wilcombe Estate area but as shown in the Addendum these increases will amount to one vehicle per minute during the peak times and this increase will not have a severe impact. The impact on Canal Hill would also be greater but again the figure show this would not be a severe impact. Therefore the County Highway Authority would have no objection to this application but would recommend a number of conditions.

Recommendation:

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

Off-Site Highway Works No development shall take place on site until the off-site highway works including the Traffic Order for the Prohibition of all vehicles except Busses, Emergency Vehicles, Cyclists and Pedestrians across the Canal Bridge to have been submitted and approved by the Local planning Authority and then constructed implemented and made available for use.

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

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.;
- (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

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

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

19th May 2021- Thank you for your email, I can confirm that all the contributions stated in my responses will be required and secured within a S106 for my response to remain positive.

7<sup>th</sup> June 2021- With regards the additional documents submitted on 26th May 2021 as part of this application the County Highway Authority has no further comments to make.

## **NATIONAL TRUST**

2<sup>nd</sup> September 2020

The recently adopted Local Plan Review contains policy TIV13, which is a "contingency" housing allocation should the Council be unable to demonstrate a five-year supply of deliverable sites for housing. The most obvious comment in response to the current application is that - given that the Council can presumably demonstrate such a supply of housing, having just adopted the Local Plan Review - the application seems very premature. Even if there are material considerations for the Council to take into account - such as the provision of low carbon homes or public open space - presumably these elements could be brought forward on other (non-contingency) allocated sites? In addition, we note that the scale and extent of the proposed development departs from the contingency allocation in the Local Plan Review. The proposals involve a larger housing development than that set out in policy TIV13 (up to 179 new homes rather than 100), half of which would be on land outside of the allocation area. Whilst it is the applicant's prerogative to put forward their case, this is a further departure from the plan-led approach.

The applicant's Landscape and Visual Impact Assessment (LVIA) and Historic Environment Assessment (HEA) both consider the effect of the proposed development on the views and setting of Knightshayes, in particular its registered park and garden. As part of this, they refer to the 2007 setting study, and whilst we appreciate them doing so, we would note that recent project work by the Trust has identified the need for an updated setting study. We would also refer to the Knightshayes Court Conservation Management Plan (2017) - its figure 5 shows the designed views from Knightshayes, whilst its figure 5.17 photograph provides a wider perspective to the LVIA's view 12 (and the HEA's plate 15).

Turning to the application documents, the LVIA and HEA use a few selected viewpoints to inform their respective conclusions, although it is worth pointing out that there are other views towards the application site from the Knightshayes estate. The LVIA concludes that the site features in one sensitive view from Knightshayes but "the development will not materially alter the view, having only a minor residual impact" which "will be neutral in its character". The HEA states that "the scheme may be visible as an intrusive feature within the wider landscape setting..." but predicts "no change" in significance.

From the Trust's perspective, we have reviewed the LVIA and HEA and would like to raise various issues and concerns. We note the LVIA's statement that the application site is visible from Knightshayes and that Tidcombe Hall is a prominent feature when looking across the estate buildings at Chettiscombe (view 12). However, the LVIA also refers to intervening vegetation and tree cover providing screening (twice in the executive summary, and in para 6.39). We would question the value being placed on existing trees in the landscape - which can be transitory features, especially without statutory protection or if subject to disease - when considering the views from Knightshayes. We also take issue with rather sweeping statement about it being hard to get views in winter due to the weather (para 3.8) - on most winter days distant buildings would be very visible.

In respect of the HEA, we note its acknowledgement that the scheme may be visible as an "intrusive feature" within the wider landscape setting of Knightshayes registered park and garden, but we would not agree that the proposed 179-home development would involve "no change" to significance of the heritage assets at Knightshayes. We consider that there would be a change, and if repeated in other developments, it would become more pronounced. In reality, we consider that the proposed development would cause harm to the landscape, views and setting as experienced from Knightshayes, and that this (less-than-substantial) harm should be a material consideration in the planning process.

#### Scale and extent

To continue from the above, we note that the proposals do not (currently at least) involve development in the south-western part of the contingency allocation - which is likely to be particularly visible from the perspective of Knightshayes. Whilst this is the case, we also note that the proposals involve development on other elevated land - including to the south of Tidcombe Farm and near to Lower Warnicombe. Without prejudice to the matters we are raising in this letter, should the Council decide to support new development on land at Tidcombe Hall (now or in the future), our strong preference would be to avoid building on land that is further south, more elevated and more visible in the wider landscape.

#### Conclusion

From a National Trust and Knightshayes perspective, the current planning application departs from the plan-led approach, including in relation to the timing, scale and extent of any development on land at Tidcombe Hall. Of particular concern, we consider that the proposed development would cause harm to the views, landscape setting and historic significance of Knightshayes, in particular

to the grade II\* registered park and garden. We would ask the Council to carefully consider the points we are raising before it comes to make its decision on the development being proposed.

### **DEVON GARDENS TRUST**

14th September 2020

We concur with the comments made by National Trust in their letter dated 2 September 2020, in particular that the proposed development would cause harm to the views, landscape setting and significance of Knightshayes court, a Grade II Registered park and garden. We would ask your Council to consider the points raised by the National Trust in considering this application.

12<sup>th</sup> April 2021

No comments.

### **ROYAL DEVON & EXETER NHS FOUNDATION TRUST**

1 October 2020

The application has been reviewed from a primary care perspective and the following comments are provided by NHS Devon Clinical Commissioning Group as their response to the application. The response has been informed by the Devon Health Contributions Approach: GP Provision (<https://www.devon.gov.uk/planning/planning-policies/other-county-policy-and-guidance>) which was jointly prepared by NHS England and Devon County Council.

The CCG's concern is that Castle Place, Sampford Peverell and Bramblehaise Surgeries are already over capacity within their existing footprint therefore it follows that to have a sustainable development in human health terms the whole local healthcare provision will require review. The surgeries already have 23,966 patients registered between them and this new development will increase the local population by a further 417 persons.

Taking this into account and drawing upon the document "Devon Health Contributions Approach: GP Provision document" which was agreed by NHS England and Devon County Council, the following calculation has been made:

Methodology for Application 20/1174/MOUT

1. Residential development of 179 dwellings
2. This development is in the catchment of the Castle Place, Sampford Peverell and Bramblehaise Surgeries which have a total capacity for 19,718 patients.
3. The current patient list size is 23,966 which is already over capacity by 4,248 patients or at 122% of capability.
4. The increased population from this development = 417
  - a. No of dwellings \* Average occupancy rate = population increase
  - b.  $179 * 2.33 = 417$
5. The new GP List size will be 24,383 which is over capacity by 124%
  - a. Current GP patient list + Population increase = Expected patient list size
  - b.  $23,966 + 417 = 24,383$  (4,248 over capacity)
  - c. If expected patient list size is within the existing capacity, a contribution is not required, otherwise continue to step 6
6. Additional space required = 31.98 m<sup>2</sup>
  - a. The expected patient list size, for this size practice = 0.77 m<sup>2</sup>
  - b. Population increase \* space requirement per patient = total space (m<sup>2</sup>) required
  - c.  $417 * 0.077 = 31.98$  m<sup>2</sup>
7. Total contribution required = £102,321
  - a. Total space (m<sup>2</sup>) required \* premises cost = final contribution calculation
  - b.  $31.98$  m<sup>2</sup> \* £3,200 = £102,321 (£572 per dwelling).

## **HOUSING ENABLING & BUSINESS SUPPORT MANAGER**

28<sup>th</sup> May 2021

I can confirm that Tiverton is showing a high demand for social housing. As of April 2021 we have 299 applicants needing affordable housing in Tiverton.

The chart below indicates the demand for those living or working in Tiverton extracted from Devon Home Choice

**Tiverton**

Band	Housing Type	Housing Needs Requirement Size					
		1BH	2BH	3BH	4BH	5BH	6BH
Total	General Needs	110	49	53	22	4	0
	Step Free	26	9	3	2	0	0
	Max 3 Steps	1	1	1	0	1	0
	Wheelchair	11	3	1	1	1	0
	<b>Grand Total</b>		<b>148</b>	<b>62</b>	<b>58</b>	<b>25</b>	<b>6</b>

## **DCC- LEAD LOCAL FLOOD AUTHORITY,**

15<sup>th</sup> September

At this stage, we object to the above planning application because the applicant has not submitted sufficient information in order to demonstrate that all aspects of the surface water drainage management plan have been considered. In order to overcome our objection, the applicant will be required to submit some additional information, as outlined below.

### Observations:

The applicant has demonstrated that infiltration is not wholly viable at this site. The applicant has proposed to attenuate surface water before discharging to the existing ditches which flow to a siphon (beneath the canal) to the northeast of the site. The applicant has split the site into three catchments. The applicant appears to have submitted a plan depicting the surface water drainage strategy (drawing No.PDL-101; Rev. B). However, the PDF document does not display the full plan. The applicant must submit the full plan for review. The printout sheet for the greenfield runoff rates does not seem to display fully. The applicant should resubmit this printout. The applicant has calculated the greenfield runoff rates using the FEH method within the UKSuDS Greenfield Runoff Rate Estimation tool. However, the applicant has modelled the surface water drainage system with FSR rainfall data and not FEH rainfall data. The applicant must model the surface water drainage system with FEH rainfall data. The applicant must also provide a screenshot of the FEH Web Service data to demonstrate that the catchment descriptors correlate with those used in the UKSuDS Greenfield Runoff Rate Estimation tool. The freeboard for catchment B is just less than 300mm. Should planning permission be granted, the applicant will need to consider the freeboard level further at the next stage of planning. The applicant should ensure that all flow controls are maintainable and do not have a high risk of blockage. The applicant is currently proposing two orifice controls for catchment A with small diameters. The Ground Investigation encountered shallow groundwater within parts of the site. The applicant should assess the groundwater levels within the location of the proposed surface water drainage features to ensure that groundwater will not affect these features (e.g. floatation/uplift).

13<sup>th</sup> March 2021-

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

- Prior to or as part of the Reserved Matters, the following information shall be submitted to and approved in writing by the Local Planning Authority:
- (a) A detailed drainage design in accordance with the Flood Risk Assessment (Ref. Tidcombe Hall, Tiverton; Rev. B; dated 15th October 2020).
  - (b) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted.
  - (c) Proposals for the adoption and maintenance of the permanent surface water drainage system.
  - (d) A plan indicating how exceedance flows will be safely managed at the site.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (d) above.

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

Observations: Following my previous consultation response (FRM/MD/01174/2020; dated 9th September 2020), the applicant has provided additional information in relation to the surface water drainage aspects of the above planning application, in an e-mail dated 18th November 2020, for which I am grateful. The applicant must submit the revised Flood Risk Assessment to the Local Planning Authority for their review:

- Flood Risk Assessment (Ref. Tidcombe Hall, Tiverton; Rev. B; dated 15th October 2020)
- The applicant has revised the model outputs with FEH rainfall data. The applicant has acknowledged our concerns with small flow controls. Flow controls must be sized and designed to control surface water, but should not have a high risk of blockage. The applicant should design the site layout around the proposed exceedance flow routes to ensure that exceedance flows can be managed safely and appropriately. The applicant should assess the groundwater levels to ensure that groundwater will not negatively impact on the surface water drainage system. The applicant may wish to investigate the area of the site around trial pits TP07 and TP08. These trial pits may have indicated feasible infiltration rates if left longer to soakaway and if 3 tests were completed.

## **DCC - EDUCATION**

### **7 September 2020**

Regarding the above application, Devon County Council has identified that the proposed increase of 179 dwellings will generate an additional 44.75 primary pupils and 26.85 secondary pupils which would have a direct impact on primary schools in Tiverton and Tiverton High. In order to make the development acceptable in planning terms, an education contribution to mitigate its impact will be requested. This is set out below:

It is set out in the County Council Section 106 Infrastructure Approach that approximately 1.5% of the school population requires specific special education needs (SEN) provision, therefore this application is likely to generate 1.07 pupils (0.67 primary and 0.40 secondary) who will require a specialist place. Based on a cost of £86,284 per SEN pupil, the County Council requests a total of £92,323.00.

In accordance with the Education Infrastructure Plan 2016-2033, DCC will consider the adopted Local Plan allocations in addition to the forecast spare capacity and already approved but not yet

implemented developments. We will share the forecast spare capacity of an area proportionately between all outstanding development sites allocated in the Local Plan. Based on this, a percentage is established, which will be requested for developments in the area.

The County Council will not seek additional primary or secondary contributions on SEN pupils and therefore will only take into account the remaining 44.08 primary pupils and remaining 26.45 secondary pupils when establishing the education contributions below.

The existing primary schools within Tiverton are forecast to have capacity for 94% of all pupils likely to be generated by the proposed development. An urban extension is proposed within Mid Devon's Local Plan with the inclusion of a new primary school to serve the development. This primary school will increase the towns primary capacity and therefore, Devon County Council will seek a contribution of 6% of the total number of pupils generated directly towards the delivery of this additional education infrastructure. The contribution sought is £51,354 (based on the DfE new build rate of £19,417 per pupil). This will relate directly to providing education facilities for those living in the development.

Tiverton High is forecast to have capacity for 62% of all pupils likely to be generated by the proposed development. Therefore, Devon County Council would seek a contribution based on the Tiverton secondary percentage of 38% of the total number of pupils generated directly towards additional secondary education infrastructure at Tiverton High School. The contribution sought towards secondary is £226,278 (based on the DfE extension rate of £22,513 per pupil). This would relate directly to providing secondary education facilities for those living in the development.

In addition, a contribution towards Early Years provision is needed to ensure delivery of provision for 2, 3 and 4 year olds. This is calculated as £44,750 (based on £250 per dwelling). This will be used to provide early years provision for pupils likely to be generated by the proposed development.

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

### **DCC- HISTORIC ENVIRONMENT TEAM**

13<sup>th</sup> August 2020

In the absence of the application being supported by the results of any intrusive archaeological fieldwork the Historic Environment Team do not consider that the information submitted in support of this application is sufficient to enable an understanding of the significance of the heritage assets within the application area or of the impact of the

20<sup>th</sup> May

I refer to the above application. The Historic Environment Team have now received the report setting out the results of the archaeological field evaluation of the above site. These investigations have shown that the site contains two areas of archaeological interest, the first is an area of

potential Romano-British activity on the western side of the development in the vicinity of trenches 11 and 12 and an area containing, as yet, an undated pit feature exposed in trench 27.

In the light of this new information I would like to withdraw the Historic Environment Team's previous objection and would advise that the impact of development upon the archaeological resource described above should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

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

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

#### *Reason*

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

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

I would envisage a suitable programme of work as taking the form of the archaeological excavation of the areas shown by the archaeological field evaluation to contain archaeological features (the areas around trenches 11 and 12 and 27) that will be affected by the proposed development to ensure an appropriate record is made of the heritage assets prior to their destruction by the proposed development. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

#### **WASTE and TRANSPORT MANAGER (DCC)**

26th August 2020

Paragraph 8 of the National Planning Policy for Waste and Policy W4 of the Devon Waste Plan requires major development proposals to be accompanied by a Waste Audit Statement. The document submitted with this application is not sufficiently detailed to meet the requirements of Policy W4: Waste Prevention of the Devon Waste Plan.

Within the submitted Waste Audit and Minimisation Statement, the applicant has made an attempt to identify targets for the re-use, recycling and recovery for each waste type during construction, demolition and excavation of the development. However the document is lacking in detail in its current form.

The following points need to be addressed in the statement:

- The amount of construction, demolition and excavation waste in tonnes.
- The type of material the waste will arise from during construction, demolition and excavation
- Identify in more detail targets for the re-use, recycling and recovery for each waste type during construction, demolition and excavation of the development
- The predicted annual amount of waste (in tonnes) that will be generated once the development is occupied.
- Identify the main types of waste generated when development is occupied (If possible)
- Identify measures taken to avoid waste occurring
- Provide detail of the waste disposal method including the name and location of the waste disposal site.

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

## **NATURAL ENGLAND**

26th August 2020

A detailed SuDS scheme, including maintenance and monitoring, is required to maintain the existing hydrological regime of the Tidcombe Lane Fen SSSI and to ensure adequate water quality into the SSSI. Our detailed advice on this and other environmental considerations is provided below.

Nationally Designated Sites

Tidcombe Lane Fen Site of Special Scientific Interest (SSSI). This application is in close proximity to Tidcombe Lane Fen SSSI which is notified for its fen, marsh and swamp communities. Further information on the special interest can be found at [www.magic.gov.uk](http://www.magic.gov.uk). Given the hydrological link of the development site to the SSSI, impacts on water quality and water quantity during construction and operation are likely and, without appropriate mitigation, the proposal could damage or destroy the interest features for which Tidcombe Lane Fen SSSI has been notified.

Natural England's advice is that a detailed Sustainable Drainage Scheme (SuDS), with a planting and maintenance regime, along with a water quality monitoring programme, linked to further mitigation where necessary, is required to address uncertainties associated with nutrient enrichment and removal efficiencies of SuDS features. We are aware of cases where surface water run-off from urban areas close to freshwater wetlands appears to have significantly contributed to enrichment with phosphates and associated problems with eutrophication. There is also evidence to suggest that constructed wetlands have to be managed carefully to ensure that such features effectively remove phosphate in the long term. The maintenance and monitoring strategy for SuDS is therefore a critical element to get right, to ensure that they continue to function properly whilst also optimising benefits for biodiversity. If the monitoring were to indicate that there was an unsatisfactory level of nutrient enrichment discharging from the SuDS, a clear set of interventions would need to be identified beforehand to ensure effective management. Monitoring will need to be done via consultants and appropriate ecological expertise should be sought in developing such a monitoring programme. The SuDS is key in preventing harm to the SSSI and maintenance in perpetuity is vital. The documents suggest a private maintenance company will manage the SuDS. In the event of a maintenance company ceasing to operate, an alternative body must be identified in any strategy to take on the responsibility for management, for example the Local Authority or an NGO. This would provide the LPA with the confidence in the ability of the proposed SuDS to effectively mitigate risks to the SSSI in the medium to longer term. General guidance on the suitability of the Treatment Train components to manage SuDS hazards can be found in the [SuDS Guidance CIRIA 2007](#) (section 5 tables 5.6 and 5.7). Guidance on the design of SuDS for wildlife (RSPB, WWT) can be found online at [www.rspb.org.uk/sustainabledevelopment](http://www.rspb.org.uk/sustainabledevelopment)

#### Suggested Conditions

1. No development should take place until a long-term monitoring and maintenance plan in respect of the SuDS, both during and post construction (water quality and management regime), including a timetable of monitoring, is submitted to and approved in writing by the Local Planning Authority. This should also include details of the options for contingency action should the monitoring indicate inadequate quality of the water leaving the SuDS system and entering the SSSI. Any necessary contingency measures shall be carried out in accordance with the details in the approved plan. On completion of the monitoring specified in the plan a final report demonstrating that all long-term remediation works have been carried out and confirming that remedial targets have been achieved shall be submitted to and approved in writing by the Local Planning Authority.
2. Best Practice Measures for pollution prevention and control must be implemented during construction to ensure there is no risk of contamination or increase in nutrient or sediment load of surface water runoff into ditches and water courses.

These conditions are required to ensure that the development, as submitted, will not impact upon the features of special interest for which Tidcombe Lane Fen SSSI is notified.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as

amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice.

#### Biodiversity net gain

Development provides opportunities to secure a net gain for nature as outlined in paragraphs 170 and 174 of the [revised NPPF2](#) (2019), the Defra 25 year Environment Plan and Mid Devon's [Green Infrastructure Plan](#) (Policy GI/3 biodiversity net gain).

We advise you first to follow the mitigation hierarchy as set out in paragraph 175 of the NPPF and consider what existing environmental features on and around a site can be retained or enhanced before considering what new features could be incorporated into a development proposal. An evidence based approach to biodiversity net gain can help LPAs demonstrate compliance with their duty to have regard for biodiversity in the exercise of their functions<sup>3</sup> (under Section 40 NERC Act, 2006). [Biodiversity metrics](#)<sup>4</sup> are available to assist developers and local authorities in quantifying and securing net gain. Local Authorities can set their own net gain thresholds but the Environment Bill currently sets a 10% threshold. Appendix 14 of the Ecological Impact Assessment (EAD Ecology June 2020) suggests a potential for 33.27% net gain in respect of habitats.

Opportunities for additional enhancement might include:

Providing a new footpath through the new development to link into existing rights of way.

Restoring a neglected hedgerow.

Creating a new pond as an attractive feature on the site.

Planting trees characteristic to the local area to make a positive contribution to the local landscape.

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

Incorporating nest sites for swallow, house martin, house sparrow, swift boxes or bat boxes into the design of new buildings. Their location should provide protection from the elements, preferably facing an easterly direction, out of the direct heat of the sun and prevailing wind and rain.

Incorporating bee bricks into buildings <https://greenandblue.co.uk/product/bee-brick/>

Designing lighting to encourage wildlife.

Adding a green roof to new buildings. The use of alternative roofing (turf, aggregate, brown and green roofs) can make a significant contribution to biodiversity, attenuation of rainfall, and energy efficiency as they can provide a high degree of insulation.

Permeable fencing for hedgehogs

Where sustainable drainage systems are proposed their amenity and wildlife value can be increased with careful design [https://www.rspb.org.uk/Images/SuDS\\_report\\_final\\_tcm9-338064.pdf](https://www.rspb.org.uk/Images/SuDS_report_final_tcm9-338064.pdf)

The use of earth banks and native mixed species hedge as an alternative to close board fencing boundaries where appropriate

The proposed Landscape and Ecological Management Plan (LEMP) which will outline the ecological mitigation and enhancements and long term management should be secured via suitably worded conditions.

#### Local sites and priority habitats and species

The adjacent Grand Western Canal is a County Wildlife Site and Local Nature Reserve. You should consider the impacts of the proposed development on this site in line with paragraph 113 of the NPPF and any relevant development plan policy.

Priority habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. Lists of priority habitats and species can

be found [here](#)<sup>5</sup>. Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. The Ecological Impact Assessment (EAD Ecology June 2020) has identified local sites and priority habitats and species on site and highlights the likely impacts. It sets out measures necessary to mitigate any negative effects and these should be secured via suitably worded conditions.

#### Soils and Land Quality

Based on the information provided, the proposed development comprises approximately 12ha of agricultural land classified mostly as 'best and most versatile' (Grades 1, 2 and 3a land in the Agricultural Land Classification (ALC) system). We consider this application falls outside the scope of the Development Management Procedure Order (as amended) consultation arrangements, as the proposed development would not lead to the loss of over 20 hectares 'best and most versatile' agricultural land paragraph 170 and 171 of the National Planning Policy Framework). For this reason we do not propose to make any detailed comments in relation to agricultural land quality and soils except to advise that if the development proceeds, the developer uses an appropriately experienced soil specialist to advise on and supervise soil handling, including identifying when soils are dry enough to be handled and how to make best use of the different soils on site.

26<sup>th</sup> April

The Flood Risk Assessment (FRA) revision B parts 1 and 2 (AWP 15th October 2020) provides more detail of the surface water drainage strategy layout (Appendix F preliminary drainage layout) which includes a range of SuDS features designed to management the movement and quality of surface water. Your authority should ensure DCC, as the lead local flood authority, is satisfied with the layout and the detail provided.

No reference is made, in the FRA or the draft conditions document submitted, to a maintenance and monitoring strategy, a contingency plan and identifying a backup management body. An appropriately worded condition to cover these aspects must be included in any permission as suggested in our advice of 26th August 2020.

#### **MDDC CONSERVATION OFFICER**

4<sup>th</sup> May 2021

Part of the site is within the Grand Western Canal Conservation Area. Little Tidcombe a Grade 2 listed building which although not within the site abuts it on all four boundaries. The road bridge (Tidcombe Bridge) over the canal on Tidcombe Lane is grade 2 listed. Knightshayes is grade I and its listed park and garden is II\*. "The setting of Knightshayes Park and Garden – A Historic Landscape Assessment" produced for the National Trust in 2007, Tidcombe Hall is referred to as a notable feature in the view from Church Path. I have previously advised consultation with Historic England, The Garden History Society and The National Trust regarding the setting of Knightshayes and its Park and Garden.

Being within the conservation area and the setting of listed building engages the Listed Building and Conservation Areas Act 1990.

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

Section 66 requires that the starting point for the considering of applications which affects a listed building or its setting is the statutory requirement on local planning authorities to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'.

The Court of Appeal has made it absolutely clear that the statutory duties in relation to sections 66 and 72 do not allow a local planning authority to treat the desirability of preserving the settings of listed building and the character and appearance of conservation areas as mere material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a development would harm the setting of a listed building or character or appearance of a conservation area, it must give that harm considerable importance and weight. Finding of harm gives rise to a strong presumption against planning permission being granted. This presumption is a powerful one, but not irrebuttable. It can only be outweighed by material considerations powerful enough to do so.

The NPPF 2019 says that the LPA should require an applicant to describe the significance of any heritage asset affected including any contribution made to their setting. This should be sufficient to understand the potential impact of the proposal on its significance. As a minimum the Heritage Environment Record should be consulted and the building assessed using appropriate expertise where necessary (para 189). When considering the impact of development, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. (para 193). Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification (para 194). Where the proposal will lead to less than substantial harm, the harm should be judged against the public benefit, of the proposal including, where appropriate, securing its optimum viable use (para 196).

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

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

Local plan policies also have statutory weight in the determination of the application. Policy DM25 of the Local Plan Review 2013-2033 states

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

- a) Apply a presumption in favour of preserving or enhancing all 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 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 the impact on the setting and thereby the significance of heritage asset(s)

The applicant has submitted both a Landscape and Visual Impact Assessment and a Heritage Assessment. For the purpose of assessing impact on Heritage Assets I have broken this down into four areas

- Impact on Tidcombe Hall – the alterations to the building, and to its setting.
- Impact on the Conservation Area, other than that part which is Tidcombe Hall and the new access.
- Impact on the setting of the Listed Buildings – Little Tidcombe and Tidcombe Bridge.
- Impact on the setting of Knightshayes group of heritage assets.

Tidcombe Hall is not listed but is a non-designated heritage asset. It is said to be early 19th century with alterations, probably originally parsonage. Tidcombe hall sits within the Grand Western Canal Conservation Area. There is no conservation area assessment and management plan (in a pure heritage sense) for this conservation area.

The proposal is to convert it and the outbuildings into 12 dwellings. The building has suffered due to its previous subdivisions and uses with some poorly considered 20<sup>th</sup> additions. The applicant has submitted concept drawings to illustrate how the building might be converted with these features removed, however they are not detailed and the full impact (both beneficial and negative) were not before us. This was raised by me at a site meeting we had with the applicant last year and the applicant has submitted a statement of intent dated December 2020, in response. This is useful and adds more information on how the building might be developed in such a way to preserve or enhance it in line with statute and policy.

The setting of Tidcombe Hall: At present the access is down a private quite formal drive with trees on both sides, with a large circular drive to the front which is clearly historic. The setting is quite tranquil and undisturbed. The proposal is to form a new access road by enlarging an entrance to the north of the formal drive. This is an historic opening. The new drive will serve all the new dwellings which will run close to the front of the house and cut the circular historic drive which will be lost, and include new housing within the garden to the east, community allotments and an informal parking area. It is assumed that the road will be lit. Pedestrians will use the existing access though the formal gateway. The structural assessment noted that the wall to the north of the existing main access will need to be taken down and rebuilt. This is the section of wall between the two accesses to the site.

I am in agreement that

- the new build and other proposed development to the east of the house within its curtilage can be sited and designed to have a neutral impact on the conservation area, (which should include the retention and rebuilding where appropriate of the northern boundary wall to the house),
- the buildings to the west could be converted (subject to detail) without harm.

This would be subject to your view that we can approve outline consent for what amounts to barn conversions.

What I don't see and was raised at our site meeting was mitigation to protect the views of the parking area which is to the north west of Tidcombe Hall from the canal looking south. There is no wall or formal boundary treatment here. It is noted that the applicants own heritage statement assesses the new access road and informal parking area to have a negligible to minor negative change. However that seems only in relation to the development to the east of the house. The heritage statement does not seem to appreciate the new road line west of the house, stating that it follows the approximately line of the existing access. Instead the plan shows the loss of the historic circular drive to the front of the house, loss of walls adjacent to the outbuildings, and the enlargement of an existing secondary access to the site to be the main access for a large housing estate. I would see the change to the immediately setting of the house to be noticeable changed in terms of physical changes but also impacts on the change of ambiance to that part of the conservation area. I would see the harm here to be minor also.

Turning to the changes to the access onto Tidcombe Lane. It should be noted that these are not held as reserved matters. Approval is sought for the proposal as submitted. I can only find one drawing for this in the original submission which is which is the second page of appendix A of the Transport Assessment. There are three drawings on one page. One is the alterations to the access to Tidcombe Hall. This shows the existing access in light grey and the proposal in block shading over. It is very difficult to compare existing and proposed access arrangements. The most recent submissions support the proposal with an artist's impression. This is despite the applicant being asked for detailed plans of existing and proposed and street elevations of existing and proposed at our site visit.

What can be deduced though is that the existing secondary access will be widened, the wall to the south will be taken down with the possible removal of trees and the access widened (about 2m?) to form a 5m wide estate road. There will be footpaths to the front of the newly altered secondary access and the existing access. The artist's impression shows the walls to the side of the altered access rebuilt, but I suspect misses the lighting, signage, tactile surfaces, kerbs, painted give way lines (all to adoptable standards). There is a clear dislocation between the artist impression and the technical drawing submitted in terms of much of this detail.

Also in the initial Transport Assessment is the proposed changes to the road outside the site in terms of traffic calming. These are within the conservation area, and within the setting of the listed canal bridge. These clearly change the experience of the conservation area and the setting of the listed bridge. I understand that these may have been removed in the new information submitted.

In my view the changes to the access into the site and highways are harmful to the conservation area in terms of the streetscene and the setting of Tidcombe Hall. They noticeably change the conservation area and in my view, on the basis of what we have are slight to moderate in terms of their harm. I would be able to be more certain if I had more complete detailed drawings. I note that the heritage assessment does not comment on this change. Presumably because the scheme has changed since the assessment was completed.

It is for you but I do not see that there is sufficient information in these two submissions to safely grant a consent as I do not see that we would properly know what we are granting consent to, or that we could confidentially enforce these submitted drawings.

Impact on the Conservation Area, other than that part which is Tidcombe Hall and the new access:

The canal runs to the north of the site, and whilst there are trees on the south side of the canal there are views to the land to the south. I am in agreement with the applicant LVIA that these fortuitous views will be protected by the layout shown and that the experience of the canal will not be harmed by the careful development of the houses to the south of it as shown on the masterplan

Impact on the setting of the Listed Buildings – Little Tidcombe and Tidcombe Bridge:

Other than my comments with regard to traffic calming adjacent to the listed bridge, I do not see harm to the setting of the listed bridge from the development as indicated on the masterplan.

Little Tidcombe is a listed farmhouse in the site. I agree with the applicant that the main appreciation of this house from views from it to the north, and gives sufficient space around the building that its experience is not harmed. I do however have concerns about the experience of the historic approach to the farm from the south. This is currently down a narrow private lane through fields. Changes to this which might result in the perception of travelling through a housing estate which approaching the farmhouse would have a harmful effect on the experience and setting of the building. It may be possible to mediate against this effect by retaining and reinforcing the existing hedges and providing new hedges where necessary.

Impact on the setting of Knightshayes group of heritage assets.

I have read with interest the comments of the applicant, the National Trust and Historic England. I am not a Landscape Architect and it seems to me that if the parties cannot agree that it would be best, in this instance, that this matter is evaluated by an independent Landscape Architect.

Summary

The application as amended falls short in terms of the detail submitted with regard to the proposed means of access, a non-reserved matter. Whilst artists impressions are helpful, they are no substitute for accurate drawn and detailed technical drawings. It is also most helpful if the artists impression shows the proposal with a suitable level of detail and it should be true to the technical drawings.

The proposal in my view is harmful to the conservation area in relation to the new access and road across the front of Tidcombe Hall, and the traffic calming shown would be harmful to the setting of the listed canal bridge.

It is for you to consider the planning balance but you should be aware of the case law I have referred to above and the considerable weight and importance that must be given in the consideration of the balance and that the Council must demonstrably show the process of weighing the balance in their decision.

7<sup>th</sup> June 2021-

Thank you for consulting me on the above application and the new information that has been submitted. I have revisited the site in the context of these submissions.

The agent for the application has commented on my comments on the application.

I will respond to these as necessary. I will take each box in turn.

Box 1: Noted

Box 2: My point here is that the heritage assessment appears to be based on an initial scheme which used the existing formal access to the house, not the enlarged secondary access. There is no mention of this in the HEA either way. What was assessed was of negligible to minor negative (harmful) change to the setting of the hall. This is supported by reference to paras 8.26 and 8.27 which only consider views from the canal itself. If I am wrong and it does, then it is still negligible to minor harm.

The agent appears to be stating that the proposed access would not increase the level of harm to the setting of the hall or the conservation area, even though what is proposed is the enlargement of the secondary access which includes removal of walls and other features that relate to the house, and would change the street scene in this part of the conservation area, which are additional to those considered by the heritage statement. It is not clear if this is verbal advice from his heritage advisor or his assertion. If it is his heritage advisor view then the heritage statement needs an addendum to clarify this matter.

The agent refers to the reserved matters stage. Section 4 of the application form states that Access is not a reserved matter, and that approval is sought for the access at this stage. Given that this access is in a conservation area, and that we need to meet our statutory duty to pay special attention to the desirability of preserving or enhancing the conservation area, and that the Court of Appeal requires that we give this considerable importance and weight, it is my view that we should know the detail of what is proposed at this stage. In my view the design and layout stage for the access is now, not later. The Council needs to know the level of harm from the access to consider the planning balance.

The agent brings forward the development is cross funding the repair of the Hall. It is not clear which part of the development or if it is all of it. The applicant may wish to consider if they are intending this to be interpreted as "enabling development" in the formal sense.

Box 3: Means of access have not been reserved for later agreement. The new access is in the conservation area and will change it. A request was made for an elevation from the street, existing and proposed. This will enable the level of harm to be properly considered and indeed allow the applicants professional heritage advisor to give a further view on this part which was not included in the initial assessment.

Box 4: Artists impressions are helpful, but I doubt are enforceable as an approved scale plan. It is one persons interpretation, not a technical drawing. It is noted that drawing No. PHL-102 still states for the new access "*Improved access to development site. Detailed design to be subject to*

*approval through S278 stage*". This would suggest that there are still queries over the precise design as required by the Highway Authority. It is not clear what might change as a result of this caveat. There is no issue that some of the boundary wall is in need of work and that some will need to be taken down and rebuilt. That does not require it to be built in a different position.

Box 5: Noted. The additional uncontrolled pedestrian crossing to the south of the site will be in the conservation area or on the boundary, the gateway feature south of that will be about 20m to the south of the conservation area boundary and present a gateway to the conservation area. This will change the setting of the conservation area. The applicant has offered up no detail of the proposal or analysis of this part of the conservation area. Harm may arise from these proposals.

Box 6: It is accepted there is no conservation area assessment. Conservation staff are currently working on Conservation Appraisal and Management Plans for Cullompton and Bow which are on the National at risk register. The Canal may well come forward early in the priority list for review of our 52 conservation areas.

It has been identified that the existing heritage statement does not consider the alterations to the access and the impact on the conservation area. Para 189 of the NPPF requires that "In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance" This is supported by the Local Plan Policy DM25.

The agent has not done this, and is failing to undertaken the minimum required by the NPPF. He asks the conservation officer to do this.

The conservation area is centred on the canal but takes in buildings and areas which are adjacent to it, which whilst not directly historically associated to it in that they were not operationally part of it, may have affected its route, or are of interests in themselves. Tidcombe Hall appears to fulfil both of these criteria. The street scene, by the access here is largely rural, and is a survival of the historic out of town position of the Hall. The town has moved towards it, but the road position and field boundaries remain as they were on the tithe map, as does the layout of the Hall and its environs. It is possible that the road may have lowered over time, to the south, but it remains level adjacent to the access. The road layout here and the countryside experience and approach to Tidcombe Hall and onward to the canal are part of the significance of the conservation area. It is certainly my view that to insert a modern estate access to serve this many dwellings with footpaths and a controlled junction and other traffic calming will alter the streetscape of the conservation area in such a way that will not preserve or enhance the character of the conservation area at this point.

Box 7: GPA 3 informs us on how to consider the setting of heritage assets. The approach to the building is part of the way we experience this building. The confirmation that the character of the historic approach will be retained is noted.

Box 8: I have commented above that I do not consider that the submitted HEA takes into account the access as now proposed, and therefore did not consider the impact of the altered access to the site on the conservation area. I have seen nothing in the additional information that would change my view that the proposal is harmful heritage assets, other than the clarification regarding the access to Little Tidcombe.

Further comments:

I am also in receipt of a copy of the Review of the LVIA which we commissioned and note the comments made on the submitted LVIA.

I note that the review agrees with my view regarding harmful impact to the south side of Tidcombe Hall and the new access road, and the access to Little Tidcombe Farmhouse, and the lack of assessment of these and other elements within the application.

The review also includes the views from Knightshayes Church Path which I suggested by reviewed by an independent Landscape Architect, where she assesses that level of change is likely to be moderate harmful but suggests further study is required.

She also reviews the viewpoints from the Grand Western Canal (conservation area) towpath.

With regard to that back to the house: Whilst I agree with her view, the potential for harm this was identified pre application and in discussion with the applicant these are intended to remain with eaves heights lower than the wall, with appropriately coloured roofs, and to that end whilst there may be some visibility I feel that there is the opportunity to design here such that there is no harm. Also the boundary wall is in poor condition, and in places rebuilt in concrete block. Discussions were had to rebuild this to match the historic wall and therefore there was a gain. The difficulty here remains in part entertaining an outline application which is in part in a conservation area, with the lack of detail which comes with an outline application. Any consent here would need to ensure these matters are covered in the application or by condition.

As stated above I have revisited the site and took the opportunity to walk along the canal again. I would like to amend my previous comments with regard to the views into the site from the Canal at the east end of the site. The vegetation on the far side of the canal at this point is far more open and allows long views south from the towpath up towards the group of buildings shown on the OS map as Lower Warnicombe. These views of open land to the south is significant to the history and understanding of the conservation area and I would revise my view that the impact on the conservation area here is Slight to Moderate adverse.

I remain of the view that the proposal is harmful to heritage assets as discussed above and in my previous comments to you.

## **HISTORIC ENGLAND**

28<sup>th</sup> September 2020

Further to your e-mail of 8th September, we have reviewed our advice on this outline planning application and would offer these comments on the application in relation to the setting of Knightshayes Court and gardens. In doing so, we have referred to the settings study of Knightshayes produced by the National Trust and also documents provided by the applicant including a Heritage Impact Assessment and Landscape Visual Impact Assessment, as well as information provided from making a site visit.

The application site incorporates, and extends to the east of, Tidcombe Hall, a property which is visible in certain outward views from Knightshayes and its park. The western part of the site has already been allocated as a contingency housing site in Mid Devon District Council's Local Plan 2013-2033, however the area proposed for development extends considerably eastwards beyond that allocation. In the illustrative Masterplan the area immediately to the north and south of Tidcombe Hall is proposed to be green space and it is the eastern area of the site where development is proposed to be built.

From our assessment, it appears that Tidcombe Hall is visible in some distant views from Knightshayes Park, being relatively easily identifiable as a small but distinctive white building standing within a green space. However, given the intervening distance it forms a very small feature within those views and currently appears to be surrounded by a considerable amount of tree cover.

Presuming that the majority of hedgerows and trees in the application site are going to be retained in the scheme (as per the master plan) and that development will not be in the field to the immediate south of Tidcombe Hall (ironically, the contingency site), then it is debatable how much of the housing would actually be visible. Since no photomontages appear to be provided within the application for the potentially most significant Knightshayes viewpoint of Church Path (View 12 within the LVIA), it is difficult to confirm the likely level of visibility from it.

Should the application be approved, then the sense of urban sprawl to Tiverton may extend slightly further to the west because of the development, something that would happen in any case should development proceed on the contingency site, and that change would reinforce urban character rather than agricultural character. However, as a percentage of the overall view perceived from Knightshayes, it would be relatively small.

The best way of ascertaining the degree and extent to which views from Knightshayes would be altered, would be for the applicant to provide accurate photomontage images depicting the development within the context of agreed views. In doing so, it could be independently ascertained whether the change resulting from the development would be of an order that would actually be harmful to the setting of Knightshayes.

However, your Authority will still need to factor in the significance of part of the site being already allocated as a contingency development site, whether the criteria for it being brought forward have been met, and if so, what impact might equally be caused by development of that site.

2nd June- no comments.

## **GRAND WESTERN CANAL JOINT ADVISORY COMMITTEE**

6<sup>th</sup> November 2020-

The GWCJAC (Grand Western Canal Joint Advisory Committee) Objects to this Application and asks the Planning Committee to Refuse the Application for the following reasons;

The GWCJAC is concerned that the proposed development will reduce the area of clear ground available for surface water to percolate into the ground. It's pertinent that a recent Ground Investigation noted by the DCC Lead Local Flood Authority Officer found shallow groundwater within the undeveloped site. If the proposed water mitigation mechanisms fill up during wet weather, a fresh storm with extra rainwater could overwhelm the proposed mitigations, the existing culvert and spill into the canal, threatening its level control and water quality both in the canal and watercourses downhill from the canal. DCC Lead Local Flood Authority Officer, Joshua Lewis, objects to the Application and questions the Developer's use of rainfall data which references a methodology based on a report from 1975. DCC prefers to take notice of the 1999 Flood Estimation Report rainfall data. As extreme weather events have been increasing in recent years, using an assessment method from 45 years ago casts doubt on the validity of the Developer's proposals for managing site run-off. He also notes that the proposed flow controls have small

diameters which have a high risk of blockage. Water from the site passes under the canal in a culvert. The risk of the culvert's being blocked with silt would be particularly high during the Development's construction phase due to earth moving and bare ground. Members are concerned that a lack of ongoing site maintenance of the finished channels and silt traps would increase the need for de-silting the culvert; a hazardous, very costly process that requires specialist equipment and personnel, creating a significant, extra financial burden for the canal.

Disturbance of the protected offside natural habitat. The offside bank between the Development and the canal channel is owned by DCC and managed as a 3 metre wide natural habitat and maintenance strip throughout the Devon section. The flora and fauna and the integrity of the bank here must be protected from interference by the residents. Members have great concerns that the land would inevitably be trespassed upon, to the detriment of its wildlife and the strip's value as a natural backdrop to the canal and its role in screening the development.

Aesthetics; destruction of the rural character of the canalscape. The predominantly rural view to the south from the canal towpath will be changed by, effectively, an urban spread east of Tidcombe Lane. Many local people who regularly walk out from Tidcombe have expressed concern about this Application's proposed change in the canalscape when submitting their Objections.

13<sup>th</sup> March 2021- objections maintained on above grounds.

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

19th August 2020

It is not possible for me to comment in any detail on the Illustrative Masterplan as, at this stage it does not reveal any of the features that would specifically be of concern or interest to the police from a designing out crime, fear of crime, antisocial behaviour (ASB) and conflict perspective. In a development of the size, areas of concern tend to be in relation to defensible space, clear ownership of property including parking spaces, defensible planting preventing conflict with youths and ball games etc., desire lines, and unwarranted permeability allowing potential offenders to wonder unchallenged.

Initial advice and recommendations made in relation to designing out crime, fear of crime, antisocial behaviour (ASB) and community conflict perspective that should be considered through the design of the development.

### **MDDC TREE CONSULTANT**

30<sup>th</sup> April 2021

Summary:

1. Apart from the loss of trees required at the entrance to the site off Tidcombe Lane for the proposed new entrance/access road, the amount of significant tree loss appears to be generally limited and can be compensated for by appropriate new planting within a comprehensive soft landscaping scheme for the site.
2. I am concerned about the proposed access road alignment, in particular in relation to Lucombe oak T165, the road has the potential to jeopardise the immediate health and long-term retention of this important A category landscape tree, which is a high valuable component of the immediate street scene, part of the wider living landscape of historic Tiverton and an important environmental asset with substantial eco-system benefits. The

road layout and the harm to the tree does not seem to have been sufficiently justified, furthermore the suggested mitigation measures may well not be effective.

3. Details of the proposed new road junction and junction improvements should be subject to arboricultural survey and assessment, in order to avoid or mitigate the impacts on adjacent retained trees.
4. A tree protection plan (TPP) should be submitted at the outline planning stage, to demonstrate how the retained tree will be safeguarded to ensure their contribution to amenity in the long term.
5. Outline layout should allow for the retention of TG18

Formal Recommendations: I am unable to support the proposals in their current form, for the above reasons.

3<sup>rd</sup> June 2021-

### **Response to Aspect Arboricultural Response**

The paragraph numbering in this document corresponds with the numbering in my previous comments and to the Aspect response.

3. With reference to the potential impact on T165, the A category Lucombe oak, no evidence or investigation has been submitted to support the amendment to the RPA of the tree or the claim that there will be reduced impact on the roots. Regardless of whether the retaining wall on the north side of the existing driveway may or may not have acted as a partial root barrier, the proposed new access road would require deep excavations of the existing driveway, within approximately 4-5m of the stem of the tree, as the tree is growing immediately adjacent to the driveway and the roots appear to be located under the tarmac the impact is likely to be significant. Moreover, the new access road would likely require a substantial retaining structure or banking on the south side nearest T165, this would further encroach into the RPA and cause additional root damage or disturbance. Furthermore, the proposed route of the cycle/ footpath is within the RPA of the tree on the south side.

Again, it has not been explained why this might be justified in terms of the design and why the new road cannot be routed further to the north away from the T165 and its RPA, to minimise root disturbance.

4. It is acknowledged that the impact of the proposed access road on T171, lime, is likely to be relatively limited, due to less incursion into its RPA and there is apparently less requirement for excavation.

5. With reference to TG18, mixed ornamental trees in the garden to the north of the house, this is considered to be a B.2 category group, according to the criteria in Table 1 of BS5837 2010, while the individual trees may have minor defects/imperfect form this does not detract from their collective value or the amenity they provide., the trees are also screening an unattractive fire escape. With specific reference to the claim there are only limited views of the trees and only in winter and only the top third of the trees is visible, this is at odds with the facts - they are easily visible from long stretches of the canal footpath and from Tidcombe Lane throughout the year- see attached photograph. As a B category group, the trees are considered as a constraint to the development of the suite, moreover, the

retention of the group is not fundamental to the design and would require only modification of the parking area immediately to the west, outside the wall.

6. It appears the Aspect tree plans have now been corrected to reflect the fact that T180, walnut, (not an ash) is growing within the walled garden area, retention of a high value A category tree within a potential domestic garden area will require careful consideration to avoid future conflict with the potential new house, this will influence the location and layout of the adjacent proposed houses.

7. With reference to the potential loss of part of TG15 for car parking, TG15 is the only area of native woodland on the site, and the trees appear generally healthy and to be growing well, as such it would be desirable for the trees (and associated habitat) to be retained, to help support biodiversity. It appears there is sufficient space to the south of the proposed access road for parking that would minimise tree losses in this area.

8. With reference to the veteran oak tree (incorrectly described as a dead tree on the Aspect tree plan) to the east of H11, I would reiterate my previous comments with regard to the importance of veteran trees and the habitats for rare organisms that they contain. While the tree does not affect the layout, being within the open space, it does merit proper assessment and consideration. With sympathetic management to prevent potential catastrophic failure and encourage crown retrenchment it could safely provide a habitat for a diverse array of organisms for many years. Furthermore, it could become a feature of interest within the future open space area. It is noteworthy that the epicormic branches in the lower crown are now bearing plenty of healthy looking foliage (see attached photo) indicating the tree is forming a new lower crown to sustain it into the future.

9. Footpaths running through TG01 and TG04 -irrespective of the footpath layout being described as indicative my previous comments still apply - to avoid significant tree loss these footpaths should be rerouted to avoid these tree groups.

10. Loss of section of H11 and T148, oak to accommodate road network and housing, it is not clear why the removal of the eastern section of hedge and a good quality oak is necessary, it would be desirable and it appears feasible to incorporate these features into the layout, given the amount of space.

11. As previous comments (no objection)

12. As previous comments (no objection)

13. With reference to the Offsite Highway Improvements Plan to Tidcombe Lane (drawing no. PHL-101) produced by AWP, this shows a new junction off Tidcombe Lane to form new access into the site, my previous comments stated concerns over potential impingement on T162. An additional plan has now been prepared & submitted by Clifton Emery Design (Access/entrance plan with survey) from this plan it appears the visibility splay will not require realignment of the existing wall and so T162, oak will not be impacted upon. This addresses my concerns over T162, however there is a proposed foot/cycle path that connects into the site from just south of the proposed new junction, this would impact on the RPAs of multiple trees, notably T165, Lucombe oak, T167, oak, T169, pine, T176, oak,

and T171, lime – all A category trees. While the path location is illustrative it is clear the route of the path will need to be modified and a suitable methodology for its construction formulated that will minimise damage to the underlying tree roots.

14. I previously stated my concerns over the revised junction proposals between Tidcombe Lane and Marina Way and potential impact upon the mature oak trees on the north side of Marina Way, I understand this proposal has now been withdrawn from the outline scheme.

15. It appears there is still no tree protection plan (TPP) submitted as part of the arboricultural documentation. A TPP is required in support of the outline application to demonstrate how retained trees will be safeguarded during site works. A detailed AMS and TPP should be submitted in support of any subsequent RM application.

Summary- The concerns I expressed in my previous comments have not been sufficiently addressed, (other than with regard to T162), mostly notably in terms of the potential harm to T165, the Lucombe oak, it is also desirable that the outline layout allows for retention of TG18.

### **Formal Recommendations**

I maintain an objection to the proposals in their current form, for the above reasons

### **Adopted Local Plan Policies:**

The current development proposal fails to safeguard critical natural assets and meet the principles of the following policies:

Policy S1 Sustainable development priorities

l) Minimising impacts on biodiversity

m) Conserving and enhancing the historic environment

Policy S9 Environment

g) The preservation and enhancement of Mid Devon's cultural and historic environment

## **REPRESENTATIONS**

At the time of writing this report 408 letters of representation (objection) have been received. The key points from these has been summarised below;

Principle of development

1. Building over green field sites in not environmentally friendly
2. Will the market housing be bought by investors to profit from rental sector
3. The development is outside the Tiverton Eastern Urban Extension and is therefore not needed
4. Should not be building during a climate emergency unless absolutely necessary
5. Alternative use suggestions for Tidcombe Hall
6. The new retail unit would have an adverse impact on the town
7. The proposed café would adversely affect existing local businesses. Is there a demonstrated need for another café?

8. The viability of the shop/café is questioned, the growing area set aside for the shop is minimal
9. The local shop at Canal Hill closed due to lack of trade
10. The Tidcombe Hall site is allocated as a contingency site, policy S4 is not yet triggered
11. The allocation bears no relation to the land identified by TIV13
12. The site is not included in the neighbourhood plan
13. Loss of agricultural land
14. Lack of employment opportunities in Tiverton for future residents
15. Something should be done to Tidcombe Hall before it falls down
16. The application should not be considered until the EUE development is completed and any additional housing need can be established
17. Support for redevelopment of Tidcombe Hall building itself
18. The canal is already well served by amenities including café's etc., the development is not needed
19. Should be developing brownfield sites rather than development of greenfield areas
20. Housing need can be met by using vacant properties in the town

#### Transport/highway issues

1. Increased carbon emissions
2. Increased congestion
3. Concern regarding general inadequacy of local road network for both the construction and operational stages of the development
4. There is already frequent delays and congestion in the area, particularly when Canal Hill is closed.
5. Highway safety concerns, particularly in relation to Tidcombe School and associated pedestrians
6. The Transport Assessment is inadequate, including in terms of the timing and locations of the survey work.
7. The Transport Assessment is overly optimistic in respect of the sustainable transport options.
8. The additional traffic will place an unacceptable burden on the local road network particularly given on street parking and the additional traffic at school pick up/drop off times
9. The proposed highway safety improvements are inadequate
10. The application doesn't account for the additional traffic that will arise from the EUE development
11. Tidcombe Lane is narrow and does not have pavements for some of its length
12. Concern regarding safety of cyclists and pedestrians, including the proposed access onto Warnicombe Lane
13. Lack of parking in the area results in cars parked on street
14. The proposed traffic calming would be an eye sore
15. What is the impact of traffic to the new A361 junction
16. What are the safety implications of only having one access to the site

#### Specifically in relation to revised proposals including Traffic Regulation Order (received 6<sup>th</sup> April);

- The surrounding network is unsuitable to accommodate the additional traffic
- It is an injustice to inconvenience local people on a daily business by proposing the closure of Tidcombe Bridge
- The proposals would just move the problems elsewhere
- Would result in air pollution and noise to surrounding areas where traffic flows will increase
- The traffic survey fails to account for additional traffic from the EUE development
- It is unclear which residents to the south of the bridge would be allowed to cross it

- The survey work has been carried out in November when the school was closed and there were restrictions on travel, working from home arrangements etc. so the survey data is not representative
- When Canal Hill is closed all traffic diverts via Tidcombe Lane, what will happen if this isn't an option.
- Support for reducing level of traffic on Tidcombe Lane
- Who will police the ANPR system
- How would pedestrians use the bridge safely given that traffic would still have access
- Has survey work been undertaken on Warnicombe Lane

#### Drainage/flood risk

1. The development will cause flooding elsewhere, local residential areas have suffered previous flood events
2. Concerns regarding the potential for the development to result in the canal embankments being breached again
3. The water from fields above Warnicombe Lane runs onto the site and turns it to a bog, the drainage report does not consider how to deal with this water
4. The attenuation ponds would be at risk of over flowing into the canal or inundating culverts underneath the canal
5. No details have been provided of foul drainage arrangements and location/details of the pumping solution/ back up storage.
6. Concerns regarding risks of pollution to the canal
7. Who would maintain the drainage systems including attenuation ponds
8. Due to the high water table the swales would need to be built partly above ground and would be visually dominant feature from the canal
9. Concerns regarding maintenance of the drainage infrastructure and the existing infrastructure under the canal
10. There are natural springs on the site

#### Design, heritage, visual and landscape issues

1. The development will diminish the attraction of the Grand Western Canal conservation area which is the main attraction of Tiverton
2. The Canal is enjoyed by lots of people and this development would detract from the amenity of the area
3. Negative visual impact from the canal
4. The proposal would detract from grade II listed Tidcombe bridge
5. The LVIA is misleading and downplays the irreversible harm this development will have
6. Concerns regarding loss of ancient hedgerows and trees
7. The development would compromise the setting of Little Tidcombe and Tidcombe Hall itself
8. The proposal should address the lack of housing for wheelchair access
9. The provision of low carbon development should be a given not considered a material benefit

#### Ecology

1. The development will harm wildlife and destroy habitats
2. Noise will adversely affect wildlife
3. The development would result in pollution to the canal and Tidcombe Fen
4. Opening the area to the public (proposed country park) will result in loss of diversity and wildlife
5. The proposed biodiversity net gain is misleading and does not take sufficient account of the adverse effect on wildlife in the surrounding areas

#### Impact on neighbours

1. The construction period would result in significant air and noise pollution

#### Infrastructure

1. Lack of capacity at local schools
2. Concern regarding impact to water pressure for neighbouring residential areas
3. Local sewage facilities nearly at maximum capacity
4. Concerns relating to the pumping solution for management of foul drainage
5. Lack of resource at local services including healthcare, policing

In addition the following representations have also been received:

#### **TIVERTON ARCHAEOLOGICAL GROUP**

At 70 pages the sheer size of the "Historic Environment Assessment" commissioned by the developers from Messrs. AC Archaeology may suggest that it is comprehensive. In fact much of the detail it records is well outside the area where archaeological evidence will (necessarily) be destroyed if this development goes ahead, and the Assessment fails to bring out the historical significance of this site, particularly its significance in the mediaeval and early modern periods. We would like to indicate the archaeological potential of the site itself, and to advocate both that its history needs to be thoroughly explored and recorded before this application can be approved and also that appropriate archaeological investigation should be carried out in advance of construction.

The building now known as Tidcombe Hall is at the centre of this proposal and is integral to the history of the area. Until the reorganisation of Tiverton Parish in the 1880s it was the Rectory for the incumbent of Tidcombe Portion of Tiverton Parish, one of the four portions into which the rural part of Tiverton Borough and Parish had been divided for church purposes since the early Middle Ages. The present building, as the Historic Environment Assessment recognises (paragraph 4.42), dates from 1811 when the Revd. Mr. Rayer was instituted as Rector. The petition for a faculty seeking from the Archdeacon permission to build the new rectory stipulated that he was to build on a site "not more than 15 yards distant" from the former rectory (DRO Faculty Petitions/Tiverton 1). This implies that beneath the present house and grounds there lie the remains of the previous rectory, not merely those of "St Lawrence's medieval chapel" (Assessment 7.2, 8.8; the dedication of the chapel is in fact unknown - it is not clear why the 25 inch Ordnance Survey map should ascribe it to S. Lawrence). Underground passages and an archway have been located under Tidcombe Hall (Assessment 7.2; 9.1); these are as likely to have been part of the previous house as of a chapel and should form the starting point for serious investigation. It is asserted on the authority of an unpublished study by Passmore (2018), that "earlier buildings on the site are therefore likely to have been demolished when the current structure was built" (Assessment 4.42); and that "Tidcombe Hall is considered to be a non-designated heritage asset of low significance" (Assessment 4.43). These assertions are vitiated by the fact that the authors of the Assessment appear to be unaware that the present house of 1811 is on the site of the previous Rectory, a large and important house and not merely on the site of a mediaeval chapel.

For the preceding Rectory was an elaborate structure, even if by 1811 it could be described as "an ancient building, in part decayed and dilapidated". It had been the home of successive generations of the Newte family, a dynasty of considerable local significance who in 1615 provided the first

Town Clerk of Tiverton and were, father and son, Rectors of Tidcombe Portion for most of the 17th and 18th centuries. A glebe terrier (a register of church lands) dated 1601 describes it as "a house and garden walled and moated about", with a walled garden and five ponds, the moat being supplied with water from the hill to the south. It was surrounded by glebelands of over 150 acres (PR Glebe Terriers/Tiverton). This suggests that in the early modern period Tidcombe Rectory was the core of a significant settlement, of which the farm known as Little Tidcombe or Hammet's is a surviving element. The settlement pattern also deserves study; a start might be made by correlating the field names of the tithe appropriation of 1841 with those of the glebe terrier of 1601 and with what survives on, and under the ground.

The history of the Rectory can in fact be traced with confidence further back than 1601. In 1424, the Register of Bishop Edmund Lacy (vol. 1, p. 101) in recording a chapel at the Rectory, mentions that the Dowager Countess of Devon heard Mass there. If she was resident at Tidcombe Rectory rather than in Tiverton Castle, we may surmise that the establishment was elaborate. It is also suggested by the antiquary S. Baring-Gould that the chapel had its own graveyard; if this is true it should make interesting work for the developers' bulldozer drivers. It is not simply, as the Assessment concedes (7.5) "that there is potential for archaeological deposits relating to the former St Lawrence's Chapel to survive within the western part of the site in the vicinity of Tidcombe Hall"; this was in the Middle Ages a settlement centred on a moated residence of substantial significance and it calls out for investigation.

There is also the potential for evidence of prehistoric occupation of this area. Field-walking along the south side of the lower Lowman valley has provided copious prehistoric finds and it is quite possible that the area south of Tidcombe Hall may furnish further evidence from the Neolithic or Bronze Age. It is in the nature of archaeological evidence that one does not generally find it unless one looks, although documentary evidence such as that which survives from the mediaeval and Early Modern periods can suggest to investigators where they might set about looking. In the case of Tidcombe Hall it suggests that further investigation is indicated.

## **RSPB**

We are disappointed to read the Developer's Ecologist's recommendations:

1.10 A minimum of 30 Schwegler Type 1A swift boxes (or similar approved) would be incorporated into new buildings within the site. These would be suitable for use by swift, which is an 'Amber' species of conservation concern, and can also be used by other declining urban species such as house sparrow, which is a 'Red' Priority Species. Boxes would be integrated into the walls of new buildings at a minimum height of 4m, ideally under the eaves or a gable end; the locations of boxes would be detailed in the CEcoMP and relevant construction drawings.

1.11 A further ten Schwegler 1B nest boxes and five Schwegler 2H nest boxes (or similar approved) would be installed on retained trees throughout the site, including within the retained woodland. Approximate locations of boxes on trees would be detailed in the CEcoMP; precise locations would be determined on-site by an ecologist during construction.

We question why one integral swift boxes per six residential units has been specified and wonder if they meet the Governments current Guidelines on making significant biodiversity net gains i.e.:

<https://www.gov.uk/government/news/brokenshire-orders-house-builders-to-protect-wildlife>

<https://www.gov.uk/guidance/natural-environment>

<https://www.endsreport.com/article/1591661/net-gain-guidance-8-things-need-know>

Our current recommendation is an average of one swift/general purpose nest box per residential dwelling and believe that the evidence we are collecting will support this practice.

I have attached a paper submitted to the CIEEM and included in one of their Quarterly Bulletins in 2019 setting out the RSPB's position which we believe will become generally accepted as "best practice" and a monitoring report commissioned by the Duchy on three of their Developments in Cornwall, this project is ongoing and is being expanded to include their other sites in 2020.

The results from the above\* together with non-Duchy projects elsewhere in the Country will be available later this year. We recommend that the number general purpose/swift boxes is increased to 179 and made a condition of the consent if granted. We are not convinced that boxes retrofitted to mature trees are viable as even the most robust have a limited life span, are easily removed and may be liable to theft and/or vandalism. Unless there is a long term agreement to maintain them the new residents should be encouraged to erect and maintain their own!!

We agree integral provision should be made for bats and solitary bees but these should be in addition to the above, the CEcoMP referred to in subsection 1.11 should incorporate them as well as Hedgehog Highways and be included in the condition referred to.

## **WOODLAND TRUST**

The Trust has reviewed the arboricultural survey submitted to support this application, and we note the presence of several trees on site which are of a significant size, including T156. At a girth of approximately 5 metres, T156 falls within the Lonsdale (2013) size guide for determining veteran trees, however there is limited information provided on the characteristics of this tree.

The Ministry of Housing, Communities and Local Government has issued Planning Practice Guidance to support the National Planning Policy Framework (NPPF), and states the following with respect to veteran trees: "Ancient trees are trees in the ancient stage of their life. Veteran trees may not be very old but exhibit decay features such as branch death or hollowing. Trees become ancient or veteran because of their age, size or condition. Not all of these three characteristics are needed to make a tree ancient or veteran as the characteristics will vary from species to species."

Therefore, we would appreciate clarification on why T156 has not been categorized as a veteran tree given its great size.

## **CPRE**

Devon CPRE object to this outline planning application proposal for the following reasons:

- This is a Contingency Site for 100 dwellings under the adopted MDDC Local Plan 2013-2033 and not required to fulfil the 5 Year housing land supply under said Plan.

- Local Plan Policy TIV13-Tidcombe Hall CONTINGENCY SITE states “To be released in accordance with Policy S4.” Para 3.51 states “A key factor is access.” Tidcombe Bridge is very narrow.” Para 3.52 refers to the protection of the water course running through the site and the flood risk.
- Local Plan Policy S4 states at Para 2.32 “However, there will be variation of delivery across years so it is important that action level when the designated contingency sites will come forward will not trigger their release in response to normal variations in completion.” There is no requirement within Mid Devon for this site to come forward at this time and certainly not for 179 dwellings in the Great Western Canal Conservation Area, County Wildlife site and close to Tidcombe Fen.
- Local Plan Policy S10 refers to the protection of Tidcombe Fen, other areas of biodiversity value and green infrastructure, supporting opportunities for enhancement. This application puts this Policy S10 in jeopardy.
- We do not object to the refurbishment of Tidcombe Hall brownfield site, but we object fundamentally to the building of houses on good quality farmland which should be preserved for food production and hence national economic benefit.
- We are quite appalled by the proposed Traffic Restriction Order over Tidcombe Bridge which is an attempt by the developer to ride roughshod over the local community and those who use Tidcombe Lane.

We request that this excessive unwanted application is rejected out of hand

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main issues in the determination of this application are:

1. Policy and principle of development
2. Environmental Impact Assessment Screening
3. Highway, access and connectivity issues
4. Design, low carbon exemplar
5. Impact on heritage assets
6. Landscape and visual impacts
7. Flood risk and drainage
8. Ecology and biodiversity
9. Impact on the amenity of neighbouring occupiers
10. Green infrastructure and public open space
11. Other issues including waste management and planning obligations,
12. Planning balance

1. Policy and principle of development

Policy S1 of the Mid Devon Local Plan 2013-2033 identifies a number of strategic priorities that outline what will need to be achieved to deliver the Vision and address the key issues that have been identified in Mid Devon for the plan period. All development will be expected to support the creation of sustainable communities by (inter alia) a development focus at Tiverton, Cullompton and Crediton as Mid Devon’s most sustainable settlements; promoting sustainable transport; delivering a wide choice of high quality homes through a diverse housing mix and by meeting the housing needs of all sectors of the community; requiring good sustainable design; promoting healthy communities through the delivery of social, educational, recreational and cultural facilities and services, access to high quality open space, public rights of way, recreational trails, accessible land and other green infrastructure, and opportunities for sport and recreation and the designation of Local Green Space; meeting the challenge of climate change; minimising impacts on biodiversity; and conserving and enhancing the historic environment.

Policy S2 states that the housing needs of the district will be met by the provision of 7860 dwellings across the plan period with development being concentrated at Tiverton, Cullompton and Crediton. Policy S3 sets a requirement for 30% of dwellings to be affordable on sites of 6 or more dwellings outside of the main towns. On sites of 20 or more dwellings a required of at least 5% of serviced dwellings plots for sale to self-builders.

Policy S10 states that Tiverton will continue to develop in a balanced way as a medium sized market town serving a rural hinterland in the central part of Mid Devon and to the north. The strategy will maintain its status as the largest urban area in Mid Devon and increase the self-sufficiency of the town and its area by improving access to housing, employment and services for its population and that of the surrounding rural areas. Proposals will provide for approximately 2,358 dwellings, of which 660 will be affordable, and 29,400 gross square metres of commercial floor space over the plan period. The Council will guide high quality development and other investment to:

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

Policy S4 states that the Council will monitor the delivery of housing against the annual target (393 per annum) and against the total completions that should have taken place since the start of the plan period. If cumulative completions since 2013 fall below the expected completions total by over two years' worth of the annual target (as expressed in the defined action level for that year), or a five year supply of deliverable sites cannot be demonstrated, the Council will work proactively to bring forward allocations or outstanding planning consents. If this is insufficient to deliver the necessary level of housing, an identified contingency site will be permitted to boost housing supply.

The application site is located outside the settlement boundary of Tiverton. Policy S14 relates to development outside adopted settlement limits and requires that it will preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. It does not provide support for residential development apart from in relation to affordable and low cost housing to meet local needs, gypsy and traveller accommodation, residential conversion of appropriate existing building, replacement dwellings and housing essential to accommodate a rural worker. It also supports the provision of appropriately scaled retail, employment, tourism and leisure development and community facilities such as educational facilities and buildings associated with public open space.

The site is not allocated for development within the adopted local plan. However part of the site forms part of the area identified as a contingency site by policy TIV13, this includes the area immediately surrounding Tidcombe Hall and the field to the west of Little Tidcombe. The application site does not include the field bordering Tidcombe Lane and Newtes Hill which is

included within the TIV13 contingency policy. The fields to the north, east and south of Little Tidcombe fall outside the contingency policy, totalling approximately 8 hectares of the total application site area.

#### *TIV 13 Tidcombe Hall CONTINGENCY SITE*

*A site of 8.4 hectares at Tidcombe Hall is identified as a contingency site for residential development to be released in accordance with Policy S4, subject to the following:*

- a) 100 dwellings with 28% affordable housing;*
- b) Vehicular access point on to Canal Hill and improvements to Tidcombe Lane northwards from the site;*
- c) Walking and cycling enhancements and connection to surrounding public rights of way and green infrastructure networks;*
- d) Design and landscaping which protects the setting of the Grand Western Canal, Tidcombe Hall and Conservation Areas; and*
- e) Archaeological investigations and appropriate mitigation measures*

The running total of dwelling completions as at year end 2020/2021 was 2922. Whilst this falls below the LPR cumulative target set by S4, 3144, it is above the level at which action is required (2358) to bring forward allocations or outstanding consents. The Council's latest Housing Land Supply Statement (2020) confirms that it maintains a five year housing land supply of 6.27 years. On this basis it is not considered that the trigger for release of the contingency site has been met and there is no requirement for the contingency site to be bought forward to boost housing supply at this stage.

Notwithstanding this, the application scheme is materially different to the contingency site both in terms of its geographical extent and level of development proposed. As such, even if the trigger levels for policy S4 were met, the application scheme would not be considered to be in accordance with TIV13 contingency site policy. It is also not considered to meet with any of the exceptions for residential development in countryside locations would therefore conflict with policy S14. On this basis it is considered that the residential element of the proposal conflicts with the adopted development plan.

The applicant considers that the scheme would help to maximise housing delivery early in the plan period that would overcome perceived issues around the deliverability of larger allocations where reliant on significant infrastructure being in place and potential impacts to housing delivery arising from the current pandemic. The case is made that the NPPF seeks to boost significantly the supply of market and affordable housing and the ability to demonstrate a five year land supply should not be seen as a maximum and should not preclude development coming forward on sustainable sites.

The application seeks to make the case that the proposed "partly allocated" site is preferential to the TIV13 contingency site on the basis that it is less elevated, will have less visual impact and will have less impact on the setting of Tidcombe Hall. However it is noted that the remainder of the contingency site which is not included in this application is not within the blue line of the applicant's ownership. Furthermore it is not clear how development of the application site would implicate the delivery of the remainder of the contingency site, or, if this could be bought forward separately, the cumulative impact of which would need to be considered. The part of this application outside of TIV13 does therefore not appear to be substitute for the remaining area in TIV13, but in addition.

The proposed community uses including shop, café, canal parkland, allotments and orchards are potentially supportable in a countryside location in accordance with policy S14 subject to detailed development management policies. Policy DM23 supports the development of new community facilities providing a local community benefit or environmental enhancement where they are easily

accessible by the local community and well related to a settlement. On the basis that these elements of the scheme would be relatively well related to the existing settlement and proposed residential development, if the scheme were permitted, it is considered that the community elements of the scheme could be supportable.

## 2. Environmental Impact Assessment Screening

The site has been subject to an application for an EIA screening opinion. The Council's view was that the development was not EIA development. This decision was challenged via a submission to the Secretary of State (SoS). The response issued on behalf of the SoS on 9<sup>th</sup> December 2019 considered that the development was likely to have significant effects on the environment and accordingly that the development was EIA development. Following the submission of a technical note to address the concerns raised in respect of the likely effects to Tidcombe Fen SSSI, the SoS amended his view and issued a further screening direction that the development is not EIA development.

Having regard to the comments of the SoS in issuing the screening direction, the application scheme proposed and consultation responses received from statutory bodies it is not considered that there are any material reasons that would indicate the LPA should take a differing view at this stage in respect of whether the proposal constitute EIA development. Taking this all into account, the application has been considered on the basis that it is not EIA development in accordance with the view of the SoS.

## 3. Highway, access and connectivity issues

One of the key principles of policy S1 is to promote sustainable transport by delivering appropriate infrastructure, reducing the need to travel by car, integrating public transport and other forms of sustainable travel such as walking and cycling, and providing safe environments while recognising Mid Devon's rural locality. Policy S10 seeks to enhance walking and cycling opportunities within Tiverton.

Policy DM3 requires that development must ensure safe access to the transport network. Development proposals that would give rise to significant levels of vehicular movement must be accompanied by an integrated Transport Assessment, Travel Plan, traffic pollution assessment and Low Emission Assessment. The traffic pollution assessment must consider the impact of traffic-generated nitrogen oxides on environmental assets including protected sites listed in Policy DM28, and propose mitigation measures where appropriate. The Low Emission Assessment shall include the following:

- a) Assessment of the impact on existing Air Quality Management Areas, or an impact likely to result in the declaration of an additional Air Quality Management Area, in cases where a demonstrable negative impact on ambient concentrations of air pollutants is considered likely;
- b) Modelling of local residual road transport emissions from the development without mitigation measures; and
- c) Onsite mitigation measures to reduce negative impacts on local air quality

The NPPF states that in considering applications for new development it should be ensured that;

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

In relation to highway matters paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Although the site is located outside the settlement boundary of Tiverton, at its western edge it adjoins the settlement boundary. In terms of accessibility to local services and facilities, including public transport, the transport statement submitted with the application sets out that the site would have access to two primary schools, a convenience shop and a bus stop within a 15 minute walk. The contingency site (policy TIV13) identifies the need for walking and cycling enhancements. There is an existing bus service that passes the site, and the closest stop is located approximately 70m south of the site entrance on Tidcombe Lane. This provides frequent (approximately 9-11 per day except Sundays) to the town centre bus station and Petroc.

The application scheme proposes that access to the site would be provided via a new access from Tidcombe Lane at the west of the site. This would be a 5.5m wide carriageway with a 2m footway either side of the access. The proposed footway would run adjacent to the public highway for a distance of approximately 26m at which point it is proposed to provide an uncontrolled pedestrian crossing over Tidcombe Lane. The existing vehicular access point would be retained as a pedestrian access. The new access would achieve visibility splays of 2.4m by 43m. The existing access from Warnicombe Lane would be retained to provide access to Little Tidcombe through the site. Staggered lockable gates will be used to ensure that only vehicles access Little Tidcombe, cycle users and emergency vehicles only can use the access from Warnicombe Lane. It is not intended that general site traffic would be able to utilise the access from Warnicombe Lane.

The Highway Authority in its original consultation response raised concerns with the basis on which the Transport Assessment had been completed and the insufficient level of information provided. Since this time the applicants have provided an addendum to the transport statement which sets out a revised highway strategy for the application. It now proposes to impose a Traffic Regulation Order (TRO) for Tidcombe Lane Canal Bridge to restrict certain vehicular movements. The TRO would operate between Marina Way and the proposed site access with the intention that it would prohibit all vehicular movements except refuse collection vehicles, buses, emergency vehicles and vehicles accessing the existing properties to the south of the Canal Bridge. The TRO would not prohibit pedestrian or cycle movement but is intended to reduce the level of traffic along this stretch of highway and provide an enhanced environment for walking and cycling to link to existing routes in the area.

The addendum statement sets out the survey work that has been undertaken to assess the traffic movements and redistribution associated with the proposed TRO strategy. The survey work established that there would be likely to be a reduction of around 400 movements per day on the highway between Glebelands and Blundells Road. There are currently 1100 vehicular movements over Tidcombe Canal Bridge each day, which would largely be removed through the proposed TRO.

In terms of the redistribution of traffic flows as a result of the TRO, the modelling work suggests there would be an increase of less than one vehicle per minute in peak hours within the Wilcombe Estate area and Blundells Road. The impact to Canal Hill would be more significant at an additional 960 vehicles per day.

The addendum report also considers the capacity of junctions on the highway network, Old Road/ Great Western Way and Blundells Road/ Tidcombe Lane. The modelling demonstrates that the junctions would continue to operate with reserve capacity even in the predicted 2031 baseline scenario with the inclusion of Tiverton Eastern Urban Extension traffic flows, the redistribution of traffic as a result of the TRO and including the proposed development traffic. The Blundells Road/

Tidcombe Lane junction is expected to have a beneficial effect, in terms of the capacity of the junction given the expected reduction in traffic flows resulting from the proposed TRO.

Concerns have been raised regarding the timing of the survey work given Covid-19 implications to travel arrangements. The original survey work was undertaken in 2018, the additional survey work was completed in Autumn 2020. The results of the latest work had a similar but slightly higher traffic count than 2018 and the transport assessment therefore concludes that they are robust and representative of historical traffic conditions despite the Covid-19 situation. The Highway Authority have not raised any concerns in this respect.

The Highway Authority has considered the revised submission and the proposed TRO strategy and does not have any objections to the application on highway grounds although it would require that the TRO restricts all traffic except buses, pedestrians and cyclists. The Highway Authority does not consider that the increase in traffic resulting to surrounding areas would be severe and it is of the view that the proposals would ensure the development provides a safe and suitable access and improved connectivity to the town for pedestrians and cyclists. The Highway Authority has confirmed that in order to mitigate the impacts of the development it would require a financial contribution to enhance the bus service provision in order to improve connectivity for work journeys, it would also seek to secure the provision of a bus stop outside the site, financial contribution towards travel plans, traffic calming scheme and towards the A361 junction scheme.

In accordance with the requirements of policy DM3 the applicant has submitted an Air Quality Assessment report. The report found that there will be a negligible impact on vehicle related air pollutants in the vicinity of the site as a result of traffic from the built out development, and that the proposal will not introduce any new receptors into a poor air quality area because this location does not have poor air quality. An initial low emissions assessment is provided and it is considered that the full detail of this (to be established through the detailed design of the scheme) and proposed mitigation measures could be secured by condition. The report identifies the development as a medium risk for dust soiling effects during earthworks, construction and track phases and a negligible risk during demolition, appropriate dust and pollution control measures should be secured through a construction management plan which can be secured by condition. The Council's Public Health Team have reviewed the report and are satisfied with the methodology and conclusions.

In terms of parking, it is considered that the site is of a sufficient size that parking in line with policy DM5 could be provided and would be considered further at reserved matters stage.

Overall, based on the submitted evidence base and consultation response received from the Highway Authority, it is considered that the proposed development would achieve a safe access to the transport network and is likely to enhance the attractiveness of sustainable travel opportunities in the immediate area. Whilst the proposed TRO would result in increased levels of traffic to surrounding areas of the highway network, the Highway Authority does not consider the impacts to be severe or have an unacceptable impact on highway safety. Whilst increasing the traffic to other parts of the surrounding highway network and limiting movement along Tidcombe Lane will cause some disruption and inconvenience, it is not considered to have a significant adverse impact to the amenities of local residents. Whilst the proposed TRO would also result in some inconvenience to existing road users it is not considered that the alternative routes would be unduly unacceptable such that the impacts to amenities or road users would justify a reason for refusal. Therefore it is considered on balance that the development in terms of the highway and air quality impacts is supportable in accordance with policy DM3.

#### 4. Design, low carbon exemplar

The development is promoted as providing an exemplar, sustainable, ultra-low carbon development. An energy and sustainability strategy is provided in support of the application. The statement sets out a commitment that the new build dwellings on the site (167 units) would be ultra-low carbon, defined as a 75% reduction in CO<sub>2</sub> emissions based on the regulatory baseline or effectively four times better (in CO<sub>2</sub> terms) than current regulations require. At this stage, having regard to the outline nature of the application, the specific details of the emissions saving strategy are not able to be determined but a number of suggested measures are set out and would be tested within the detailed design process. The suggested measures include options relating to fabric insulation standards, efficient heating and hot water management, electrical efficiency, managing behavioural aspects of demand and recovery of waste heat where appropriate. The suggested options include the use of rooftop solar PV panels and individual air source heat pumps for each dwelling. The statement recognises that there may some plots where the ultra-low carbon target cannot be achieved viably and in these cases carbon offsetting could be used (it is suggested that this is limited to 25% of emissions).

Consideration would also be given to improving the efficiency of the existing buildings through their conversion, however this would have to be done within the constraints of the existing construction and building fabric and would likely be comprised by design constraints associated with the sensitivity of the building as a heritage asset. Therefore these dwellings achieved by conversion (12 units) are not proposed to achieve the ultra-low carbon status. The incorporation of energy efficiency measures in respect of the non-residential buildings is also considered and again, would require further assessment through the detailed design stage.

Although the specific details of how the ultra-low carbon status would be achieved are not fully understood at this stage, the applicant suggests that the commitment to demonstrate a 75% reduction in CO<sub>2</sub> emissions is secured by a planning condition that requires submission of a technical report in the form of a predicated Energy Performance Certificate (EPC) and Predicated Energy Assessment (SAP) in line with Standard Assessment Procedure (SAP) 2012 prior to commencement of construction of the development and with a follow up report following completion of any dwelling to demonstrate compliance.

The wider environmental sustainability matters that are stated to have shaped the illustrative plan include dwelling orientation to maximise solar gain; connecting habitats to improve biodiversity; encouraging sustainable transport; opportunities for electric vehicle charging points; multi-functional green corridors incorporating water management. Some of these matters will be considered further in relation to the relevant policy considerations at other sections of the report. The detailed aspects including design and layout of the site are reserved matters and would therefore be considered further at that stage. The illustrative layout and concept strategy has been developed to achieve Building with Nature accreditation.

The Council has declared a 'Climate Emergency' to support the county wide target to make Devon carbon neutral by 2050, with an aim for the District to achieve carbon neutrality by 2030. The NPPF seeks to support the transition to a low carbon future and is generally supportive of proposals that reduce greenhouse gas emissions and increase resilience to climate change. The Local Plan does not have a specific policy requirement for energy efficient levels within new development as this is now regulated through the Building Regulations regime in accordance with government guidance. However, in general the development of low carbon, environmentally sustainable development is considered to be a favourable approach. The climate emergency and intention that the development would deliver an ultra- low carbon development are considered to be material considerations that can be offered weight in the planning balance. This is considered further in section 12 below.

## 5. Landscape and visual impacts, including trees

Policy S9 states that development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets and minimise the impact of development on climate change through;

- a) High quality sustainable design which reinforces the character and distinctiveness of Mid Devon's historic built environment, mitigates and adapts to climate change and creates attractive places;
- b) The efficient use and conservation of natural resources of land, water and energy, minimising pollution and preserving the quality and productivity of the best and most versatile agricultural land wherever possible;
- c) The provision of measures to reduce the risk of flooding to life and property, requiring sustainable drainage systems including provisions for future maintenance, guiding development to locations of lowest flood risk by applying a sequential test where appropriate, and avoiding an increase in flood risk elsewhere;
- d) Renewable energy development in locations where there is an acceptable local impact, including visual, on nearby residents, landscape character and wildlife, balanced with the wider sustainability benefits of renewable energy;
- e) The preservation and enhancement of the distinctive qualities of Mid Devon's natural landscape, supporting opportunities identified within landscape character areas. Within the Blackdown Hills Area of Outstanding Natural Beauty, and within the setting of the Blackdown Hills Area of Outstanding Natural Beauty, and Exmoor and Dartmoor National Parks, the primary objective will be to protect the special qualities of that landscape and its setting;
- f) The protection and enhancement of designated sites of international, national and local biodiversity and geodiversity importance. On both designated and undesignated sites, development will support opportunities for protecting and enhancing species populations and linking habitats. If significant harm resulting from development cannot be avoided impacts should be adequately mitigated. Compensation measures will only be considered where appropriate as a last resort; and
- g) The preservation and enhancement of Mid Devon's cultural and historic environment, and the protection of sites, buildings, areas and features of recognised national and local importance such as listed buildings, conservation areas, scheduled monuments and local heritage assets.

The site is located in relatively close proximity to existing residential development at the edge of the town. Tidcombe Hall sits right at the edge of Tiverton and originally would have been located in the countryside. The boundary of the town is delineated by the canal and Tidcombe Lane which provide a clear divide from the developed edge of the town and the countryside beyond. The site is located within landscape character type 3E (lowland plains) and 3a (upper farmed and wooded valley slopes) of the Mid Devon Landscape Character Assessment which describes this character type as a traditional Devon landscape. The northern part of the site is located in the lowland plains, the special qualities of this landscape are considered to be; highly fertile arable landscape contributing to the agrarian character of the district; notable estates and manor houses which have important visual relationships to the broader landscape and design vistas; wide open spaces with great landscape views; historic interest with archaeology and Celtic settlements; roads follow land contours and complement natural features; valued hedgerows with mature hardwood trees in hedgebanks. The key qualities of the upper farmed and wooded valley slopes are; organic, textured, visually interesting landscape pattern; important ancient woodland and copses; secluded lanes with spares traffic traversing an undulating and often steep landscape; small scale historic settlements and farms; small, picturesque, archetypical 'Devon' farmland.

The application is outline only and the layout, scale, appearance and landscaping are reserved matters and therefore not for approval at this stage. The indicative layout demonstrates how the

development could be accommodated on the site. The design and access statement sets out that the scheme seeks to provide an exemplar low carbon development utilising a landscape led approach. The layout indicates that the development would be concentrated around Tidcombe Hall itself with the new build residential being located in clusters to the east, south and west of Little Tidcombe. The masterplan layout has been developed with a view to achieving accreditation under the 'Building with Nature' scheme. The BWN scheme provides a framework of quality standards to support the delivery of high quality green infrastructure through planning and development. The applicant suggests that the principles set out within the Design and Access Statement, Illustrative Masterplan, Design Principles Plan, Statement of Intent and Public Open Space plan are conditional of the permission.

The application is supported by a Landscape and Visual Impact Assessment (LVIA) to assess the predicted effects of the development. The site has a varying topography but generally slopes from the highest land at the south down towards the canal at the northern boundary with a drop of approximately 27m across the site area. The submitted LVIA concludes that proposed development will have very limited landscape and visual impacts. It considers that the site sits at a lower level in the landscape than the existing residential areas along Canal Hill and benefits from existing screening provided by landscape features. The site is located adjacent to existing residential development and therefore in the wider context would be seen as a continuation of the existing residential character. Based on the submitted indicative layout and the intended high quality, landscape led design approach, the proposed landscape features including orchards and enhanced woodland planting would enhance screening of the development and help to ground it within the wider landscape and the LVIA considers that the site could deliver a high quality new development that successfully integrates with the wider landscape and town itself. Careful placement of buildings and open spaces would be required to preserve existing views in and out of the site to the wider countryside and to enhance the setting of Tidcombe Hall, Tidcombe Farm and the GWC.

An independent review of the submitted LVIA has been commissioned by the Council, the summary and conclusions of this review have been copied below:

*The LVIA provides a suitable methodology for providing a well-substantiated assessment of landscape and visual impacts that would arise as a result of the development, but fails to follow it especially in relation to the effects on landscape resources.*

*The cumulative impacts of the Tiverton eastern urban extension have been conflated with the assessment for the development site making it difficult to evaluate whether and where this would have a substantive effect on visibility or landscape resources. The cumulative impact should be a separate part of the document, with the main development proposal assessed first, followed by an assessment of the impact of both developments taken together so that this can be clearly understood. Cumulative impacts are most likely when viewed from the south and south-west of the site.*

*This review gives an overview of the ways in which the landscape receptors are likely to be affected by the development proposal. The study has not quantified these impacts in the same way that the visual effects have been enumerated, but the conclusion is that the majority of the identified receptors (among which are nationally as well as locally designated heritage assets) would be adversely affected by the development. This is contrary to the findings of the study, which largely fails to provide an assessment of the significance of impact on landscape resources.*

*Within the visual assessment the likely visual impact of the development proposal has been underestimated in 7 of the 17 views given. There are likely to be 5 significant adverse visual impacts as a result of the development proposal. A further five suggested viewpoints have been*

*identified in the course of this review, these would give additional locations close to the site that are likely to be adversely affected by the visual impact of the development proposals.*

*Among the assessed viewpoints in the LVIA, the potential for significant adverse visual affect has been noted on the nationally sensitive view from the listed Knightshayes estate.*

The specific impacts to heritage assets arising from the proposal, including landscape and visual impacts, are considered in section 6 below. However in terms of more general landscape receptors, the independent review highlights 5 viewpoints where significant adverse visual impacts are likely to arise from the development which it considers the effect has been underestimated in the applicant's LVIA. 'Moderate adverse' impacts are predicted in views at Chevithorne War Memorial, Knightshayes Church Path and three viewpoints on the Grand Western Canal. This range of viewpoints highlight the independent landscape architects view that the development would be harmful to the landscape in both long distance and more short range views of the site. The independent landscape architect considers that there are five further view points that should be included within the assessment and without which the extent of visual impact is considered to be under-represented.

The application proposes to provide a new vehicular access from Tidcombe Lane, to the north of the existing opening, utilising an existing secondary gateway access. This would include widening of the existing access to provide a 5.5m road, re-alignment of the stone boundary retaining walls, provision of footways adjacent to Tidcombe Lane across the site frontage, a new gateway feature across the public highway and associated paraphernalia (signage, lighting etc.). The illustrative masterplan indicates that the new road would be routed to the south of Tidcombe Hall resulting in the loss of the historic circular drive and stone walls within the site near to the outbuildings at the west of the site. It is proposed that the existing access gate piers would be retained and would provide a pedestrian access to the site. Whilst it is accepted that the existing boundary walls require some repair/ rebuilding, it is considered that the design, siting and layout of the proposed access would result in harm to the visual amenity and character of the street scene.

The Council's Tree Consultant has reviewed the application and has provided comments in respect of the initial application and following the response from the applicant's arboriculturist. There are a number of trees across the site, some of which are mature specimens that appear to have been planted as part of the original landscaping when the house was built. There are also more recent plantings of numerous individual trees, groups, hedges, shrubberies and wooded areas; several of the mature trees to the south and west of the house are important landscape features and are easily visible from Tidcombe Lane and from the nearby Grand Western Canal towpath. They are considered to make an important contribution to public amenity and to the character of the wider living landscape. The hedgerows surrounding the agricultural fields at the east of the site also contain various tree features including maiden trees, tree groups and sections of hedgerow that have grown into mature native trees. Despite the further information provided, the Council's Tree Consultant has outstanding objections to the application scheme. Whilst it is considered that some of these concerns could likely be overcome through suitable design and layout of the scheme at reserved matters if outline permission were granted, at this stage there remains significant concern with regard to the likely impact to the existing trees on the site.

Of particular concern is the likely impact to the trees at the western boundary of the site arising from the works to form the proposed access. Whilst the layout of the site is a reserved matter, access is sought for the proposed means of access. The submitted information indicates that the proposed access would result in the removal of tree groups TG12 (limes) TG13 (mixed species), TG13.1 (beeches) which are all B category trees. A category A Lucombe Oak tree (T165) is located adjacent to the existing access drive and the proposed new access would be located within the root protection area of this tree. T165 is a high value landscape feature tree. The

Council's Tree Consultant has raised concerns with regard to the likely impacts to the root system of the tree arising from the construction of the new road. In response to this, the applicant's arboriculture consultant is that the existing buttressed wall to the NW of the tree trunk appears to provide a barrier/ partial barrier to root growth, as the tree is located at a higher level than the proposed entrance point, its primary rooting area will be to the south and east of the tree, this reduces the magnitude of the impact of the new entrance and excavations within the root protection area. The Council's Tree Consultant remains concerned with the potential impacts to the root protection area of this tree and particularly the lack of evidence to support the applicant's case that there will be a reduce impact to the roots of this tree. At this stage it is considered that insufficient information has been provided to demonstrate that the proposed access could be achieved without harmful impacts to this category A tree which is of particular concern given the significant positive contribution it provides to the character and appearance of the area and the wider landscape.

Concerns are also raised in respect of tree groups TG18- category B mixed ornamental trees in the garden to the north of the house, TG15- C category native woodland to south of house, H11 and T148- B category hedgerow and oak to east of house. These features are indicated for removal on the tree removal plans. Whilst the detailed layout and landscaping of the site are reserved matters, there remains concern at this stage of the further negative impact to the character and appearance of the area arising from the proposed tree and hedgerow removal as indicated.

There is a large 'dead' oak tree within the field to the east of the site which is indicated within the tree removal plans but is not numbered or recorded in the tree survey data. The applicant's arboriculturist considers that the condition of the tree is so poor that further survey work was excessive, the tree is located in open space and so has no impact on layout but the structural condition is so poor that it is liable to collapse and if access to the site increases it is recommended that the tree should be felled.

Whilst the tree is located in an area that is proposed within the indicative layout to be public open space, it is unclear from the level of information submitted whether the tree would be retained within the layout of the site. The recently received Design Principles plan indicates existing trees in this location "should be retained and enhanced". Based on the arboriculturists response, it appears that there is intention for the tree to be removed given that access to the site would be likely to increase if the development is permitted.

The Council's Tree Consultant considers this tree to be a veteran tree. The government's standing advice in respect of veteran trees states that they are irreplaceable habitats characterised by decay features such as branch death and hollowing that contribute to its biodiversity, cultural and heritage value. The NPPF (paragraph 175C) states that development resulting in the loss or deterioration of irreplaceable habitats (such as veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. The Council's Tree Consultant's view is that "While the tree does not affect the layout, being within the open space, it does merit proper assessment and consideration. With sympathetic management to prevent potential catastrophic failure and encourage crown retrenchment it could safely provide a habitat for a diverse array of organisms for many years. Furthermore, it could become a feature of interest within the future open space area. It is noteworthy that that the epicormic branches in the lower crown are now bearing plenty of healthy looking foliage indicating the tree is forming a new lower crown to sustain it into the future". Despite the concerns raised in respect of this veteran tree, no survey work has been carried out in respect of the arboricultural or ecological value of the tree.

The Woodland Trust have also provided a representation querying the status of a second potentially veteran tree. In this case the applicant has responded to confirm that the tree does not contain any features that would allow categorisation as a veteran tree. The tree is located outside the site boundary and the applicant's arboriculturist has confirmed that it can be retained without negative impacts arising. The Council's Tree Officer has not raised any concerns in relation to this tree.

The submitted agricultural land classification verification study found the site to have a mix of grade 2 (very good quality), 3a (good quality) and 3b land (moderate quality). The verification report sets out that 70% of the agricultural land within the site area (7 hectares) is of grade 2 and 3a best and most versatile agricultural land. Part of the 3a grade land would fall within the site area of the TIV13 contingency site, however the loss of further best and most versatile land for development, the conditions for the release of which have not been met and which falls outside the adopted development strategy is considered to result in some conflict with the aims of policies S1 and S9 in this regard. The NPPF requires that planning policies and decisions should contribute to and enhance the natural and local environment including by recognising the intrinsic beauty and character of the countryside and the wider benefits from natural capital and ecosystems including the economic and other benefits of the best and most versatile agricultural land. The Mid Devon Local Plan (policies S1 and S9) also seek to make the most efficient use of natural resources and preserve the quality and productivity of best and most versatile agricultural land.

#### 6. Impact on heritage assets

The northern part of the site is within the Grand Western Canal Conservation Area. Tidcombe Farmhouse is a Grade II listed building which although not within the site abuts it on all four boundaries. The road bridge (Tidcombe Bridge) over the canal on Tidcombe Lane is grade II listed. Knightshayes is grade I and its listed park and garden is II\*. Tidcombe Hall itself was previously grade II listed, it was de-listed but is considered to be a non-designated heritage asset.

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

Section 66 requires that the starting point for the considering of applications which affects a listed building or its setting is the statutory requirement on local planning authorities to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses

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

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

designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use; and

e) Require developers to make a proportionate but systematic assessment of any impact on the setting and thereby the significance of heritage asset(s).

The impacts to each of the relevant heritage assets is considered in more detail below;

Tidcombe Hall: a non-designated heritage asset, early 19<sup>th</sup> century with alterations, it is located within the GWC conservation area. Tidcombe Hall would originally have been built in the countryside and it is considered that the setting retains a predominately rural character albeit the town has since extended out towards it. The proposed development would change the experience of the setting of Tidcombe Hall with a loss of the countryside setting to that of a residential development. The submitted heritage statement sets out that the scheme has potential to enhance Tidcombe Hall by removing some of the 20<sup>th</sup> century alterations that have diminished its architectural value. At this stage no plans are provided to demonstrate the proposed alterations, the supporting Statement of Intent document provides more information on how it might be developed in such a way to preserve or enhance the building. The submitted structural survey confirms that from a structural perspective the building is suitable for conversion, albeit concerns are raised in relation to the stability of the rear wall and further investigation is required to understand the extent of remedial work required there (it is indicated that this may be significant). Despite the lack of detail, at this stage it is considered that, in principle a scheme could potentially be developed that would enable the building to be converted without harm to its significance as a non-designated heritage asset and could potentially provide an enhancement through a sympathetic approach to its conversion and with removal of some of the unsympathetic alterations/additions that have occurred.

In terms of the setting of Tidcombe Hall, the site is accessed by a private, formal drive with trees on both sides that leads to a circular drive in front of the building. This is considered to be a historic feature which forms part of the designed setting of Tidcombe Hall and provides a positive contribution to its setting. The landscape features of the immediate setting of the building also include the walled garden and Monks Walk to the east. It is considered that the alterations required to provide the proposed access, as described above, would be harmful to the setting of the Hall. It is indicated that the historic circular drive feature would be lost, the loss of this designed feature would be harmful to the significance of the non-designated heritage asset. Furthermore it is considered that the development in the form proposed would detract from the currently tranquil and rural feel of the immediate setting of Tidcombe Hall. The applicant's Historic Environment Assessment considers that the proposed scheme has potential to result in negligible to minor negative change to the significance of Tidcombe Hall. The Conservation Officer has raised concerns with regard to the lack of detail of the proposed new access and the impact arising to heritage assets. Notwithstanding this, having regard to the comments of the Conservation Officer and the Council's Landscape Architect consultant it is considered that the proposed development would result in less than substantial harm to setting of Tidcombe Hall as a non-designated heritage asset.

Grand Western Canal Conservation Area: The northern part of the site is located within the conservation area. The conservation area generally follows the line of the canal and towpath but also extends out to include some adjacent areas including the land around Tidcombe Hall. The alterations to the setting of Tidcombe Hall, as described above, are considered to detract from the significance of the conservation area. In particular the alterations to provide access to the site with associated engineering operations, layout of footpaths, associated street furniture (signage, lighting) and traffic calming are considered to result in harm to the street scene of Tidcombe Lane and the conservation area.

The experience of the conservation area is also gained from the towpath which is a well-used recreational facility as the canal is also designated as both a Country Park and a Local Nature Reserve. The part of the canal adjacent to the site is where it moves out of the town and into the countryside. The Council's Landscape Architect consultant considers that the development would result in moderate adverse impacts within views from the Canal. The extent of the harm in terms of the experience from the canal would be dependent on the detailed design of the scheme, particularly in terms of the height, scale and design of development within the walled garden of the hall. Further east along the canal there are some open views to the site across the rising topography towards the properties at Lower Warnicombe which are clearly visible from the canal. The proposed residential development would change the experience of the canal from views of open countryside to that of a developed residential area. It is proposed that the area closest to the canal would be a new canal parkland and it is considered that this would help to reduce the harm arising however it is still considered that the change in character from a rural nature to that of the proposed residential development would be harmful to the experience and setting of the conservation area.

Tidcombe Farmhouse: Grade II listed farmhouse which the site surrounds. The property is accessed via a private lane from Warnicombe Lane at the south of the site. The property and its associated outbuildings are generally well enclosed by existing hedgerows. The Historic Environment Assessment identifies that the provision of residential development within the setting of Tidcombe Farmhouse has the potential to result in 'negligible negative change'. The Conservation Officer has raised concerns with the experience of the historic approach to the farm via the access from the south. Changes to this which might result in the perception of travelling through a hosing estate to approach the farmhouse is considered to have a harmful effect on the experience and setting of the building. The Conservation Officer's view is that it may be possible to mediate against this effect by retaining and reinforcing the existing hedges and providing new hedges where necessary.

Tidcombe Bridge: Grade II listed road bridge over the canal, located to the north west of the site. Since the previously proposed traffic calming measures have been withdrawn from the scheme, the Conservation Officer has not raised concerns with regard to the impact upon Tidcombe Bridge. The LVIA review carried out on behalf of the Council, considers that there may be harm to the setting of the bridge arising from the proposed new access to the site. The proposed new access would be visible from the bridge in views up the hill towards the main entrance of Tidcombe Hall. The alterations to provide the proposed access would be noticeable in these views. It is considered that the significance of the listed bridge is mainly derived from its fabric and its function. Given the distance from the listed bridge and the orientation of the proposed access in relation to it, it is considered that the likely level of harm would be negligible.

Knightshayes Court, park and gardens: grade I listed building and grade II\* registered park and gardens are located 2.45km northwest of the site. "The setting of Knightshayes Park and Garden - a Historic Landscape Assessment" produced by the National Trust (2007) identifies that Tiverton forms part of the setting of the registered park and gardens. The view from Church Path is considered to be a historic view from Knightshayes. The assessment states that from Church Path the view stretches to Warnicombe and that the neighbouring gentry house, Tidcombe Hall, remains a notable feature in this view. Tidcombe Hall, Tidcombe Farm and Lower Warnicombe are still visible within this view. The applicant's Historic Environment Assessment considers that the development is likely to be visible at a distance within key views from registered park and gardens at Knightshayes but that this would represent a small change to an area of agricultural land within these long distance views, the assessment therefore predicts no change to the significance of the grade II\* Registered Park and Gardens. The applicant's LVIA considers that if the site is delivered in accordance with the illustrative masterplan and depending on detailed design matters such as the material, colour and heights of the buildings, the development will have a 'minor neutral' impact

to this view. The National Trust has raised concerns regarding likely harm to the setting of Knightshayes, in particular the parks and gardens. Historic England has suggested that further assessment is carried out (photomontages of the development from Church Path) to ascertain whether there would be harm arising to the setting of Knightshayes. The applicant has not sought to provide the further information at this time to enable further assessment of the impact in accordance with Historic England's advice and considers that the likely impact will be minor and details can be dealt with through reserved matters applications. The Council's Landscape Consultant considers that it would be beneficial for further study to be carried out in respect of the viewpoint from Church Path but on the basis of the information provided considers the impact of the view to be underestimated and it is their view that the impact would be moderate adverse.

A number of other heritage assets have been identified in the study area by the submitted Historic Environment Assessment. However having regard to their siting and relationship to the site it is considered unlikely that the proposed development would impact on the character, appearance, setting or significance of those assets and therefore it is not considered necessary to further consider these assets in this report.

In terms of archaeology, desk based assessment and field evaluation have been undertaken which highlight two areas of archaeological interest on the site: an area of Romano- British activity on the western side and an undated pit feature near the southern edge. Following this additional site investigation work the DCC Historic Environment Team has withdrawn its objection and advises that the impacts to archaeological resource on the site should be mitigated by a programme of archaeological work to investigate, record and analyse the archaeological evidence found on site. It is recommended that this is dealt with by way of a condition and on this basis it is considered that the impacts of the development to archaeological resources would be appropriately mitigated.

To summarise, it has been identified that the proposed development is likely to result in harm to designated and non-designated heritage assets as outlined in the assessment above. In the context of the NPPF and policy DM25, the harm that has been identified is considered to be "less than substantial", this harm must be given considerable importance and weight. In accordance with the NPPF tests (paragraph 196) the harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. This is considered further in the planning balance section below.

## 7. Flood risk and drainage

The site is located entirely within flood zone 1 (lowest risk of flooding) and therefore is not considered that the development would be at significant risk of flooding.

The local plan requires provision of sustainable drainage systems including their future maintenance. Development should avoid an increase to flood risk elsewhere.

The Lead Local Flood Authority (LLFA) originally objected to the application on the basis that insufficient information had been provided to demonstrate that all aspects of the surface water drainage management plan have been considered. A revised flood risk assessment was received on 6<sup>th</sup> April 2021, as a result the LLFA have withdrawn their objection.

Apart from the area immediately surrounding Tidcombe Hall, the site is largely formed of undeveloped agricultural land. It is understood that drainage from the existing developed area is conveyed to two drainage outfalls and then via ditches towards an existing culvert which back drops beneath the canal. The remainder of the site drains as a typical greenfield site with run off soaking into the ground and following natural topography towards the northern boundary. There is

an existing ditch at the edge of the canal which intercepts this run off and backdrops it under the canal. This culvert emerges as an ordinary watercourse to the east of Rippon Close and then flows through the Tidcombe Fen.

Investigation of the ground conditions has confirmed that infiltration methods would not be viable on the site. The proposal is to utilise an attenuated system which would discharge to surface water. Hydraulic controls would be used to restrict the peak rates of discharge to greenfield rates and seek to provide a further 10% reduction to generate additional capacity within the downstream culverts. Run off generated from the redevelopment of the Tidcombe Hall area (referred to as catchment A) will drain to a belowground geo-cellular attenuation tank with hydraulic control to limit discharge rates to equivalent greenfield rates. The Flood Risk Assessment considers that this would offer a significant level of betterment to the current arrangement and reduce flood risk within the downstream catchment. Run off from catchment B (western extent of greenfield area) and catchment C (eastern extent of greenfield area) will drain through private and adopted sewers to a pair of conveyance swales which will convey run off either side of Tidcombe Farm/Little Tidcombe before discharging to two attenuation ponds in the north of the site. All the attenuation features will be designed to have sufficient capacity to accommodate runoff in a 100 year storm event including allowances for climate change, in accordance with guidance with the NPPF. The discharge from the eastern pond will discharge to an existing on-site ditch and from the western pond would discharge to a ditch located within the offside buffer of the canal. Both of these ditches discharge to an existing culvert under the canal. Flow restrictions and surface water treatment (silt control) are proposed to reduce the adverse impacts of silt accumulation within the existing culverts. Various stages of SUDs across the site would offer treatment to water quality through filtration and sedimentation. The scheme also proposes to include an area for a temporary bund (or permanent landscaped bund feature) to provide bunding for culvert de-silting purposes and therefore facilitate future maintenance of the culvert under the canal.

In light of the revised Flood Risk Assessment the LLFA has confirmed that it has no in-principle objections to the development subject to a pre-commencement condition to require a detailed drainage design to be submitted for approval in addition to details for managing drainage during the construction phase, maintenance measures and details of how exceedance flows would be safely managed.

It is proposed that foul drainage would connect to the mains system and two potential connection points have been established. An adoptable foul pumping station is proposed to receive gravity connection from the development and then pump to the mains network. This is considered to be acceptable in accordance with DM1.

Overall, having regard to the advice of the LLFA it is considered that the proposal is not likely to raise any concerns in respect of flood risk and the drainage from the site can be managed to prevent increased risk of flooding elsewhere. Subject to detailed design of the drainage strategy, which can be secured by condition, it is not considered that the scheme is unlikely to result in any unacceptable impacts in terms of flood risk and drainage considerations.

## 8. Ecology and biodiversity

Paragraph 175 of the NPPF states: *“When determining planning applications, local planning authorities should apply the following principles:*

*a) 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;*

*b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*

*c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and*

*d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.”*

Policy DM26 states that major development proposals must demonstrate that green infrastructure will be incorporated into the site to provide biodiversity mitigation, resulting in a net gain in biodiversity. In respect of protected sites, DM28 states that

*Where development proposals would lead to an individual or cumulative adverse impact on Sites of Special Scientific Interest, ancient woodland, ancient trees, Regionally Important Geological Sites, County Wildlife Sites, Local Nature Reserves or priority habitats defined under the UK and Devon Biodiversity Action Plans, the Council will balance the overall benefits of the proposal against the impact. Sufficient information must be provided for the Council to assess the significance of the impact against the importance of the protected site and the species which depend upon it. Planning permission will be granted where:*

*a) The benefits of and need for the development clearly outweigh the direct and indirect impact to the protected site and the ecosystem services it provides;*

*b) The development could not be located in an alternative, less harmful location; and*

*c) Appropriate mitigation measures have been put in place. Where mitigation measures are not possible compensatory measures in some cases may be considered appropriate.*

An Ecological Impact Assessment (EclA) is submitted in support of the application. The Grand Western Canal Country Park adjacent to the northern edge of the site is a local nature reserve and a county wildlife site. Tidcombe Fen located approximately 0.3km away is a Site of Special Scientific Interest (SSSI). The EclA identified the presence or likely presence of a number of protected and notable species of plants and animals across the site.

The development of the site, without appropriate mitigation, could lead to pollution affecting water quality of the GWC and the Tidcombe Fen SSSI. An appropriate SUDs scheme would prevent any post constructions water quality effects to these sites. The Natural England consultation response also highlights the importance of ensuring impacts to water quality and quantity during construction to prevent adverse impacts to these protected sites. Natural England advise that this matter is dealt with by way of a condition requiring long term monitoring and maintenance of the SUDs system and contingency measures to address water quality issues if necessary. On this basis it is considered that the interest features of Tidcombe Fen SSSI and the GWC is capable of being safeguarded from adverse impacts to water quality arising from the development via conditions.

The site contains a variety of potential habitats including existing buildings, semi-improved grassland, amenity grassland, semi-natural broad leaved woodland, hedegrows, a pond, scattered trees, arable fields, wet ditches and a stream. The development of the site would result in the loss

of some habitats and without mitigation the development would reduce habitat areas for protected species and may also have direct impacts through disturbance, injury etc.

The site survey and desk based review recorded various protected and notable species of plants at the site and within the study area.

The presence of Brown Hairstreak butterfly (priority species) was assumed on site. A neutral effect is predicted subject to inclusion of appropriate habitat creation through the landscape proposals.

The site provided potentially suitable breeding habitat for amphibians. The pond habitat is proposed to be retained and safeguarded during construction. Habitat manipulation is proposed to minimise risk during site clearance and the development would create new habitat including within SUDs features. A positive effect at sub-parish level is predicted in the medium- long term.

A low population of slow worms and grass snake were recorded on site, the field margins were considered to provide suitable reptile habitats. Habitat manipulation is proposed prior to site clearance to reduce risk of direct injury. New reptile habitat is proposed to be incorporated within the landscaping of the site. A positive effect at sub-parish level is predicted in the medium to long term.

Various features on the site provided suitable foraging and nesting habitats for birds. Active Jackdaw and Swallow nests were recorded in the loft space of Tidcombe Hall and its outbuildings. Clearance of the likely nesting habitats would take place outside main nesting seasons or subject to pre-clearance checks by an ecologist. Nest boxes are proposed to be provided within new buildings and retained trees. A neutral effect is predicted in the medium to long term.

Hazel dormouse nests were recorded on site and are assumed to be present within the native hedgerows and woodland. Habitat clearance would be undertaken in accordance with a NE mitigation license. Habitat creation and provision of dormouse boxes is proposed.

The stream and ditch were considered to offer suboptimal habitat for otter but may occasionally be used by dispersing otters. Direct effects from construction and lighting is proposed to be mitigated such that the predicted effect is neutral.

Evidence of a badger sett and activity was found on site. It is proposed that this would be closed under a Natural England license if likely to be affected by construction activities.

The presence of hedgehog and brown hare were assumed given the availability of suitable habitat. The loss of arable land would reduce the habitat on site for brown hares but this impact is not considered to be significant. An adverse impact to hedgerows is likely, removal of hedgerows and scrub will be undertaken under supervision of an ecologist to check for hedgehogs and mitigation is proposed through the creation of hedgehog passes within new garden fences to enable them to move between new habitats on the site. A neutral effect is proposed in the medium to long term.

There is confirmed presence of a day roost for common pipistrelle bats in the roof of Tidcombe Hall and an outbuilding to the west. Also, a day roost used by 1-2 lesser horseshoe bats and individual brown long eared bats in the garage under Tidcombe Hall. The activity surveys recorded at least 10 species of bat, with high/ moderate high levels of activity in close proximity to Tidcombe Hall and woodland at the west of the site, along the northern boundary with the canal and alongside a hedgerow with trees at the east of the site. The report states that the survey work indicates that habitats within the site are used for regular commuting and occasional foraging by barbastelle and lesser horseshoe activity associated with the roosting in the building. The three registrations of greater horseshoe bats are considered to indicate that the site is unlikely to

constitute a regular commuting route or important foraging habitat for this species. The development would require a NE mitigation license. The proposed mitigation is likely to include replacement roost provision and additional bat boxes. A detailed lighting design would be proposed to minimise impacts to bats including areas around the edge of the site to be kept 'dark' (less than 0.5lux).

It is proposed that detailed measures to mitigate impacts to habitats and species would be set out in a Construction Environmental Management Plan (CEMP) and Construction Ecological Management Plan (CECoMP) which could be secured through condition. The suggested mitigation includes general best practise measures such as protection for retained habitats during construction, site clearance, timing of works, sensitive lighting scheme, pollution prevention and method statements for management of invasive species.

A biodiversity net gain (BNG) assessment has been undertaken and the development has potential to provide a net gain of 33.27% in respect of area habitats (i.e. excluding linear features), this would be further detailed through the layout and landscaping of the scheme at reserved matters stage. At this stage a BNG assessment has not been undertaken in respect of the linear habitats (hedgerows and streams) however the ecologists report considers that based on the loss of approximately 390 linear metres of native hedgerows, creation of an equivalent length of new species hedgerow on Devon hedgebanks plus enhancement of all retained hedgerows would deliver a 10% net gain. Enhancement of retained stream habitats (140m) is also considered to deliver a 10% net gain. The ecologist considers that it would be possible, given the extensive areas proposed for public open space, to deliver the net gain requirement at reserved matters stage.

It has been identified that the development would require European Protected Species License. Under The Conservation of Habitats and Species Regulations 2017, Mid Devon District Council, as the competent authority for the purposes determining this planning application, has a responsibility for applying the 'three tests' as set out in Section 55 of the Regulations to determine the likelihood of a license of being granted by Natural England.

The tests are as follows:

- the activity is for a certain purpose, for example it's in the public interest to build a new residential development
- there's no satisfactory alternative that will cause less harm to the species
- the development does not harm the long term conservation status of the species

#### Imperative Reasons of Overriding Public Interest (IROPI)

The guidance provided by Natural England recognises that each development proposal is unique and impacts on protected species will vary considerably. In respect of this test, the regulations include those of a social or economic nature and beneficial consequences of primary importance for the environment.

The development falls outside the planned residential growth for the town and does not meet an identified housing need that is not expected to be met by the adopted local plan strategy. Circumstances for the release of the contingency site for development are also not considered to have been met. On this basis it is unlikely to be considered to satisfy the IROPI test. However if Members were minded to grant planning permission, they may wish to also consider whether there are benefits of the scheme in relation to the IROPI test.

### No satisfactory alternative

In respect of bats it is considered that there are unlikely to be any alternatives to achieving the development of the Tidcombe Hall (and outbuildings) which generate the requirement for the license.

It is considered that, if the site is to be developed, the loss of some areas of hedgerow is likely to be unavoidable and therefore it is unlikely there would be any satisfactory alternative. The loss of hedgerow should be minimised through the detailed layout of the scheme if outline permission is granted.

### No harm to the long term favourable status of conservation

The accompanying ecology report suggests mitigation measures to safeguard the long term conservation status of the species would be subject to further detailed mitigation plans in the form of a CEcoMP.

#### 9. Impact on the amenity of neighbouring occupiers

The NPPF indicates that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. This is reflected in policy DM1 which sets out that new development should respect the privacy and amenity of neighbouring residents.

Given the degree of separation to neighbouring properties which could be possible given the size of the site it is not considered that the proposals would be likely to result in any significant overlooking of any occupier of a neighbouring property. The indicative outline indicates that residential development would be provided towards the southern edge of the site in relatively close proximity to the existing properties on Warnicombe Lane. Whilst the layout, scale and appearance of the development would be considered further at reserved matters stage, it is considered that an acceptable relationship could be achieved with those existing properties and at this stage to be in accordance with policy DM1 of the Local Plan. Were outline planning permission to be granted, a further assessment would be made at reserved matters stage when layout, design and appearance details of the proposed development would be available for consideration.

The application is at outline stage only and therefore there are no details in respect of the layout, design or scale of the proposed dwellings however it is considered that a suitable level of amenity for properties surrounding the site could be achieved through appropriate siting and design of the proposed development.

#### 10. Green infrastructure and public open space

Policy S5 requires developments of this size to make provision for play space, amenity/natural green space and allotments on site. Financial contributions would be sought to deliver park, sport and recreation ground provision and teenage facilities off site and are calculated in accordance with the Open Space and Play Area Strategy. Play space, amenity/ natural green space and allotments are generally expected to be provided on site for a development of this size.

The application indicates that the proposal would provide a total of 6.05 hectares of public open space including 2.34 hectare community canal parkland. The public open space across the site is proposed to provide native parkland tree planting, community shelter, allotments, trim trail, natural play area and wild flower meadow. The attenuation features would also be included in the open space areas. It is considered that the scheme could provide on-site open space in excess of the

minimum requirements of S5 for allotments, amenity/natural green space and play space. The areas of green infrastructure is likely to provide additional benefits such as achieving the intended building with nature accreditation standard and deliver net gains in biodiversity. In this respect it is considered that the application proposal could provide, subject to detailed considerations in respect of the site layout, appropriate green infrastructure and public open space on site to address the requirements of policies S5 and DM26. The application suggests that all the policy requirements for public open space would be met by on site provision. At this stage it is not clear how provision for 'park, sport and recreation ground' and 'teenage facilities' would be met. Policy S5 sets out that provision for these types would normally be provided off site for a development of this scale. On this basis, a financial contribution would be required to secure off site provision of park, sport and recreation ground provision and teenage facilities in accordance with policy S5 and the Open Space and Play Area Strategy. At this stage the financial contribution has not been secured. In the event that members are minded to recommend approval of the application, and if a suitable project for public open space is identified in accordance with the Council's S106 governance arrangements, then this could be secured through a legal agreement.

#### 11. Other issues including waste management and planning obligations,

Education: DCC as the Education Authority have requested financial contributions to provide additional infrastructure to increase the capacity of primary and secondary infrastructure in the town in order to meet the increased demand from the development in accordance with the Education Infrastructure Plan 2016- 2033. DCC consider that the development is likely to generate an additional 44.75 primary pupils and 26.85 secondary pupils. The contributions requested are £51,354 towards increasing primary school capacity, £226,278 towards secondary school provision and £44,750 towards early years provision. A contribution of £92,323 is also sought towards special educational need, this is based on the DCC S106 Infrastructure Approach which identifies that approximately 1.5% of the school population requires specific education needs provision, which in respect of the proposed development would equate to 1.07 pupils. The total contributions to provide necessary infrastructure to mitigate the impacts of the development to education facilities is therefore £414,885.

NHS: The Royal Devon & Exeter NHS Foundation Trust has identified a need for a financial contribution towards the gap in the funding created by each potential patient from this development. They advise that due to the payment mechanisms, constitutional and regulatory requirements the Trust is subject to, it will not receive the full funding required to meet the healthcare demand due to the baseline rules on emergency funding and they go on to advise that there is no mechanism for the Trust to recover these costs retrospectively in subsequent years. Without securing such contributions, the Trust advises that it would have a direct and adverse impact on the delivery of health care in the Trust's area. The Foundation Trust has outlined a contribution of £236,399.00 which would be used directly to provide additional health care services to meet patient demand.

The NHS Devon Clinical Commissioning Group (CCG) has also identified that the development would place additional demand on surgeries within the catchment area (Castle Place, Samford Peverell and Bramblehaise Surgeries). It identifies that the development would increase the population and there expected patient list by 417 people. This generates an additional space requirement of 31.98sqm and therefore a requirement of a contribution of £102,321 to mitigate pressures on local health care facilities.

If members are minded to recommend approval these contributions could be secured through a S106 agreement provided that it is considered that the contributions meet the tests as set out under the CIL Regulation 122 and 123 legislation which states that planning obligations must:

- (a) necessary to make the development acceptable in planning terms;

- (b) directly related to the development; and
- (c) fairly and reasonable related in scale and kind to the development.

Waste Management: The supporting text of policy S1 sets out that development proposals must accord with sustainable waste management principles in accordance with Policy W4 of the Devon Waste Plan. Waste and Transport Manager (DCC) response considers that the application is not sufficiently detailed to meet within the requirements of policy W4. Policy W4 requires consideration of the amount of the construction, demolition and excavation waste; targets for re-use/ recycling and recovery of waste; predicted annual amount and type of waste once development is occupied; waste reduction measures; details of waste disposal methods. Although there is insufficient information at this time in respect of the waste implications of the development, it is considered that this matter could be dealt with by condition to require the submission of a detailed waste audit statement at reserved matters stage.

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

## 12. Planning balance

The application site is located outside the settlement boundary of Tiverton and within the countryside. Policy S14 of the Mid Devon Local Plan 2013-2033 requires development outside settlement limits to preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. The scale and nature of the proposed residential development would not be permitted in accordance with criteria a of S14. The site partly falls within the area of land identified as a contingency site by policy TIV13. The Council considers it is able to demonstrate a five year housing land supply. The delivery of housing across the district is considered to be in excess of the action levels identified by policy S4 such that the release of the contingency site is not warranted and the additional site area outside the TIV13 area for the proposed residential development is considered to conflict with the adopted development plan strategy.

It is considered that the development is likely to result in harm to designated heritage assets including the Grand Western Canal Conservation Area, Tidcombe Farm, Tidcombe Bridge and Knightshayes Registered Park and Gardens. The proposed development would not preserve the character or appearance of the conservation area or the setting of these listed buildings. Furthermore whilst the conversion of Tidcombe Hall could secure an enhancement to the appearance of the building itself, it is considered that the development is likely to result in harm to the setting of Tidcombe Hall. The harm to heritage assets must be given considerable importance and weight.

The Council's Landscape Consultant has raised concerns with the submitted LVIA and considers that the development is harmful to the character and appearance of the countryside. Concern has been raised with regard to the lack of information in respect of the likely impact to the high value category A landscape tree (T165) at the access, in terms of the veteran tree on the site and the level of proposed tree/ hedgerow removal across the site. Having regard to the concerns raised and the submitted information, it is considered that it has not been demonstrated that the proposed access could be achieved without harmful impacts to this category A tree which is of particular

concern given the significant positive contribution it provides to the character and appearance of the area and the wider landscape.

Having regard to the comments received from the Highway Authority it is considered that the development is not likely to result in any unacceptable impact to the highway network from a safety or capacity perspective. It has been demonstrated that drainage from the site can be managed to prevent increased risk of flooding elsewhere and to prevent adverse impacts to water quality in the Tidcombe Fen SSSI.

The submitted ecology appraisal demonstrates that harmful impacts to protected species can be mitigated such that a neutral or positive impact is predicted in the long term, the exceptions to this being in respect of badgers and brown hare. The negative impact arising from the loss of habitat for these species is not considered to be significant. It is indicated that the scheme could provide a biodiversity net gain of 33% for area habitats and 10% for linear habitats.

The scheme would provide a boost to housing supply, including 53 affordable units, however having regard to the current five year housing land supply position and housing completions across the district and the conflict with the adopted local plan, it is not considered that this would carry significant weight in the planning balance.

It is proposed that the scheme would provide an exemplar low carbon development. The Council has declared a climate emergency and this is considered to be a material planning consideration. The approach to development being low carbon is generally supported in the interests of wider environmental sustainability objectives, albeit the energy performance of new dwellings is now controlled by the Building Regulations regime. It is the officer view that the proposed low carbon characteristics of the scheme would not carry sufficient weight to override the identified conflict with the development plan relating to the provision of new residential development on this site.

The proposal would provide some public benefits including the provision of a new canal parkland area and community facilities. Furthermore the development would provide some employment during the construction period. These factors can be offered some weight in the planning balance.

At this stage, appropriate obligations have not been secured to mitigate the impacts of the development to public open space provision, education and healthcare (NHS) infrastructure although it is recognised that these concerns could be overcome through the submission of a legal agreement.

Overall it is not considered that the public benefits of the scheme would outweigh the identified harm to heritage assets therefore planning permission should be refused in accordance with policy DM25 and government advice in the NPPF. Furthermore it is not considered that there are any material considerations that can be offered sufficient weight to overcome the identified conflict with the adopted development plan. The proposal conflicts with policies S1, S3, S4, S5, S8, S9, S14, TIV15, DM1 and DM25 and it is recommended that planning permission is refused.

## REASONS FOR REFUSAL

1. The application site is located outside the settlement boundary of Tiverton and within the countryside. Policy S14 of the Mid Devon Local Plan 2013-2033 requires development outside settlement limits to preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. The scale and nature of the proposed residential development would not be permitted in accordance with criteria a of policy S14. The site partly falls within the area of land identified as a contingency site by policy TIV13. The Council considers it is able to demonstrate a five year housing land supply. The delivery of housing across the district is considered to be in excess of the action levels identified by policy S4 such that the release of the contingency site and the additional site area outside the allocation for the proposed residential development is considered to conflict with the adopted development plan strategy. It is not considered that there are any material considerations that could be offered sufficient weight to overcome the adopted local plan position, the proposal is considered to conflict with policies S1, S4, S10, S14 and TIV13 of the Mid Devon Local Plan 2013- 2033.
2. In the opinion of the Local Planning Authority, the proposed development would result in harm to the character, appearance, setting and significance of the following designated heritage assets; the Grand Western Canal Conservation Area, Knightshayes Registered Park and Gardens, Tidcombe Farm and Tidcombe Bridge. The proposal would also result in harm to the setting of Tidcombe Hall, a non-designated heritage asset. The less than substantial harm that has been identified is not considered to be outweighed by public benefits of the scheme. On this basis it is considered that the proposal conflicts with the statutory duty to have special regard to preserving or enhancing conservation areas and to the desirability of preserving listed buildings and their settings. The proposal does not accord with policies S1, S9, DM1 and DM25 in respect of heritage assets or government advice in the NPPF.
3. In the opinion of the local planning authority the proposed development, including the provision of the proposed access, is likely to result in harm to the character and appearance of the area. The proposed development would appear as a visually intrusive feature within the rural area and would fail to preserve or enhance the character and appearance of the countryside. In particular it is considered that the proposed access to the site would be harmful to the character and appearance of the street scene of this part of Tidcombe Lane. The level of harm would be further amplified by potential adverse impacts to the root protection area of the category A Lucombe Oak tree, for which insufficient information has been provided to demonstrate that the works would not cause damage and disturbance to its roost system which would be detrimental to its longevity. On this basis it is considered that the proposal would fail to preserve the character and appearance of the countryside or to preserve Mid Devon's cultural and historic environment contrary to the requirements of policies S1, S9 and S14 of the Mid Devon Local Plan.
4. The provision of 179 dwellings on the site would result in requirements for 30% affordable housing, 5% self-build dwellings, a financial contribution to education infrastructure, health care services and a financial contribution to off-site public open space (where not provided on site). There is no section 106 agreement to secure the provision of these matters and therefore the development is considered to be contrary to policies S3, S5, S8 and TIV15 of the Mid Devon Local Plan 2013- 2033 and the NPPF.

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



## **APPLICATION NO: 21/00128/MFUL**

### **RECOMMENDATION**

Grant permission subject to conditions and the prior signing of a deed of variation S106 agreement to include:

- Affordable housing off-site contribution: £80,000 (£40,000 per dwelling).
- Community facilities contribution: £183,811 (£1,973 per dwelling).
- 5 Custom and self-build plots
- 3 Gypsy and Traveller pitches to be provided prior to the occupation of the two hundredth and ninety fourth (294) open market dwelling within the wider site of 13/01616/MOUT
- Education contribution:
  - Primary School Land: £3,773 (£539 per dwelling)
  - Primary School Education: £12,453 (£1,779 per dwelling)
  - Secondary School Education: £10,717 (£1,531 per dwelling)
  - Special Education: £3,582 (£512 per dwelling)
  - Early Years: £1,750 (£250 per dwelling)
  - NHS contributions: £3,654 (£522 per dwelling)
- Pro rata increase in prior financial contributions in the original S106 agreement to reflect the uplift in the number of dwellings

### **PROPOSED DEVELOPMENT**

This is a full planning application for the construction of 86 dwellings to include public open space, pedestrian, cycle and vehicular links and associated infrastructure on land comprising the northern edge of the Tiverton Eastern Urban Extension (EUE).

This area of land has previously been the subject of an outline planning application (Application No. 13/01616/MOUT) and a reserved matters application (Application No. 18/00133/MARM) forming part of the wider Braid Park development, currently under construction. This application seeks changes to the approved layout as well as introducing an additional 18 units into the area of land north of Uplowman Road. This is to be achieved by a change in the mix of house types and a reduction in the number of garages provided. The application has been subject to pre-application discussions.

The site currently comprises two pasture fields with hedgerow boundaries. The A361 borders the site to the north, Uplowman Road to the south and east and existing residential development to the west. The fields generally slope down from Uplowman Road in the south to the A361 in the north. There is a strong hedge line crossing the site from north to south.

In addition to 86 dwellings, the application proposes two attenuation ponds, on-site green infrastructure with walking and cycling routes integrated into the wider network of provision.

The majority of the 86 dwellings are to front a spine road, aligned east to west across the site, accessed from a single point of access from Uplowman Road. The dwellings are to be a mix of 2, 3 and 4 bedroom houses; all two storeys in height. All dwellings are to have private gardens and parking.

Surface water drainage is to be managed by the installation of a surface water management system which will discharge into the two large attenuation ponds located to the north of the site. Foul drainage will discharge into the mains sewer. The principle source of heating is proposed via mains gas.

This application will be subject to the signing of a Section 106 Agreement, conditional upon the grant of planning permission. It will take the form of a Deed of Variation to the original S106 (Application 13/01616/MOUT) as varied.

In accordance with the requirements of the Environmental Impact Assessment Regulations 2017 (as amended), this application has been accompanied by a Planning Statement (May 2021) detailing compliance with the Environmental Statement pursuant to Application 13/01616/MOUT.

## **APPLICANT'S SUPPORTING INFORMATION**

Site Location plan  
Planning Statement  
Design and access statement  
Statement of community involvement  
Site waste management plan  
Carbon reduction statement  
Drainage Statement  
Drainage Layout Sheets 1-4  
Draft S106 Heads of terms  
Transport assessment addendum  
Arboricultural Assessment  
Section and Street scenes  
Ecology Report  
Noise Assessment  
Construction Management Plan  
Section 38 Layout Sheets 1-4  
Air Quality Assessment  
Noise Assessment  
Surface water calculations  
Soft Landscape Proposals Sheets 1-4  
External Works Layout Sheet 1-4  
Play Area Proposals  
Substation plans and elevations  
Dwelling plans and elevations  
Garage plans and elevations  
Boundary details  
Impermeable Areas Plan  
Flood Routing Plan  
Highway Long Sections Sheet 1-2  
External Works layout Sheet 1- 4  
Vehicular Tracking Plan Sheet 1-4  
Highway Layout Sheet 1-4  
Section and Street Scenes  
Land Ownership Plan  
Enclosure Plan  
Storey Heights Plan  
Materials Plan  
Planning Layout Sheets 1-2

Soft landscape proposals 1-4  
Surface water calculations  
Phase 1 Desk Study  
Travel Information Pack  
Travel Plan  
Contaminated Land Report

## **RELEVANT PLANNING HISTORY**

**13/01616/MOUT** - PERMITTED date 18th September 2015

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

**14/00667/MFUL** - PERMITTED date 4th September 2014

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

**14/01168/MFUL** - PERMITTED date 31st October 2014

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

**16/01757/FULL** - PERMITTED date 14th February 2017

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

**16/01759/FULL** - PERMITTED date 14th February 2017

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

**17/00098/FULL** – PERMITTED date 12th April 2017

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

**18/00133/MARM** - PERMITTED date 29th August 2018

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

**19/01002/NMA** - PERMITTED date 26th September 2019

Non Material Amendment for 18/00133/MARM to allow changes to the design of the swales

**19/01903/NMA** - PERMITTED date 18th November 2019

Non Material Amendment 18/00133/MARM for the revised orientation of the electricity substation

**19/02011/NMA** - PERMITTED date 8th January 2020

Non Material Amendment for 18/00133/MARM to allow raising the levels of plot 11

**21/00110/NMA** - PENDING

Non-Material Amendment for 18/00133/MARM to allow amendment to construction traffic routes to and from the site, along with entrance points to the site, for each area (North & South)

### **Other History**

**14/00604/MFUL** – PERMITTED date 20th April 2017

Erection of care home and 12 apartments with associated access, parking and landscaping, following demolition of existing hospital buildings (Revised Scheme)

**17/00781/FULL** – PERMITTED date 17th July 2017

Provision of pedestrian/cycle route/footpath with associated boundary treatments, safety barriers and landscape planting following demolition of existing dwelling, garage and garden.

**19/00210/MFUL** - Demolition of buildings and erection of 18 dwellings and associated works, including vehicular access, garages, parking and landscaping

**20/01760/NMA** – PERMITTED Non Material Amendment for 19/00210/MFUL to allow substitution of plans for plots 6 and 8. Granted 13/11/2020

### **DEVELOPMENT PLAN POLICIES**

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

S1 Sustainable Development Priorities

S3 Meeting Housing Needs

S4 Ensuring Housing delivery

S5 Public Open Space

S8 Infrastructure

S9 Environment

S10 Tiverton

TIV1 Eastern Urban Extension

TIV2 Eastern Urban Extension transport provision

TIV3 Eastern Urban Extension environmental protection and green infrastructure

TIV4 Eastern Urban Extension community facilities

TIV5 Eastern Urban Extension phasing

DM1 High quality design

DM2 renewable and low carbon energy

DM3 Transport and air quality

DM4 Pollution

DM5 Parking

DM23 Community facilities

DM25 Development affecting heritage assets

DM26 Green infrastructure in major development

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

**Tiverton EUE Design Guide (2016)**

**The Provision of parking in New Development SPD (2013)**

**Refuse Storage for New Residential Properties SPD (2017)**

## National Planning Policy Framework21001

### CONSULTATIONS

**HIGHWAY AUTHORITY – 10<sup>th</sup> March:** The site is accessed off a C Classified County Route which is restricted to 60 MPH. although with all the changes to the road layouts in this area the speeds observed are considerably lower.

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

The Applicant has submitted a Transport Assessment Addendum of the previously approved Transport Assessment from the Outline Application. This Addendum shows there has been no significant changes to the original Transport Assessment in the Outline application and there will be no severe impact on the highway network.

With regards the layout of proposed development on Drawing Number 1206 Section 39 Layout 2 of 4 the footway across the junction of the cul de sac is shown to be a priority and there to be junction layout for vehicles. This would not be acceptable and the junction would need to be realigned to ensure the suitable visibility is achieved.

Drawing Number 1209 PL02 Vehicular Tracking Plan 1 of 4 at plot 192 shows a conflict of traffic movements with the parking space and the cul de sac, this conflict will need to be addressed.

Drawing Number 1210 PL02 Vehicular Tracking Plan 2 of 4 at Plot 227 this alignment of the junction is not correct and will need addressing.

Therefore the County Highway Authority cannot put forward a recommendation until the above items have been addressed.

### **HIGHWAY AUTHORITY - Additional Information Received - 10<sup>th</sup> May 2021:**

Revised S38 Layout Drawings have been submitted which the County Highway Authority have no objections.

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

#### Recommendation:

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

**HIGHWAY AUTHORITY – 27<sup>th</sup> April 2021:** As part of the previous 13/01616/MOUT application this access would have been assessed by my predecessor and he raised no concerns with the proposed access. I can confirm this area is not within the 30 MPH limit and is unrestricted to 60 MPH, and therefore the access and visibility splays would need to be safe and suitable for the actual speeds. This will be addressed when the proposal of the access is submitted to the Planning Authority at a later date.

**DCC - FLOOD/COASTAL RISK MANAGEMENT TEAM – 8<sup>th</sup> March 2021:**

Recommendation:

Although we have no in-principle objection to the above planning application at this stage, the applicant must submit additional information, as outlined below, in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

The applicant has confirmed within the Drainage Statement that the proposed changes will cause the impermeable areas to increase. The applicant must submit updated MicroDrainage model outputs to demonstrate that the surface water drainage system will be designed to the 1 in 100 year (+40% allowance for climate change) rainfall event.

The applicant has noted that the discharge rate from the surface water drainage system will increase. The applicant has also noted that one of the attenuation basins will need to increase in size. The applicant must confirm whether the basins have already been constructed. The applicant must also confirm whether the basins have established vegetation. The applicant must clarify how plots 228 to 233 will drain. Co. Previously, the surface water pipework was proposed to extend this far.

**DCC - FLOOD/COASTAL RISK MANAGEMENT TEAM – 26<sup>th</sup> May 2021:**

We have no in-principle objections to the above planning application, from a surface water drainage perspective.

**Observations:**

The applicant should implement suitable working procedures to prevent any damage to the basin and to prevent sediment from flowing towards the outfall.

If any damage does occur, the applicant must repair/reinstate it.

**NATURAL ENGLAND – 5<sup>th</sup> March 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-get-environmental-advice>

**DEVON COUNTY COUNCIL EDUCATION – 22 March 2021:** Devon County Council has reviewed the application above and in order to make the development acceptable in planning terms, an education contribution to mitigate its impact is requested.

It is noted that this planning application is a re-design of a section of the site covered by planning permission 13/01616/MOUT for 330 dwellings, which is subject to a S106 agreement that requires contributions towards education infrastructure.

As this current planning application is a new full application, the level of contributions that are requested are in line with the DCC's current Education Infrastructure S106 Approach (February 2020), DfE guidance and the latest pupil data. Given the time which has passed since the original planning application, both the current education S106 infrastructure approach and the data differ from those used to calculate the contributions required for application 13/01616/MOUT. Specifically, the S106 approach now also includes special education and early years provision. The proposed increase of 86 family type dwellings would generate an additional 21.5 primary pupils and 12.9 secondary pupils.

#### **Special Education Provision**

It is set out in DCC's Education Infrastructure Plan that approximately 1.5% of the school population require specific Special Education provision. The proposed development is likely to generate a total of 0.51 pupils (0.32 primary, 0.19 secondary) who will require a specialist place. Based on a standard rate of £86,284 per SEN pupil, a total of £44,004 is requested for additional SEN provision that would be required as a result of the development. DCC will not seek additional primary or secondary contributions for SEN pupils and therefore will seek a S106 contributions towards the remaining 21.18 primary and 12.71 secondary pupils likely to be generated by the development.

#### **Primary Education Provision**

Based on 86 family type dwellings it is calculated that the development would generate an additional 21.18 primary pupils (21.5 primary pupils – 0.32 SEN pupils).

Devon County Council acknowledges the shift in demographics in Tiverton and an increase in the number of spare primary places across the town. However, as this application is part of Tiverton's Eastern Urban Extension (Tiv 1-5) which includes the provision of onsite primary facilities, in accordance with the Department for Education's guidance 'Securing Developer Contributions for Education' the capacity of Tiverton's existing primary schools beyond the statutory walking distance of the site do not need to be taken into account when calculating developer contributions.

Tidcombe Primary School is the only primary school within the statutory walking distance of the site and therefore the spare capacity for this school is taken into account. Tidcombe has a spare capacity of 7.88 pupils. Therefore, Devon County Council will request a contribution for the remaining 13.3 primary pupils. The contribution sought is £153,005 (based on the DfE new build rate of £19,417 per pupil). This will relate directly to providing education facilities for those living in the development.

### **Early Years**

In addition, a contribution towards Early Years provision is needed to ensure delivery of provision for 2, 3 and 4 year olds. This is calculated as £21,500 (based on £250 per dwelling).

This will be used to provide early years provision for pupils likely to be generated by the proposed development.

### **Education Land**

In accordance with the Department for Education Building Bulletin 103 and 104, primary schools of 420 places require a site of 1.8Ha, 43m<sup>2</sup> per pupil. Similar to the primary contribution, a land contribution is requested for 13.3 primary pupils, requiring a pro-rata land requirement for primary of 0.057Ha. In addition, land for nursery provision is calculated at 1.4m<sup>2</sup> per dwelling. As a development of 86 dwellings this is a land requirement for early years of 0.012Ha. In total, this is a land requirement of 0.069Ha. Devon County Council's response to application 13/01616/MOUT set out an appropriate value for non-residential land in the district as £500,000 per hectares. This was incorporated within the signed S106.

Applying this to the 0.069Ha requirement indicates that a contribution of £34,500. Noting that the original application dates from 2013, it is appropriate that indexation is applied to the figure, which would increase it to £46,372.47.

However, it should be noted that this figure is an estimated price, and that the actual costs will be subject to landowner negotiations. It is expected that the developer of this site shall pay the full cost for this area of land, even if this is more or less than the figure provided here. This reflects the current S.106 agreement for this site.

### **Secondary Education Contributions**

Based on 86 family type dwellings it is calculated that the development would generate an additional 12.71 secondary pupils (12.9 secondary pupils - 0.19 SEN pupils) which would have a direct impact on Tiverton High.

Tiverton High is forecast to have capacity for 54% of all pupils likely to be generated by the proposed development. Therefore, Devon County Council would seek a contribution based on the Tiverton secondary percentage of 46% directly towards additional secondary education infrastructure at Tiverton High School. The contribution sought towards secondary provision would be £131,624 (based on the DfE extension rate of £22,513 per pupil). This would relate directly to providing secondary education facilities for those living in the development.

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

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

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

**DCC HISTORIC ENVIRONMENT – 24<sup>th</sup> February 2021:** A programme of archaeological work has been undertaken across this site, under planning application 13/01616/MOUT. The associated fieldwork and post-excavation tasks have largely been completed, as such no further archaeological mitigation is required for this current planning application. The Historic Environment Team has no comments to make on this planning application.

**NHS DEVON CLINICAL COMMISSIONING GROUP – 10 March 2021:**

The application has been reviewed from a primary care perspective and the following comments are provided by NHS Devon Clinical Commissioning Group as their response to the application. The response has been informed by the Devon Health Contributions Approach: GP Provision (<https://www.devon.gov.uk/planning/planning-policies/othercounty-policy-and-guidance>) which was jointly prepared by NHS England and Devon County Council.

In preparing this response, it is noted that the documents of the Mid Devon Council Local Plan (adopted October 2013) and related documents, Allocations and Infrastructure Development Plan 2011 and Core Strategy 2026 states that:

“Allocations and Infrastructure Development Plan Document January 2011

P43 Infrastructure is widely defined; examples include roads, public transport, health, education, open space and leisure facilities. The provision of infrastructure and development should, so far as possible, go hand in hand in order to minimise the adverse impacts of new development and promote the most sustainable form of growth.

**Mid Devon Local Development Framework, Council Core Strategy 2026 (Adopted July 2007)**

Page 9 Public finance will be necessary for more local investment in such non-profit making infrastructure as transport, affordable housing, education and health.

Page 12 As a result of (these) health changes, the population will become older, requiring more services for the elderly, including health, transport and social services. The market towns of Tiverton, Cullompton, Crediton and Bampton will be the main focuses of new development.

Page 24 Development will be targeted to provide a sustainable mix of homes, businesses, shops, leisure, health.

**Local Plan Part 3 (Adopted October 2013)**

Page 23 Development will be permitted where (it) will not have an unacceptable negative impact on health.”

The CCG’s concern is that the combined surgeries of Castle Place Surgery, Sampford Peverell Surgery and Amicus Health are already over capacity within their existing footprint therefore it follows that to have a sustainable development in human health terms the whole local healthcare provision will require review. The combined surgeries already have 41,755 patients registered between them and this new development will increase the local population by a further 200 persons.

Taking this into account and drawing upon the document “Devon Health Contributions Approach: GP Provision document” which was agreed by NHS England and Devon County Council, the following calculation has been made:

**Methodology for Application 21/00128/MFUL**

1. Residential development of 86 dwellings
2. This development is in the catchment Castle Place Surgery, Sampford Peverell Surgery and Amicus Health which have a total capacity for 32,647 patients.
3. The current patient list size is 41,755 which is already over capacity by 9,108 patients or at 128% of capacity.
4. The increased population from this development = 200
  - a. No of dwellings x Average occupancy rate = population increase
  - b.  $86 \times 2.33 = 200$
5. The new GP List size will be 41,955 which is over capacity by 9,308
  - a. Current GP patient list + Population increase = Expected patient list size

- b.  $41,755 + 200 = 41,955$  (9,308 over capacity)
- c. If expected patient list size is within the existing capacity, a contribution is not required, otherwise continue to step 6
6. Additional space required = 14.03 m<sup>2</sup>
- a. The expected m<sup>2</sup> per patient, for this size practice = 0.07m<sup>2</sup>
- b. Population increase x space requirement per patient = total space (m<sup>2</sup>) required
- c.  $200 \times 0.07 = 14.03$  m<sup>2</sup>
7. Total contribution required = £44,885
- a. Total space (m<sup>2</sup>) required x premises cost = final contribution calculation
- b.  $14.03 \text{ m}^2 \times \text{£}3,200 = \text{£}44,885$  (£522 per dwelling).

The contribution may be pooled with developer contributions from other planning applications in the nearby vicinity. Any contributions may be used on one of the above surgeries and possibly for reconfiguration of that surgery.

Could you please acknowledge the CCG's request for an S106 contribution towards the cost mitigation of the pressures on the local healthcare facility and that it will form part of any future s106 Agreement with the Developers.

**NHS DEVON CLINICAL COMMISSIONING GROUP – 22 April 2021:** The application has been reviewed from a primary care perspective and the following comments are provided by NHS Devon Clinical Commissioning Group as their response to the application. The response has been informed by the Devon Health Contributions Approach: GP Provision (<https://www.devon.gov.uk/planning/planning-policies/othercounty-policy-and-guidance>) which was jointly prepared by NHS England and Devon County Council.

In preparing this response, it is noted that the documents of the Mid Devon Local Plan 2013 – 2033 (adopted July 2020) states that:

“Vision and Spatial Strategy

Vision

1.15...

Promote community well-being

Diverse, inclusive communities with a vibrant mix of accessible uses and local services

Spatial Strategy

Other Market Towns

The market towns of Tiverton and Crediton will be the secondary focuses of new development, in scale with their individual infrastructures, economies, characters and constraints.

Development will be targeted to:

- Provide a sustainable mix of fit for purpose homes, businesses, shops, leisure, health, education and many other uses, to resolve existing problems where feasible and to meet rural needs

Infrastructure

Policy S8

Infrastructure

The location, scale and form of development will be guided by the need for community facilities and any existing infrastructure deficiencies. The Council will work with providers and developers to ensure that new development is served by necessary infrastructure in a predictable, timely and effective fashion. Development and transport planning will be coordinated to improve accessibility for the whole community and promote the use of sustainable modes of transport. The Council will set out key infrastructure and facility requirements for new development in an Infrastructure Plan, taking account of existing provision and cumulative impact of new development. Developers will be expected to contribute fairly towards, or bear the full cost of, new or improved infrastructure and facilities where it is appropriate for them to do so, subject to viability assessment where appropriate.

Planning permission will be granted only where the impact of development is not considered to be severe. Where severe impacts that are attributable to the development are considered likely, including as a consequence of cumulative impacts, they must be subject to satisfactory mitigation having regard to the latest infrastructure plan.

#### Policy TIV15

Strategic Local Plan sites will be required to pay for specific items of infrastructure that are necessary to make the development acceptable

The Council's strategic infrastructure policy is set out earlier in the Local Plan under Policy S8, but there are infrastructure requirements specific to Tiverton that are listed under Policy TIV15. The Council will use CIL, planning obligations for strategic sites and other sources of funding to deliver the infrastructure listed wherever possible. The Council's Regulation 123 list and accompanying policy on the use of Section 106 agreements, sets out the mechanism to be used to fund infrastructure. Where another organisation is responsible for delivering the infrastructure required as a result of new development, the Council will work in partnership with the relevant bodies to ensure that infrastructure needs associated with development are addressed appropriately."

The CCG's concern is that the combined surgeries of Castle Place Surgery, Sampford Peverell Surgery and Amicus Health are already over capacity within their existing footprint therefore it follows that to have a sustainable development in human health terms the whole local healthcare provision will require review. The combined surgeries already have 32,988 patients registered between them and this new development will increase the local population by a further 200 persons.

Taking this into account and drawing upon the document "Devon Health Contributions Approach: GP Provision document" which was agreed by NHS England and Devon County Council, the following calculation has been made:

#### Methodology for Application 21/00128/MFUL

1. Residential development of 86 dwellings
2. This development is in the catchment Castle Place Surgery, Sampford Peverell Surgery and Amicus Health which have a total capacity for 32,647 patients.
3. The current patient list size is 32,988 which is already over capacity by 341 patients or at 101% of capacity.
4. The increased population from this development = 200
  - a. No of dwellings x Average occupancy rate = population increase
  - b.  $86 \times 2.33 = 200$
5. The new GP List size will be 33,188 which is over capacity by 541
  - a. Current GP patient list + Population increase = Expected patient list size
  - b.  $32,647 + 200 = 33,118$  (541 over capacity)
  - c. If expected patient list size is within the existing capacity, a contribution is not required, otherwise continue to step 6
6. Additional space required = 14.03 m<sup>2</sup>
  - a. The expected m<sup>2</sup> per patient, for this size practice = 0.07m<sup>2</sup>
  - b. Population increase x space requirement per patient = total space (m<sup>2</sup>) required
  - c.  $200 \times 0.07 = 14.03$  m<sup>2</sup>
7. Total contribution required = £44,885
  - a. Total space (m<sup>2</sup>) required x premises cost = final contribution calculation
  - b.  $14.03 \text{ m}^2 \times \text{£}3,200 = \text{£}44,885$  (£522 per dwelling).

The contribution may be pooled with developer contributions from other planning applications in the nearby vicinity. Any contributions may be used on one of the above surgeries and possibly for reconfiguration of that surgery.

**DEVON, CORNWALL & DORSET POLICE – 8<sup>th</sup> March 2021:** Police have no objection in principle to the proposal, the general layout proposed will provide both active frontages and good overlooking to the new internal streets and open space, which is welcome.

The inclusion of a brief Community Safety Statement (Section 3.3 of Design & Access Statement) is noted as is the reference to the principles of Secured By Design. Secured by Design (SBD) is a crime prevention initiative managed by Police Crime Prevention Initiatives Limited on behalf of the UK police services. SBD aims to reduce crime, the fear of crime and opportunities for antisocial behaviour and conflict within developments by applying the attributes of Environmental Design, as follows, in conjunction with appropriate physical security measures.

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

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

#### **Generic advice**

The proposed boundary treatments, including the inclusion of rear access gates are noted. Whilst gates to the rear gardens provide a barrier to the private space of the dwelling, their effectiveness can be enhanced with the inclusion of a gate as close to the front elevation building line as is possible to remove accessibility to sides of dwellings where surveillance opportunities are limited. Perimeter security is one the basic principles of crime prevention, being the first line of defence against unwanted trespassers, as such all rear boundary treatments must be 1.8m high, as a minimum requirement, and be solid and robust to prevent being breached. Close boarded fencing or walls would be deemed appropriate. If more surveillance is required or 1.8m would feel too closed in for smaller gardens, then a 1.5m solid structure with a .3m trellis topping would be acceptable. It is accepted that on some occasions gradients of land or other permanent solid structures can have an impact on the need, choice and height of boundary treatments but these should be assessed on their own merits to ensure the boundary treatment is appropriate to any potential risk of trespass.

Hedges should be of a height and depth to provide a consistent and effective defensive boundary as soon as residents move in. If additional planting will be required to achieve this then temporary fencing may be required until such planting has matured. Any hedge must be of a type which does not undergo radical seasonal change which would affect its security function.

Routes for pedestrians, cyclists and vehicles should be integrated and assist easy, intuitive wayfinding thus increasing activity and therefore natural surveillance, a proven deterrent to crime and anti-social behaviour.

Public footpaths should not run immediately next to doors and windows, therefore defensive space should be created to separate a path from a building elevation.

Communal areas, such as playgrounds, toddler play areas, seating facilities have the potential to generate crime, the fear of crime and anti-social behaviour. Play areas should ideally be designed so that they can be secured at night. This is to reduce the amount of damage and graffiti that occurs after dark, the type of fencing and security measures will need to vary to suit the particular area. As a minimum requirement, fencing at height of

1200mm must be included to discourage casual entry, provide a safe clean play area and reduce damage to the equipment. The 3 entry/exit points to the proposed play area are noted. However, consideration should be given to a single dedicated entry and exit point to ease parental/guardian

control and supervision. Any planting in or around the play area must not reduce surveillance opportunities or provide hiding places.

**PUBLIC HEALTH – 3<sup>rd</sup> MARCH 2021:**

**Contaminated Land**

This is a standalone full planning application on a site previously covered by a wider full and reserved matters approval. The Stage 1 contaminated land report must be submitted with this application in order that we can provide a suitable comment and if necessary, recommend a condition. 25.02.21

**Air Quality**

This is a standalone full planning application on a site previously covered by a wider full and reserved matters approval. A detailed air quality comment was made in respect of the larger site and an air quality report drawing on the same information and addressing the matters raised by officers in 2019 will be required for this application. We can then provide a suitable comment and, if necessary, recommend amendments to be made and/or a condition. 25.02.21

**Environmental Permitting**

No objection to this proposal 16.02.21

**Drainage**

All residences on the site will be connected to the public sewer system and there is a comprehensive report detailing how surface water will be held and managed on site with controlled release when appropriate. 25.02.21

**Noise & other nuisances**

This is a standalone full planning application on a site previously covered by a wider full and reserved matters approval. A noise report incorporating modelling and recommendations was prepared by INacoustic dated November 2017 for those applications. It concluded that road traffic noise would be adequately mitigated by design so an updated report needs to be incorporated into this application in order that we can reference it in our comments and/or recommended conditions.

In addition a full CEMP will be required and a suitable condition is:

Before the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. Once approved the CEMP shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority. 25.02.21

**Housing Standards** No comment 2/3/21

**Licensing** No comments 16/02/21

**Food Hygiene** No comments 16.02.21

**Private Water Supplies** Not applicable 16.02.21

**Health and Safety** No comments 16.02.21

**PUBLIC HEALTH – 20<sup>th</sup> April 2021:** The noise report is comprehensive and can now stand alone on this part of the wider scheme. The writer has confirmed that since the outline application in 2017 there has been some redesign carried out and this has improved the acoustic performance of both buildings and amenity space: it is good to see this approach. They have carried out the required BS8233 assessment and concluded that internal habitable rooms will meet the national guidance with standard sealed double glazing units incorporating ventilation. I therefore recommend that the following condition is included in any approval:

“The recommendations contained in the report prepared by Inacoustics and dated April 2021 shall be implemented throughout the site in order to secure a noise environment which meets at least the good standard in both internal and external amenity spaces as set out in the Noise Policy Statement for England as referenced in the report.

Reason: to protect the amenity of future occupiers from road noise.”

I have also considered the CEMP, which was revised in April 2021, and can confirm that it complies with our recommendations regarding site working. You might wish to include a condition in the approval which references this report in order to ensure that it can be referred to if there are any problems during the build.

**PUBLIC HEALTH – 27<sup>th</sup> April:** We have considered the Air Quality report prepared by Entrans and dated 21<sup>st</sup> April 2021. The report is comprehensive and concludes that the development, once finished, will have negligible impacts on local air quality in terms of increased road traffic. We agree with this conclusion. There is potential for off-site dust during construction and this is covered in the standard CEMP condition which should be included on any approval.

**PUBLIC HEALTH – 7<sup>th</sup> May 2021:**

I have now received the updated CL report in a format that can be added to the document list on the planning portal. I have the following final comments regarding contaminated land:

“We have considered the report submitted by Geotechnical Engineering Ltd dated April 2021. The report refers to previous Phase 1 and Phase 2 contaminated land reports and the results of an extensive intrusive investigation of this site. The site has been in agricultural use and laterally has been used for the storage of building waste and also for the deposition of materials excavated during the construction of the nearby main road. 33 trial pits and 10 boreholes were dug in order to characterise the soil, ground conditions and any contaminants of concern. The results show that there were no contaminants of concern found, which are those with the potential to affect human or water receptors. There were also no potential sources of contamination off site which might affect future occupiers. We agree with the findings of this report and have no further concerns. We would recommend that the “unexpected contamination” condition is included in any approval in order to ensure that if contaminants are encountered they are appropriately remediated.”

**DCC WASTE PLANNING AUTHORITY – 5 March 2021:** Within the submitted Site Waste Management Plan, the applicant has made an attempt to consider the waste issues posed on this development by explaining the type of waste produced during the construction phase as well as the locations of disposal of the waste that’s likely to be generated.

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

- Identify the predicted amount of waste generated during the operational phase of the development, in tonnes.
- Identify the main types of waste generated when development is occupied (if possible) and;
- Identify measures taken to avoid waste occurring during the operational phase of the development.

We would expect the information stated above to be provided at this stage of the application. As such our preference is for the statement to be updated to include this information. Alternatively, if the applicant does not wish to do this at this stage, we request that a condition is attached to any consent to require the submission of a more detailed statement in advance of the commencement of development.

Devon County Council has published a Waste Management and Infrastructure SPD that provides guidance on the production of Waste Audit Statements. This includes a template set out in

Appendix B, a construction, demolition and excavation waste checklist (page 14) and an operational waste checklist (page 17). Following the guidance provided in the SPD will enable the applicant to produce a comprehensive waste audit statement that is in accordance with Policy W4: Waste Prevention of the Devon Waste Plan. This can be found online at:

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

#### **DCC WASTE PLANNING AUTHORITY – 30<sup>th</sup> April 2021:**

Thank you for your response to my request for additional information in the Site Waste Management Plan.

However, the applicant hasn't provided information on how the waste generated when the development is occupied (i.e. during the operational phase) will be managed in accordance to the waste hierarchy, as requested in my email dated 05/03/21.

We note that sections 1.3 and 2.2 relate to the estimated tonnage of waste to be produced and section 1.6 relates to the measures taken to avoid waste. However, these sections are all related to the construction phase and as such don't cover the requirements for the operational phase as mentioned above.

Part 2 of Policy W4 of Devon Waste Plan requires the Waste Audit Statement to consider *how the demolition, construction and operational phases of the development will minimise the generation of waste and provide for the management of waste in accordance with the waste hierarchy.*

Part 2c of this policy specifically refers to the *types and quantities of waste that will be generated during the operational phase of the development.*

I have attached a link to the Devon Waste Plan for more information (page 58):

[Devon Waste Plan \(full\).pdf \(sharepoint.com\)](#)

As a result, we request that the applicant addresses following points in the statement:

- Identify the predicted amount of waste generated during the operational phase of the development, in tonnes.
- Identify measures taken to avoid waste occurring during the operational phase of the development.
- Identify the main types of waste generated when development is occupied.

**TIVERTON TOWN COUNCIL – 8<sup>th</sup> March 2021:** Tiverton Council supports this application providing that the agreed road access for construction vehicles is put in place before any work is commenced.

**UPLOWMAN PARISH COUNCIL – 7<sup>TH</sup> April 2021:** No objection but comment that the adjacent proposed Gypsy and Traveller site has a potentially hazardous entrance / egress on to Uplowman Road with likely inadequate visibility splay. For reasons of safety please give consideration to access for the Gypsy and Traveller site through this application site.

**WILLAND PARISH COUNCIL – 7<sup>TH</sup> MARCH 2021:** Willand Parish Council had no observations to make on this application

**HALBERTON PARISH COUNCIL – 25<sup>th</sup> February 2021:** No objection but comment that

- a) construction traffic should not approach the site through Halberton village
- b) pedestrian and cycling access to the village of Halberton is considered within the proposal
- c) residents can cross the A396 safely on foot or cycling to access Manley Lane and the Great Western Canal.

**REPRESENTATIONS**

8 objections and 1 general comment summarised as follows:

1. The existing conflict between site and residential traffic is already intolerable. Routing traffic via Champion Way and Golf Course Lane is a danger to residents. Adding additional units is of great concern and a risk to health
2. This application represents an increase in traffic with potential for more accidents and delays including :
  - a) Lack of pavements to Blundell's road creating pedestrian / vehicular conflict
  - b) Putson Lane pedestrian / vehicular conflict including no pavements, poor road surface and excess water run-off from the golf course;
  - c) Putson Cross junction is a vehicle and pedestrian danger
  - d) Golf Course Lane is a bottle neck including no pavements. Barrett David Wilson Homes have employed a member of staff to direct traffic due to the difficulties experienced
  - e) The 'no left turn' on Fairway is not observed
  - f) Poor vehicular signage and road markings
3. Traffic movements through the estate (Enterprise Way to Golf Course lane) are difficult with parked cars and dangerous with children playing
4. Lack of information relating to the Gypsy and Traveller site and affordable housing site
5. The proposal represents overdevelopment of the site with a high density of housing that is not in keeping with that existing. The housing currently under construction and that proposed through this application overwhelms the existing housing in the immediate vicinity.
6. The additional 18 dwellings (27% increase) proposed through this application will deliver a total of 266 open market homes which in combination with the affordable housing site (70 dwellings) will deliver 336 homes across the Braid Park development; more than the original outline application of 330 dwellings. This application in the context of the wider Braid Park development represents a very significant increase in population, traffic and associated activities.
7. This application represents an inappropriate density of properties in an inappropriate location served by inadequate roads and infrastructure.
8. Devon banks, hedgerows, trees and field boundaries have through the current development been removed, destroyed and eroded. Evidence suggests that the proposed scheme will represent a loss of privacy and security for existing residents and an unfair burden of concern.
9. The drainage channel adjacent to Uplowman Road has not been maintained through the existing development; resulting in excessive water-logging and at times flooding.
10. The plans do not adequately present how rainfall and flooding will be adequately managed.
11. The enclosures plan clearly shows an increased density of housing next to existing homes. This significantly reduces the immediate visual amenity for nearby existing residents alongside an increase in noise from associated vehicles and activity.
12. The proposal would represent a burden on doctor and dental surgeries, schools, police, social services and other front line service providers with no provision appearing to be made. Development and an increase in the number of units should not be approved for the sake of developer contributions &/or income to the council.

13. Construction of this application site should not be permitted until the new access on to the A361 via Blundell's Road, and the 'preferred vehicular link' (as defined by the Adopted Masterplan has been completed.
14. What is the justification for building additional dwellings when approx. 1500 homes are proposed south of Blundell's Road?
15. The developer assured new residents that the Gypsy and Traveller site would not be constructed. This application shows retention of the site. What measures will be put in place to protect existing properties from increased crime, littering, possible anti-social behaviour and associated loss in house values?

#### Comment

1. Request for inhibitory planting (inc hawthorn and holly) and fencing to ensure privacy and security for existing residents. Should MDDC be minded to approve the application that this request is secured through a condition of planning consent.
2. Request that the Management Company take responsibility for maintaining the stock fence on the western boundary of the application site.

#### **DEVON CPRE – 15<sup>th</sup> March 2021:** Objection summarised as follows:

- The housing density on this northern EUE site is already too high, resulting in a loss of green space and biodiversity. (See Ecology Report of fpcr Ltd December 2020).
- An additional 18 2-3 bed homes requested cannot be justified simply on the basis of "current market conditions" as stated in the Statement of Community Involvement letter from the applicant dated 16 February 2021.
- The road access to and from this site is inadequate for the current number of resident's and site traffic. Any increase will cause danger for drivers, cyclists and pedestrians.
- Once again, we see developers increasing housing numbers after planning approval, to increase their profitability and return to shareholders, at the expense of the local community. This issue brings into question the capability of local councils in Devon and throughout the country.
- We draw your attention to the Western Morning News article dated 13 February 2021 in which CPRE states that the latest Government figures show that Devon is building a third more houses than required, and Mid Devon has over-delivered 39% average over the last 3 years according to the Housing Delivery Test.  
We request that you reject this planning application.

#### **TIVERTON CIVIC SOCIETY – 16<sup>th</sup> March 2021:** Objection summarised as follows:

- NPPF Paragraph 15 states that 'development that is not well designed should be refused planning permission'. The National Model Design Guide, at present under consultation, states that 'developments should clearly take account of local vernacular and heritage, architecture and materials' (7.11); and that 'all new buildings should relate to the architecture, character and materials of the local area'. In addition, the National Design Code states that well-designed places, and buildings are influenced by 'the local vernacular, including historical building typologies such as the terrace, town house, mews, villa or mansion block, the treatment of façades, characteristic materials and details' (C2. 48). New developments must be locally distinctive and they should be recognisably different to those located elsewhere in the country. 'Our town edges have become submerged in a sea of red brick, on forms that looks the same whether you are in Southampton or Northampton.... The UK is a rich composition of diversity, why can't this be evident in our housing?' (Piers Taylor).  
Neither the main Braid Park development, nor that planned for the present application, fulfils these requirements. The Design and Access Statement for the current application

mirrors that for the main Braid Park development, at present under construction, in stating that 'the design of the dwellings draws on the forms and materials of the Georgian and Victorian houses which are found throughout Tiverton and the surrounding area. This will give the development a strong identity, which relates to the local context, a mixed Georgian and Victorian style' (2.8,1). This very generalised and typically vague statement surely gives the developers 'carte blanche' to build in any style they wish, and the developments in the Post Hill and Uplowman Road area are bland and certainly not 'locally distinctive', where there are no buildings of the Georgian or Victorian periods.

If David Wilson Homes had really wished to match the new development with existing housing they would surely have also referenced typical design features from the early and mid-twentieth century housing in the immediate local area, including those in Uplowman Road, while some other characteristic local design features are listed on Page 25 of the Tiverton Eastern Urban Extension Design Guide. In addition, there are many features in central parts of Tiverton, including the many Victorian houses built by John Heathcoat and his successors in West Exe, where vernacular features such as rounded corners, recessed drainpipes and distinctive doorways and porches occur, while some typical Victorian features elsewhere include bow windows in houses such as 'Beechwood' in the Avenue, and Bolham Court. In addition, there are many fine Georgian houses in and near the town, including Gotham, Hensleigh and Collipriest Houses, which could provide suitable exemplars.

The lack of local distinctiveness is confirmed when the buildings in both this new application and the main development are compared to the online photographs of the many other David Wilson Homes developments elsewhere in the country, where standard designs identical to those in Braid Park regularly occur, normally with no obvious local design features. If this proposal is to be acceptable, a great deal more needs to be done to make it more locally distinctive, and to reflect the character of the local area. We consider that this application should be refused at this stage if this does not occur!

- Section 1.6.4. (Pre-Application) of the Design and Access Statement outlines some concerns raised by Mid Devon District Council 'with regards to the increased amount of units, as it weakens the overall design. Townscape characteristics have been sacrificed such as 'turn corners', 'views' and 'glimpses' between buildings. MDDC is concerned that the re-plan would represent a 'pattern book' layout of homes and parking solutions that weakens the principle of a 'garden neighbourhood' and 'edge of centre' development as promoted through the Adopted Masterplan SPD (2018) and Tiverton EUE Design Guide (2016)'. Section 1.7 outlines responses by the developers, but we doubt that these fully answer the problems, and we are concerned about the increased number of units which will reduce the area of open space and the green infrastructure, increase densities, and technically require a greater number of affordable houses to be built by MDDC. There seems to be no justification for the increased number of 86 units and we consider that the number of new units should be reduced to the original 68 houses.

The disjunct between existing local infrastructure and planned new housing developments is the major concern for local people objecting to the majority of planning applications, including this one. The potential problems are acute in the local highways near Braid Park, especially Putson Lane, and the solutions offered are far from satisfactory. Traffic problems will intensify during the construction stage, and after the new houses, as well as the proposed area of affordable housing, are completed and occupied. Further afield, traffic will intensify through Blundell's School and towards the Horsdon roundabout, causing issues on this stretch of road. We are particularly concerned about the level of increased traffic through the school, which has already been exacerbated by the growing numbers of large tractors and other heavy vehicles serving the Red Linhay and other local Anaerobic Digesters from a growing number of local farms. The problem at Braid Park and Blundell's Road arose as a consequence of MDDC's controversial decision to throw into disarray, at

an early stage, the phasing of the TEUE Masterplan in order to accommodate Barratt Homes/David Wilson Homes' 'request' to develop Braid Park before the new link to the A361 was constructed. We urge MDDC to insert a condition that, if planning consent is given for this development, none of the proposed new houses should be occupied until the full A361 junction is completed, opened, and linked to the proposed roundabout in Blundell's Road.

**RSPB – 5 March 2021:** We have reviewed the Ecologist's report and were disappointed to see their recommendations regarding:

Birds

6.22 The proposals will lead to a loss of nesting, foraging and sheltering habitat for birds initially as some hedgerows and vegetation is removed. However, the scheme will lead to a net gain in hedgerow and woodland cover through new planting. Non-native plant species included in private residential gardens or shared areas within residential estates will also provide some structural variety, nesting and foraging opportunities for birds. The new scrub and woodland planting presents a new habitat for this particular site and may lead to higher numbers of common woodland species such as chiff chaff and willow warbler in the long-term.

6.23 Levels of cat predation are likely to increase post development, but by providing substantial amounts of additional habitat away from residential areas birds can, to a degree move away from this threat.

6.24 Vegetation clearance activities will be conducted outside of the nesting bird period (February to September). If clearance work is necessary during nesting bird season suitable nesting bird habitat will be checked prior to works. If nesting birds are present, then work will be halted until the young have fledged.

6.25 A total of 22 bird boxes will be provided within the scheme to provide nesting habitat for birds that are declining nationally but are associated with human habitation. These will consist of five Schwegler 3s Starling and three Schwegler 2m bird boxes which will be located on suitable mature trees. 1SP Schwegler Sparrow Terrace boxes will be integrated into five buildings. Moreover, through Barratt Home's partnership with the RSPB, nine Manthorpe Swift Bricks will be placed in groups of three on suitable houses across the site. These should be erected within the first year following commencement of construction.

Paragraph 6.25 is in our opinion not fit for purpose. The RSPB's current policy is an average of one integral bird box per residential unit and we understood this was being implemented by Barratt/David Wilson Homes, see paper recently submitted to the CIEEM attached.

Whilst we encourage locating bird boxes for assorted species on external features we suggest that as they are temporary structures the new residents should be responsible for installing and maintaining/replacing them.

We have found that most building dependant species use boxes designed for swifts so we recommend their use more or less exclusively, see attached.

The Duchy of Cornwall has monitored boxes installed on their sites in Cornwall and Dorchester, second attachment, sparrow terraces on one of these sites were unused??

We see similar results on non-Duchy projects.

We recommend that proposals for installing bird boxes are revised and upgraded to achieve the criteria of good practice as described above and made a condition of the Consent if granted.

We understand this will be supported by the BSI standard for integral bird boxes due for publication next month.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

This application forms part of an earlier outline planning application (13/01616/MOUT) that gave planning consent for up to 330 dwellings north and south of Uplowman Road. The earlier reserved Matters application (18/00133/MARM), under this outline application 13/01616/MOUT, gave

planning consent for the construction of 248 dwellings and 3 Gypsy and Traveller pitches north and south of Uplowman Road.

The reserved matters application gave planning permission for a 3 pitch Gypsy and Traveller site. This confirmed site location and access arrangements. The Gypsy and Traveller site has planning consent (18/00133/MARM) and does not form part of this application although this application impacts upon the trigger for its delivery (referred to in section 11). In carrying out their functions, Local Authorities must have due regard to the need to achieve the objectives set out under s149 of the Equality Act 2010 to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

This application has been submitted in order to change house types to reflect a change in the proposed development (from a Barrett scheme to David Wilson Homes). This application also seeks a change in the total number of units north of Uplowman Road.

Application 18/00133/MARM gave consent for 68 dwellings north of Uplowman Road. This application seeks to increase the number of units to 86 (an increase in 18 units) north of Uplowman Road. Whilst a number of changes in the design and layout of this application are proposed, the overall form of the development, in terms of road layout and public open space provision, remains largely unchanged from the previous reserved matters application. This report will provide detail of the proposed scheme, the main issues in its determination being:

1. Policy background and principle of development
2. Transport Infrastructure
3. Design and Layout
4. Climate change, drainage and flood risk
5. Air quality
6. Custom and self build
7. Ecology, landscape and visual interest
8. Public open space and green infrastructure
9. Heritage
10. Affordable Housing
11. Gypsy and traveller provision
12. Section 106 and other financial considerations
13. Other matters
14. Planning balance

## **1.0 Policy background and principle of development**

- 1.1 The high level policy considerations relevant to this application site were considered at outline application stage (Application No. 13/01616/MOUT). Subsequent to the outline application, this application site formed part of a Reserved Matters application (Application No. 18/00133/MARM) with 68 dwellings (with associated public open space, pedestrian, cycle and vehicular links and related infrastructure) north of Uplowman Road being granted

planning consent.

- 1.2 The Adopted Mid Devon Local Plan 2013-2033 (adopted July 2020) sets out the sustainable strategy for growth across the District, to achieve positive social, environmental and economic objectives. Tiverton is identified within the Adopted Mid Devon Local Plan as a secondary focus for new development; the primary focus for development being Cullompton. Accordingly, Policy S2 of the Adopted Mid Devon Local Plan 2013-2033 focuses development in and around the main settlements of Tiverton, Cullompton and Crediton with Policy S10 seeking to maintain Tiverton as the largest urban area.
- 1.3 Policy S1 seeks sustainable communities in which people want to live and work through provision of housing to meet the needs of all sectors of the community, providing access to education, jobs, community facilities and public transport and reducing the need to travel by car whilst conserving and enhancing the natural environment and meeting the challenge of climate change.
- 1.4 Policy S3 sets a target for the provision of new market, custom and self-build and affordable housing. Tiverton is identified as providing a minimum of 2,358 dwellings over the 2013-2033 plan period. This application supports the housing numbers identified within the Adopted Mid Devon Local Plan 2013-2033.
- 1.5 Policies S5 and S8 seek to ensure that development is served by necessary infrastructure in a predictable, timely and effective fashion. Developers will be expected to contribute to, or bear the full costs of, new or improved infrastructure and facilities where it is appropriate for them to do so.
- 1.6 Policy S9 expects development to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets and minimise the impact of development on climate change.
- 1.7 Policies TIV1 –TIV 5 set out the site allocation for the Tiverton EUE, of which this application site forms part of. The policies set out the criteria for the development of this allocation to meet strategic growth requirements. TIV1 allocates 153 hectares of mixed use development to include up to 1830 dwellings, a proportion of affordable housing (subject to viability), a minimum of 5 Gypsy and Traveller pitches and 30,000sqm of commercial floorspace. The policy includes provisions in respect of transport, environmental protection, community facilities, carbon reduction and air quality, phasing and masterplanning.
- 1.8 Policies TIV2 to TIV5 set out specific requirements for the delivery of the urban extension in respect of transport (TIV2), environmental protection and green infrastructure (TIV3), community facilities (TIV4) and phasing (TIV5).
- 1.9 The Adopted Mid Devon Local Plan 2013-2033 sets out a number of sustainable development principles through policies DM1 high quality design; DM2 renewable and low carbon energy; DM3 Transport and air quality; DM4 Pollution and DM5 Parking. Policy DM23 community facilities provides for local community benefit and environmental enhancement while DM25 seeks to preserve or enhance all designated heritage assets and their setting. Policy DM26 seeks to ensure that all major development proposals demonstrate the inclusion of green infrastructure in the proposed development. Each of these policies are relevant in the determination of this planning application.
- 1.10 Following allocation of the site, the Tiverton EUE Masterplan was adopted as a

Supplementary Planning Document in 2014 and again in 2018 with revisions. The Adopted Masterplan SPD is a material consideration in determining planning applications on the site.

- 1.11 The adopted masterplan sets a strategic vision for the allocation and aims to guide development to achieve a high quality, distinctive and well integrated place. It sets out the major land uses and infrastructure to be accommodated on the site, to provide consistency of approach in relation to design. The masterplan is intended to be flexible and to allow alterations to the policy provisions to reflect further analysis and studies. It is supported by the Tiverton EUE Design Guide, June 2016 ensuring an understanding of locally distinct characteristics to produce well designed streets, open spaces, work places and affordable homes.
- 1.12 This application site forms part of the larger Tiverton EUE meaning the principle of development on the site has been established. The application must therefore be assessed against the detailed policies in the Adopted Mid Devon Local Plan 2013-2033 and the principles set out in the Adopted Masterplan SPD and Tiverton EUE Design Guide.

## **2.0 Transport Infrastructure**

- 2.1 Policy S8 Infrastructure of the Adopted Mid Devon Local Plan 2013-2033 seeks to ensure new development is served by necessary infrastructure in a predictable, timely and effective fashion; that it will be coordinated to improve accessibility and promote the use of sustainable modes of transport. Policy DM1 of the same Plan requires development to create safe and accessible places.
- 2.2 Policy TIV 2 of the Adopted Mid Devon Local Plan 2013/2033 allocates the urban extension subject to provision of transport infrastructure to ensure appropriate accessibility for all modes and includes provision of a new grade separated junction on to the A361, traffic calming measures and environmental enhancement between Heathcott Way and Putson Lane including Blundells Road, a network of streets, pedestrian and cycle routes linking to the public highway to reduce reliance on private vehicles as well as implementation of Travel Plans and bus service enhancements. Policy DM1 of the same Plan requires development to create safe and accessible places.
- 2.3 The NPPF (para 102) states that transport issues should be considered from the earliest stages of plan-making and development proposals, so that potential impacts of development on transport networks can be addressed. The environmental impacts of traffic and transport infrastructure should be identified, assessed and taken into account, including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (NPPF, para 109). All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.
- 2.4 In addition, the Adopted Masterplan SPD requires traffic calming along Blundells Road / Post Hill.
- 2.5 The former outline application 13/01616/MOUT established the point of access into this application site and the principle of contributions towards a new grade separated junction

on to the A361, traffic calming measures and environmental enhancement between Heathcott Way and Putson Lane including Blundells Road as required by Policy TIV2. Application 18/00133/MARM established the principle of a network of streets, pedestrian and cycle routes linking to the existing public highway and approved the principle of the road layout as presented in this application.

- 2.6 The Highway Authority initially expressed concern with the highway layout proposed in this application; that elements of the proposed road and footway scheme required re-alignment to ensure the achievement of suitable vehicular visibility and pedestrian safety. Amendments to the scheme have been made and revised drawings submitted. The Highway Authority has withdrawn its concerns and confirms no objection to the proposed scheme.
- 2.7 The greater part of the road layout proposed through this application will have footway provision on one side and will pass along the frontage of land forming the area of public open space where there will be 11 parallel parking spaces, provided for visitor parking.
- 2.8 Housing will front onto the principal route and onto the more traditional estate roads, private drives and cul-de-sacs proposed through the remainder of the application site with parking and turning facilities. Details of the parking provision will be provided within the design and layout section of this report.
- 2.9 The Highway Authority considers the proposed access and the design of the road to be acceptable, subject to approval of final details to be required by condition. Outline planning application 13/01616/MOUT established a number of principles including:
- a) the occupation of homes on this application site prior to the construction and opening of the new A361 road junction;
  - b) the point of access into the site from Uplowman Road;
  - c) other measures including a safe cycle and pedestrian environment; and
  - d) the approach of construction traffic to the site from Horsdon Road roundabout.

Accordingly, the concerns raised in representations are considered to have been suitably addressed. Pedestrian and cycle access to Halberton was neither identified in the Adopted Masterplan SPD or at outline application stage. The submission of this application does not represent such a change in circumstance that pedestrian or cycle access to Halberton along the A396 as requested by Halberton Parish Council can be made as a requirement of planning consent.

- 2.10 Mitigation in the form of financial contributions towards off-site highway works including traffic calming and bus service improvements have been secured by way of a Section 106 Agreement at outline application stage. A Travel Plan to reduce reliance on private vehicle use has been submitted.
- 2.11 It is for the reasons outlined above that that the development can be accommodated without an unacceptable impact on the highway network. The development proposed will be served by the necessary infrastructure in a predictable, timely and effective fashion whilst promoting the use of sustainable modes of transport. Subject to final details, required by condition, the access arrangements comply with Policies S8 and TIV2 of the Adopted Mid Devon Local Plan 2013-2033 ensuring an integrated and comprehensive approach to development both with development south of Uplowman Road and with the wider movement network and with the requirements of the Adopted Masterplan SPD.

### 3.0 Design and Layout

- 3.1 The NPPF states that the creation of high quality places is fundamental to what the planning and development process should achieve (NPPF, Para 124). Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Planning decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. New places should be visually attractive, sympathetic to local character and landscape setting and establish a strong sense of place using the arrangement of streets, spaces, building types and materials to create distinctive, inclusive and accessible places.
- 3.2 The NPPF (Para, 129) encourages local planning authorities to make use of tools and processes for assessing and improving the design of development, and to have regard to the outcome from these processes, including any recommendations made by design review panels and assessment frameworks such as Building for Life. The Reserved Matters application (18/00133/MARM) was taken to the independent Design Review Panel. The emerging scheme, was presented to members of Planning Committee at two public meetings. Comments received from the Design Review Panel and committee presentations influenced the final design presented at Planning Committee.
- 3.3 Policy S9 of the Adopted Mid Devon Local Plan 2013-2033 seeks high quality sustainable design that reinforces the character and distinctiveness of Mid Devon's built environment, mitigates and adapts to climate change and creates attractive places. Policy DM1 of the same plan requires the design of new development to be of high quality, based upon and demonstrating a clear understanding of the characteristics of the site, its wider context and the surrounding area and making efficient and effective use of the site. Development proposals should make a positive contribution to local character including any heritage or biodiversity assets, and create safe and accessible places that encourage sustainable modes of travel such as walking and cycling. Visually attractive places should be well integrated with surrounding buildings, streets and landscapes without adverse impact on privacy or amenity for proposed or existing properties. Policy DM1 also requires suitably sized rooms and overall floorspace to Nationally Described Space Standards, which allows for adequate storage and movement within the building together with external space for recycling, refuse and cycle storage as well as adequate levels of daylight to amenity spaces and principal windows.
- 3.4 The Adopted Masterplan SPD sets out a number of guiding principles in relation to design and are relevant to this application. Guiding Principle:  
A relates to character;  
B to urban design;  
C to Movement and Transport;  
D to Landscape, Open Space and Recreation;  
E to social equality; and  
G energy and resource efficiency.

A guiding principle to the Adopted Masterplan SPD is the establishment of a garden neighbourhood with landscape integrated into development as a defining feature. The proposal presented introduces new woodland with wildlife rich attenuation ponds, equipped play space, pathways, formal gathering spaces, and wildlife corridors as a key landscape feature that will extend through the development site supporting the principle of a garden neighbourhood.

- 3.5 The Tiverton EUE Design Guide supports the Adopted Masterplan SPD to ensure a seamless, coherent delivery of well-connected routes and buildings across land ownerships and land parcels regardless if they are built over a phased period of time. It develops the concept of the garden neighbourhood and of character areas based on a 'centre-to-edge' concept linked through a hierarchy of green routes and open spaces. The Tiverton EUE Design Guide supports and supplements the guiding principles as set out in the Tiverton EUE Adopted Masterplan SPD.
- 3.6 A key landscape feature of the proposed development is the area of public open space incorporating seasonally wet attenuation ponds, woodland, orchard and meadow planting on the northern boundary of the site adjacent to the A361. This landscape feature will connect into the network of existing hedgerows and woodland on the south eastern and western boundary of the site and the wider network of hedgerows and A361 bankside wildlife corridors. Of notable change to the area of public open space in this application, is the relocation of the pumping station in a prominent position within this area of open space. The attenuation pond is an intended key landscape as well as a recreational feature. Officers raised concerns regarding the relocation of the pumping station; concerned that the pumping station, adjacent to the main point of access into the area of open space would be intrusive, detracting from the quality of the intended landscape feature, outlook for Units 240 – 243 as well as the overall design. Officers sought to relocate the pumping station to its former position. However, the applicants advised that it was relocated for reasons of health and safety. The location of the pumping station in the former Reserved Matters application required construction works to an approximate depth of 7m, adjacent to existing trees and in proximity to the existing highway. A number of new locations were considered by the applicants' design team, with the site proposed providing a reduced depth of construction and improved long term maintenance for South West Water. Whilst your Officers do not consider the proposed location of the pumping station to be ideal, improved landscape screening (included within the revised Soft Landscape Proposals Plan, Drwg No. GL0735 19E) has been negotiated. On balance, the proposed location is considered acceptable.
- 3.7 The hedgerow that bisects the site north to south will be retained as a feature of the development.
- 3.8 A central area of public open space is integral to the proposed layout; acting as the transition point between development north and south of Uplowman Road. It was considered in some depth by the Design Review Panel (at the former planning application stage, Application 18/00133/MARM) and was afterward instrumental in shaping the overall design and layout of the reserved matters application. This application retains it and its role as a key landscape feature.
- 3.9 The central green space offers a formal meeting / gathering space as well as an informal green space enhanced with planting that seeks to preserve the existing character of Uplowman Road. Your officers have sought to retain a strong built frontage on to this space including natural stone elevations.
- 3.10 For the most part, the dwellings forming this application are orientated north-south across the site, fronted by a road off the single point of access into the site from Uplowman Road. There is a logic to this layout, responding to the site's shape, topography and key landscape features. It makes good use of the land available and allows the key landscape features to be a distinguishing characteristic of the development. The layout retains the pedestrian and cycle permeability achieved within the former reserved matters application,

ensuring an integrated approach to development. Cycle and pedestrian links are accordingly retained between the development north and south of Uplowman Road as well as to the 'stopped off' Uplowman Road providing level pedestrian and cycle access to Blundell's Road and the proposed neighbourhood centre that will include a primary school, community centre and local facilities.

- 3.11 The overall design and layout of this application remains largely unchanged from the previous planning consent – the entrance to the site featuring the central green space to the same size, the landscape planting details including street trees and quality of informal surveillance offered by built frontage remaining largely unchanged from the previous planning consent. Indeed, the layout of the road network in this application remains largely unchanged from the former application. Areas of recognisable change to the road layout can be identified in proximity to:
- Unit No.s 181 – 184: identifiable by the inclusion of a turning head at Unit No.s 183 / 184. This change does not detract significantly from the quality of the open space but perhaps more significantly allows for a more subtle approach to the frontage of the 'stopped-off' Uplowman Road. The number of units on this frontage has also been reduced, served by a private drive. This is considered an improvement to the scheme.
  - Unit No's 189 – 203 and No.'s 212 – 215 are now served by a cul-de-sac. This facilitates a greater area of green space around the Local Equipped Area for Play (LEAP), integrating the LEAP into the wider landscape setting as well as reducing road frontage in proximity to the LEAP. This is an improvement to the scheme with those properties being served by cul-de-sac access, possibly benefitting from an enhanced sense of privacy and sense of community.
  - The former application introduced a specific design feature, in the form of three 'island' trees, in what would be close proximity to Unit No's 245 – 248. Officers have sought to re-instate this feature for the visual and traffic calming measures it would bring in what is a very linear road. However, your officers are advised that its reintroduction would be difficult with the change in unit types and required access to garages / on plot parking without loss to the area of public open space. Whilst this application has introduced narrowing (adjacent to Units 249 / 250) and block setts to delineate a change in the road, this length of road remains generally more direct, losing landscape features and gentle curves evident in the former planning consent. Nonetheless, the Highway Authority have no objection to the proposed road layout and on balance is considered acceptable.
- 3.12 A key factor behind the submission of this application is the construction of the site as a David Wilson Homes development. This requires a change to the unit type from that granted consent under Reserved Matters application. It also includes an increase in the number of units. Your officers were initially concerned that this would represent a layout of homes and parking solutions that would weaken the principle of the garden neighbourhood, a concern echoed by Tiverton Civic Society. The applicant confirms that this application has been informed by the Adopted Masterplan SPD guiding principles and the Tiverton EUE Design Guide that identifies the land north of Uplowman Road as one character area; rural fringe. Tiverton has a mixed character and history which policies of the Adopted Mid Devon Local Plan 2013-2033 seek to uphold. The layout is organised into a pattern of streets and perimeter blocks defined by buildings and public spaces. The central green space is pivotal to the continuity of the developments north and south of Uplowman Road. As such the proposal has sought to ensure a strong built frontage on to the central area of open space and on to the road layout within the development. Frontages, as defined by the

Site Sections and Streetscenes Plan (Drwg No. 1931 1150B), are, on the whole, acceptable introducing natural stone to principal elevations at corner plots, No's 183, 188, 204, 211 and 216 (Drwg No. 1931 1111 Rev D). A change to the unit type and material at Plot No. 216 has been negotiated to address concerns that the scheme was not championing the sense of arrival into the development or natural surveillance as required. Officers were concerned that the first visible frontage on entry to the site, aside from a visually prominent garage, would be a largely blank frontage. The unit now proposed will be stone fronted, providing better informal surveillance on multiple elevations, recognising its locational importance. It offers better continuity with those dwellings south of Uplowman Road. Whilst relocation of the garage was not possible, enhanced planting (Fairfax Entrance SS\_Draft 2) has been achieved. On balance, the changes to the unit type, materials and landscape planting are acceptable.

- 3.13 Overall this application represents an increase in the number of units across the development site. An increase in 18 units compared to the former Reserved Matters application. All the properties are proposed as two storey, with on-plot or on-street parking. However the outline permission granted was for up to 330 dwellings of which 70 lie outside this site. In comparison with the outline permission, the current application increases the number of dwellings by 6. Tiverton Civic Society raise concerns that there is no justification for the increase in the number of units; that the proposal weakens the concept of a 'garden neighbourhood' and 'edge of centre' development. The net density of development equates to 36.7 dwellings per hectare, in compliance with the Adopted Masterplan SPD. In the achievement of sustainable development, the NPPF (para 8) also requires the 'effective use' of land. The proposal retains a sense of continuity with the development north of Uplowman Road in accordance with the Adopted Masterplan SPD and Tiverton EUE Design Guide. On balance, the increase in the number of units is acceptable and to not result in harm that would justify a refusal.
- 3.14 The application scheme proposes a dwelling mix of 2, 3 and 4 bedroom houses, all two storey, each providing a private garden and parking. All house types meet Nationally Designed Space Standards (Drwg No. 1931 1100 Rev G). There are 7 house types proposed across the scheme, all houses, no coach houses or apartments. Whilst supporting documents state that the development reflects the local vernacular the building types remain standard designs rather than house types that distinctly reflect the character or qualities of those within Post Hill or the wider area. This is a concern shared by Tiverton Civic Society. Nonetheless, the materials proposed match those of the development south of Uplowman Road maintaining a sense of continuity. Materials include red brick, beige render with natural stone elevations at pivotal locations. Roof tiles will be dark and windows UPVC. Design details (evident in the unit type elevation drawings) indicate the introduction of specific design details such as the use of window heads, corbels and dentals, hipped roof lines to add definition, features that are evident both in immediate area and elsewhere around the town. On balance, the proposed dwellings are acceptable.
- 3.15 Parking standards across the proposed development meet those required by Policy DM5 and the Provision of Parking in New Development SPD. 172 on-plot and on-street parking spaces are provided across the development. An additional 41 garages are provided on-plot in addition to 11 on-road visitor parking spaces adjacent to the attenuation ponds. The introduction of greenery to separate on-street parking is beneficial to the detailed design and layout and was given particular consideration and support at the Design Review Panel for the former reserved matters application.

- 3.16 Officers have sought to reduce the number of units in proximity to 261- 264 concerned particularly about the proximity of Unit 264 to the existing tree line and potential issues associated with future property maintenance and crown reduction of near trees and a general weakening of the scheme through the increase in density and on street parking in this location. A modest improvement to the landscaping scheme has been achieved to enhance the street scene. The proposed development in this location provides a level of indoor and outdoor amenity, parking provision and streetscape not dissimilar to that approved elsewhere within the District. Arboricultural advice indicates that with an appropriate maintenance regime the proposed scheme would not have a long term adverse impact on the nearby trees. The street scene (Drawing No. 1150 Rev B) indicates an acceptable street frontage. For these reasons, this part of the development proposal is considered, on balance, acceptable.
- 3.17 Boundary treatments in the public domain will be instant hedge planting. In the very few locations where close board fencing is proposed in public view it will be fronted by instant hedging (Enclosure Plan, Drwg No. 1931 1114 Rev C). This supports the principle of a garden neighbourhood. The topography is such that there will be the need for some terraced gardens including Plots 228 – 232; 224 - 226; 240 - 246 (External Works layout Plans 1213 - 1215 PL03). They are designed such that there will not be a loss of amenity value and are acceptable.
- 3.18 Overall that the proposal is considered acceptable. The landscape framework that forms the basis for the proposed scheme provides a central green space at the entrance of the site. The area of public open space associated with the attenuation ponds is well fronted by development which provides informal surveillance. The ponds and surrounding area will be a real feature of the development, providing open space for health, fitness and play. Whilst the scheme uses standard house types the proposal continues to ameliorate the concerns raised at the Design Review Panel at the Reserved Matters application stage. Although this application represents an increase in the number of units, that increase is not to be detrimental to the overall design, layout and density of the proposed development.
- 3.19 For these reasons, the proposal complies with policies S1, S9, DM1, DM26, TIV1 and TIV3 of the Adopted Mid Devon Local Plan 2013-2033 and with the principles set out in the Adopted Masterplan SPD and Tiverton EUE Design Guide.

#### **4.0 Climate Change, Drainage and Flood Risk**

- 4.1 The NPPF requires the planning system (para 148) to support the transition to a low carbon future in a changing climate, taking full account of flood risk. Proposals should take into account the long term implications for flood risk and provide appropriate mitigating measures. When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere (para 163). Where appropriate, applications should be supported by a site-specific flood-risk assessment. Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from the lead local flood authority, have appropriate proposed minimum operational standards, have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and where possible, provide multifunctional benefits.

- 4.2 Policy S9 the Adopted Mid Devon Local Plan 2013-2033 seeks mitigation measures to ensure development does not increase the risk of flooding elsewhere. Provision for a sustainable urban drainage system to deal with all surface water from the development including provision for future maintenance, is required. The Environmental Statement submitted with Application 13/01616/MOUT contained an assessment of the likely significant effects of flooding for the outline application area and identified mitigation measures to include a sustainable urban drainage system (SUDs) and surface water balancing ponds.
- 4.3 Policy DM1 of the Adopted Mid Devon Local Plan 2013-2033 LP3 DMP requires appropriate drainage including sustainable drainage systems and arrangements for future maintenance. Policy DM26 of the same plan requires major development proposals to incorporate flood and water resource management.
- 4.4 Within the Adopted Masterplan SPD, Guiding Principle G(5) requires a water management strategy to be put in place to ensure that SUDS and attenuation ponds are provided reducing flood risk and retaining run off within the site. Principle G(7) promotes opportunities to maximise landscape as a means to provide permeable surfacing.
- 4.5 The application site lies within the River Lowman catchment. A Drainage Statement (December 2020) and drainage layout has been submitted in support of this application making provision for discharge rates commensurate with expectations and at a controlled green field equivalent rate. The documentation outlines measures to reduce the risk of onsite and downstream flooding and safeguards the quality of water discharged. It proposes the implementation of a surface water drainage system for managing the disposal of surface water runoff. This is acceptable to the Local Lead Flood Authority.
- 4.6 The proposal is considered to comply with Policies S9 and DM1 of the Adopted Mid Devon Local Plan 2013-2033 and to the Adopted Masterplan SPD.

## **5.0 Air quality**

- 5.1 The NPPF states that planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management and green infrastructure provision and enhancement. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with local air quality action plans.
- 5.2 Policy DM3 of the Adopted Mid Devon Local Plan 3013 – 2033 requires development proposals that would give rise to significant levels of vehicular movement to be accompanied by an integrated Transport Assessment, Travel Plan, traffic pollution assessment and Low Emission Assessment, including mitigation measures to reduce negative impacts on local air quality. Environmental Health Officers are satisfied that measures which include a Construction Management Plan, air quality issues arising both from the construction of the road and construction traffic movements will be satisfactorily addressed. Similarly, DCC Highway Authority have not raised any concerns.
- 5.3 Subject to securing the mitigation measures through condition your officers consider that the proposal complies with policies S8, TIV2 and DM3 of he Adopted Mid Devon Local Plan 2013/2033.

## **6.0 Custom and self build**

- 6.1 The NPPF states that planning decisions should ensure the needs of groups with specific housing requirements are addressed including, but not limited to, those who wish to commission or build their own homes (para 61).
- 6.2 Policy S3 of the Adopted Mid Devon Local Plan 2013-2033 sets a target for the provision of custom and self-build housing. It requires a minimum of 5% of plots on sites of 20 houses or more to be made available for purchase by self-builders. The self-build element will form part of the market dwellings available on the site. Within this application site this would equate to 5 units. Accordingly plot numbers 195-199 have been identified as custom and self-build housing. Conditions securing their delivery as custom and self-build with ensuring a marketing strategy and that they are fully serviced are recommended.
- 6.3 This application will be subject to the signing of a Section 106 Agreement, conditional upon the grant of planning permission. The S106 will make provision for the custom and self-build housing ensuring that prior to the first occupation of the open market dwellings within the phase that contains the custom and self-build plots a marketing strategy is submitted for approval to the Local Planning Authority, the plots are serviced prior to marketing, that marketing of the plots is secured prior to the occupation of 50% of the open market dwellings within the phase that contains the custom and self-build plots, and the plots are marketed for sale to self-builders for a period of 12 months per plot.
- 6.4 Subject to measures secured by condition and the S106 it is considered that the proposal complies with policies S3 of the Adopted Mid Devon Local Plan 2013 - 2033.

## **7.0 Ecology, Landscape and Visual Impact**

- 7.1 The NPPF (Para 170) states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services. Development should provide net gains for biodiversity, including by establishing coherent ecological networks.
- 7.2 Policy S1 of the Adopted Mid Devon Local Plan 2013-2033 requires net gain in biodiversity. Policy S9 of the same plan seeks high quality sustainable design that reinforces the character and legibility of Mid Devon's built environment and landscape to create attractive places. Policy TIV 3 requires measures to protect and enhance trees, hedgerows and other environmental features which contribute to character and biodiversity and measures to maintain a wildlife network within the site, linking to the surrounding countryside.
- 7.3 The Adopted Masterplan SPD sets out a number of guiding principles to be taken into account in any planning applications for development on the site. Guiding Principle D relates to Landscape. It requires that the structure of the development should be shaped around the existing character and features of the landscape, reinforcing those qualities and protecting and enhancing important fauna and flora.
- 7.4 This application is supported by an Ecology Report including a full suite of surveys for each protected species. Following comments from the RSPB the ecology report has been updated (April 2021) to include 90 Manthorpe swift boxes, in groupings of 3, incorporated

into 30 brick built buildings. Soft landscape proposals plans (Drwg No. GL0735 18D;19E;20D & 21D) and the Additional Landscaping plan (Drwg No. GL0735 34) provide a diversity of plant species to enhance visual interest and provide a variety of wildlife habitats. The Ecology Report (Section 5) confirms bio-diversity net gain associated with the introduction of mixed scrub, species rich meadow grassland, woodland and orchard tree planting. This supports specific mitigation and enhancement design measures including the retention and protection of existing hedgerows (unless to facilitate access) and trees. A single tree (T11, Arboricultural Report, para 5.8-9) is proposed for felling, singled out from within a group for its poor condition. Mitigation planting (Additional Landscaping plan, GL0735 34) will mitigate its loss.

- 7.5 The ecological and landscape proposals associated with this application have been designed by a landscape consultant to provide a diversity of plant species to enhance visual interest and provide a variety of wildlife habitats. As a site in agricultural use, principally for livestock grazing, the mitigation and enhancement measures proposed confirm a net gain in biodiversity. The Adopted Masterplan SPD confirms that this site can accommodate change and the consequential landscape effects as a result of development without unacceptable harm to landscape character. For the reasons outlined above, it is considered that the proposal complies with policies S1, S9 and TIV3 of the Adopted Mid Devon Local Plan 2013 – 2033 ensuring the protection and enhancement of valued landscapes.

## **8.0 Public open space and green infrastructure**

- 8.1 The NPPF (Para 127) states that planning decisions should take maximum opportunity to accommodate and sustain an appropriate amount and mix of development including green and other public space and create places that are safe, inclusive accessible and which promote health and well-being. Paragraph 91 of the NPPF confirms that planning decisions should achieve high quality public space that encourages active and continual use.
- 8.2 Policy S5 requires new housing developments to provide at least 23.5 square metres of amenity green space per dwelling along with additional for children’s play areas, parks, sport and recreation grounds, allotments and teenager youth space with safe and convenient access on foot or cycle. Policy TIV3 of the Adopted Local Plan 2013 – 2033 relates to environmental protection and green infrastructure. It requires areas of equipped and laid out public open space including children’s play, sports pitches and allotments. It requires design solutions to respect the character and setting of heritage assets within and adjoining the site. Policies S9 and DM26 seek to provide a network of green corridors with recreational, visual and biodiversity value, including sustainable drainage. The requirements for open space and green infrastructure are set out more fully in the Adopted Masterplan SPD.
- 8.3 Within this application, it is intended to provide a community orchard, woodland, formal and informal public open space and equipped play space. Full details regarding the management and future maintenance of the open space areas are provided in the Landscape Ecological Management Plan (April 2021) with other matters being conditional on planning consent. The proposal presented provides 1.64 hectares of public open space. This represents an excess of provision in policy terms. A Locally Equipped Area for Play (LEAP) is proposed on site with contributions to affordable housing, community facilities and education through a S106.
- 8.4 For the reasons outlined above, it is considered that the proposal complies with policies S5, S9, TIV3 and DM26 of the Adopted Mid Devon Local Plan 2013 – 2033 ensuring a

appropriate delivery of public open space and green infrastructure.

## **9.0 Heritage**

- 9.1 The NPPF requires developers to assess the significance of a proposal's impact on heritage assets and their settings. Where a proposal would lead to substantial harm (NPPF, Para 195), planning applications should be refused unless substantial public benefits outweigh that harm, and where proposals would lead to less than substantial harm, the harm should be weighed against public benefits (NPPF, para 196). A balanced judgment should be made of the effect of loss of non-designated heritage assets (for example, archaeology), according to the significance of that asset (NPPF, para 198). Developers are required to record and advance understanding of the significance of any heritage assets to be lost and to make this evidence publicly accessible.
- 9.2 Policy TIV3 of the Adopted Local Plan 2013 – 2033 relates to environmental protection and green infrastructure. It requires design solutions to respect the character and setting of heritage assets within and adjoining the site. The application site is within the defined setting of Knightshayes Court which is on the national register of historic parks and gardens. The development proposed will be required to have appropriate regard to the character and setting of all heritage assets affected.
- 9.3 Policy DM25 of the Adopted Local Plan 2013-2033 states that where development proposals are likely to affect heritage assets and their settings, proposals should be assessed to take account of the significance of those assets. Where proposals would substantially harm heritage assets, public benefit must outweigh that harm. Where proposals would lead to less than substantial harm, the harm should be weighed against any public benefit.
- 9.4 The Environmental Statement submitted with outline application 13/01616/MOUT contained an assessment of the likely significant effects of the development on Knightshayes Park and Gardens. It concluded that the proposal would not be impactful on any significant views from Knightshayes Court. The proposal presented does not represent a deviation from those conclusions. An archaeological investigation has also been carried out on the site under planning application 13/01616/MOUT. The associated fieldwork and post-excavation tasks have largely been completed and DCC Historic Environment confirm that no further archaeological mitigation is required for this application. There are no listed buildings in close proximity to the proposed development site.
- 9.5 The proposal does not considered to detrimentally affect the setting of any heritage assets. The application is considered to be acceptable and in accordance with policies TIV3 and DM25 of the Adopted Mid Devon Local Plan 2013-2033 and the NPPF.

## **10.0 Affordable Housing**

- 10.1 The NPPF (para 61) requires the size, type and tenure of housing needed for different groups in the community to be provided. Where there is a need for affordable housing this should be met on-site unless off-site provision or an appropriate financial contribution in lieu can be robustly justified and the agreed approach contributes towards creating mixed and balanced communities.
- 10.2 Policy S3 of the Adopted Mid Devon Local Plan 2013 – 2033 requires open market housing sites, in excess of 11 dwellings, in Tiverton to provide 28% affordable housing, depending on viability. To support self-build and custom housing on sites of 20 dwellings or more,

developers will supply at least 5% of serviced dwelling plots for sale to self-builders for a period of 12 months per plot. Gypsy and Traveller pitches will be allocated on deliverable sites to ensure that the predicted need for traveller sites will be met.

- 10.3 Policy TIV1 of the Adopted Mid Devon Local Plan 2013 – 2033 requires a proportion of affordable housing subject to viability to include at least five pitches for gypsies and travellers. Outline application 13/01616/MOUT made provision for the delivery of 3 Gypsy and Traveller pitches. They have accordingly been granted planning consent in reserved matters application 18/00133/MARM.
- 10.4 The applicant was required to deliver 21.5% affordable housing under the requirements of outline planning permission 13/01616/MOUT. On the basis that the outline planning permission was granted for 330 dwellings, this equated to 70 affordable dwellings. An area of land, north of Uplowman Road, was accordingly transferred to the Local Authority along with the responsibility to deliver the affordable housing for this part of the Tiverton Eastern Urban Extension.
- 10.5 A Reserved Matters application was submitted (18/00133/MARM) for 248 dwellings north and south of Uplowman Road. This represented 180 dwellings south of Uplowman Road and 68 dwellings north of Uplowman Road. The construction of 180 dwellings south of Uplowman Road is well advanced. Together with this application for 86 units a total of 266 open market units would be delivered. When taking into consideration the 70 affordable housing units this equates to 336 units, 6 dwellings in excess of the outline planning permission.
- 10.6 Policy TIV1 of the Adopted Mid Devon Local Plan 2013 – 2033 allows a proportion of affordable housing subject to viability. As a means to take account of viability, the S106 agreement attached to the outline planning permission (13/01616/MOUT) made provision for 21.5% affordable housing units together with a financial contribution. On the basis that this application represents an addition of 6 units above the outline planning permission, the 6 additional units would generate an additional 2 affordable units. The applicant is proposing to make an off-site financial contribution for the delivery of those 2 affordable units.
- 10.7 The delivery of 2 affordable houses accords with Policies S3 and TIV1 of the Adopted Local Plan 2013-2033.

#### **11.0 Gypsy and traveller provision**

- 11.1 The NPPF (para 61) requires the size, type and tenure of housing needed for different groups in the community to be provided. Accordingly the outline application (13/01616/MOUT) secured the construction and availability of three (3) Gypsy and Traveller Pitches prior to the occupation of the three hundredth (300) open market dwelling. As detailed in para 10.5 above this application represents 6 dwellings in excess of the outline planning permission. This increase in the number of units has implications for later phases of delivery with the increase in the number of open market units on this application site prompting the trigger for the delivery of the Gypsy and Traveller pitches earlier. Officers have therefore negotiated a revised figure upon which the Gypsy and Traveller pitches will be delivered.
- 11.2 The grant of planning permission will be subject to the signing of a Section 106 Agreement. The trigger for the construction and occupation of the three (3) Gypsy and Traveller Pitches will reflect the differential increase in the number of open market units proposed through

this application and the outline planning application. The S106 will accordingly make provision for the three Gypsy and Traveller pitches to be provided prior to the occupation of the two hundredth and ninety fourth (294) open market dwelling rather than 300 as at present.

## **12.0 Section 106 and other financial considerations**

12.1 Any grant of planning permission is proposed to be conditional on the prior signing of a Section 106 Agreement.. It will take the form of a Deed of Variation to the original S106 attached to Application 13/01616/MOUT (as varied).

12.2 The following contributions are to be retained through the existing S106 to the outline planning application, but uplifted pro rata to reflect the uplift in the number of dwellings:

Affordable Housing: 21.5% with £120,000 contribution  
Blundells Road Traffic calming: £434,211  
Bus Vouchers: £82,500  
Community facilities Contribution: £651,090  
Cycle and Footway Enhancement Contribution: £162,829  
Cycle Voucher: £16,500  
Golf Course Contribution: £125,000  
Highway Works Contributions: £1,736,842  
Primary Education: £1,086,356  
Roundabout Works Contribution: £119,480  
Secondary Education Contribution: £675,829  
Education land contribution: £300,000  
Public transport Enhancement Contribution: £238,816  
Gypsy and Traveller pitches: 3

12.3 As detailed above, this planning application represents an increase of 6 units in excess of the outline planning application. The S106 and other financial contributions will be assessed on this basis. However, this is a new full application. The level of contributions that are now requested from DCC Education are in line with the current Education Infrastructure S106 Approach (February 2020), DfE guidance and the latest pupil data. DCC confirm that given the time which has passed since the original planning application, both the current education S106 infrastructure approach and the data differ from those used to calculate the contributions required for application 13/01616/MOUT. The contributions towards education detailed below accordingly take account of this.

12.4 It is proposed that the Deed of Variation will make provision for:

- Affordable housing off-site contribution: £80,000 (£40,000 per dwelling).
- Community facilities contribution: £183,811 (£1,973 per dwelling).
- Custom and self build
- 3 Gypsy and Traveller pitches to be provided prior to the occupation of the two hundredth and ninety fourth (294) open market dwelling within the wider site of 13/01616/MOUT
- Education contribution:
  - Primary School Land: £3,773 (£539 per dwelling)
  - Primary School Education: £12,453 (£1,779 per dwelling)
  - Secondary School Education: £10,717 (£1,531 per dwelling)
  - Special Education: £3,582 (£512 per dwelling)
  - Early Years: £1,750 (£250 per dwelling)

- NHS contributions: £3,654 (£522 per dwelling)
- Other financial contributions within the original S106 agreement to be increased pro rata to reflect the uplift in the number of dwellings

### **13.0 Other Matters**

- 13.1 A Construction Management Plan (CMP) has been submitted in support of this application. It is drawn to Member's attention, that construction traffic will be routed from the construction site to the Uplowman Road / Putson Lane junction and along Putson Lane to Post Hill; rather than through the Braid Park development south of Uplowman Road as detailed in the CMP to the reserved matters application 18/00133/MARM. The reasoning, is that a substantial number of properties on the Braid Park development are now occupied.
- 13.2 Section 278 improvement works agreed at the outline application stage have introduced upgrades to facilitate the safe access and egress of HGVs on Putson Lane with HGV passing places at key intervals. These have been completed to the satisfaction of the Highway Authority. A banksman is to be utilised to assist the free flow of traffic in and out of the development site. This will include from between Post Hill junction and the site entrances accessed off Uplowman Road. (CMP Rev H, para 2.3.9).
- 13.3 DCC Highway Authority has not raised any objection to the Construction Management Plan as drafted. It is considered to be acceptable.

### **14.0 Planning balance**

- 14.1 This is a full planning application for the construction of 86 dwellings to include public open space, pedestrian, cycle and vehicular links and associated infrastructure. The application area has previously been the subject of an outline planning application (Application No. 13/01616/MOUT) and a reserved matters application (Application No. 18/00133/MARM). It seeks changes to the approved reserved matters application including an additional 18 units. This is to be achieved by a change in the mix of house types and a reduction in the number of garages provided.
- 14.2 The development can be accommodated without an unacceptable impact on the highway network. The proposed development can be served by the necessary infrastructure in a predictable, timely and effective fashion whilst promoting sustainable modes of transport.
- 14.3 The increase in the number of units at a net density of 36.7 dwellings per hectare accords with the Adopted Masterplan SPD and NPPF that requires the effective use of land. Whilst building types remain standard designs rather than house types that distinctly reflect the character or qualities of those within Post Hill or the wider area, the proposal retains a sense of continuity with the development south of Uplowman Road. The proposal meets Nationally Described Space Standards and Parking Standards. The public open space and associated landscape details form a key feature of the development providing biodiversity net gain. Drainage and flood risk have been fully considered with a Construction Management Plan mitigating air quality issues. Affordable housing and other financial contributions are to be secured through a Section 106 agreement. For these reasons, your officers, on balance advise a recommendation of approval.

## 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 recommendations contained in the report prepared by Inacoustics and dated April 2021 shall be implemented throughout the site in order to secure a noise environment which meets at least the good standard in both internal and external amenity spaces as set out in the Noise Policy Statement for England as referenced in the report.
4. The recommendations contained in the Construction Management Plan (April, Rev H) prepared by Barrett David Wilson Homes shall be adhered to and implemented during the construction of the development in order to secure the safe and good management of site construction.
5. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins, For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.
6. No part of the development hereby approved shall begin until:
  - A. The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 metres back from its junction with the public highway;
  - B. The ironwork has been set to base course level and the visibility splays required by this permission laid out;
  - C. The footway on the public highway frontage required by this permission has been constructed up to base course level; and
  - D. A site compound and car park have been constructed in accordance with a Construction Environmental Management Plan to be approved under Condition 4.
7. No development shall begin until a scheme for electric vehicle charging points has been submitted to and approved in writing by the Local Planning Authority. The installation electric vehicle charging points shall be installed in accordance with the approved scheme prior to first occupation of the relevant dwelling.
8. No part of the development hereby permitted shall begin until full details have been submitted to, and been approved by, the Local Planning Authority, for the disposal of surface water so that none drains on to any County Highway.

9. No part of the development hereby permitted shall begin until full details of the adoption and maintenance arrangements, for the proposed permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority. The approved arrangements shall be provided in accordance with a timescale to be approved under this condition and thereafter permanently retained and maintained in accordance with the approved details.
10. No development shall take place on the site except in accordance with the details set out within the submitted Landscape & Ecological Management Plan (LEMP) by FPCR Environment and Design Ltd dated April 2021. The recommendations in the LEFP shall be adhered to throughout the construction period and the development shall be operated thereafter only in accordance with the management provisions set out within the LEMP.
11. Finished floor levels shall be those specified on drawing numbers 1201PL04; 1202PL04; 1203PL04 and 1204PL03 unless otherwise agreed in writing by the Local Planning Authority.
12. Materials for all external surfaces of buildings, window and door details shall be those specified on drawing number 1111 Rev F. Only such approved materials shall be so used.
13. The development hereby approved shall not be carried out otherwise than in accordance with a phasing programme which shall previously have been submitted to and approved by the Local Planning Authority in writing.
14. First occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been approved in writing by the Local Planning Authority and constructed and made available for use:
  - A. The spine road and cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
  - B. The spine road and cul-de-sac footways and footpaths which provide direct pedestrian routes to an existing highway maintainable at public expense in any phase have been constructed up to and including base course level;
  - C. The cul-de-sac visibility splays have been laid out in accordance with current approved standards;
  - D. The street lighting for the spine road and cul-de-sac and footpaths has been erected and is operational;
  - E. The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;
  - F. The verge and service margins and vehicle crossings on the road frontage of the dwelling have been completed with the highway boundary properly defined; and

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

15. When constructed and provided in accordance with the approved details, the carriageway, vehicular turning head, footways and footpaths within that phase shall be maintained free of obstruction to the free movement of vehicular traffic pedestrians and street lighting and nameplates maintained.
16. First occupation of any dwelling shall not take place until the boundary treatments for that dwelling have been installed in accordance with drawing number 1114 Rev D. Only such approved boundary treatments shall be installed.
17. First occupation of any dwelling shall not take place until details of street furniture to be provided within the public areas have been submitted to and approved in writing by the Local Planning Authority. Such details shall include benches or other seating, dog waste and litter bins and handrails where required, together with a timescale for their delivery. Following their provision, such facilities shall be permanently retained and maintained for their purpose at all times.
18. The first occupation of any dwelling shall not take place until bin stores have been provided in accordance with the approved details.
19. No external lighting shall be installed on any part of the site unless as part of an external lighting plan that has been previously approved in writing by the Local Planning Authority. The external lighting plan should include all details of external lighting and light levels falling on wildlife habitats and demonstrate how dark corridors will be provided for wildlife.
20. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared which is subject to the approval in writing of the Local Planning Authority.

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

21. Prior to the commencement of any part of the site hereby approved, the Planning Authority shall have received and approved in writing a report giving detail on:
  - a) the predicted amount of waste generated during the operational phase of the development, in tonnes;
  - b) Measures taken to avoid waste occurring during the operational phase of the development; and
  - c) Identify the main types of waste generated when development is occupied.

The recommendations in the report to avoid waste generation during the operational phases of the development shall be adhered to and the development shall be operated thereafter in accordance with those recommendations.

22. All planting, seeding, turfing or earthworks comprised in the approved details of landscaping as shown on the submitted plans, shall be carried out within 9 months of the substantial completion of the development, (or phase thereof), whichever is the sooner; and any trees or plants which within a period of five years from the implementation of the scheme (or phase thereof) , die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
23. All surface water run-offs shall be kept separate from foul drainage and foul drainage shall be appropriately connected to the public sewerage system.
24. Prior to the occupation of the first open market dwelling within the phase that contains the custom and self-build plots a marketing strategy for the custom and self-build plots shall be submitted to and approved in writing by the Local Planning Authority.
25. No more than 50% of the open market dwellings within the phase that contains the custom and self build plots may be occupied until the 5 custom and self-build plots have been fully serviced and made available for sale.
26. The applicant will implement suitable working procedures to prevent any damage to the attenuation basins and to prevent sediment from flowing towards the outfall. If any damage does occur, the applicant will repair/reinstate it.

## **REASONS FOR CONDITIONS**

1. In accordance with the provisions of the National Planning Policy Framework 2019 and Planning Practice Guidance, to help ensure the housing proposal is implemented in a timely manner.
2. For the avoidance of doubt and in the interests of proper planning.
3. To protect the amenity of future occupiers from road noise.
4. To ensure that adequate on-site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents.
5. To ensure that adequate information is available for the proper consideration of the detailed proposal and in the interest of public safety.
6. To ensure that adequate on-site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents.
7. To provide opportunities for the reduction of carbon emissions to help combat climate change in accordance with policy DM5 of the Adopted Mid Devon Local Plan 2013-2033. This information is required to ensure the development is constructed with these features as integral to the housing.

8. To ensure that adequate information is available for the proper consideration of the detailed proposals.
9. To ensure that the surface water drainage management system operates effectively to reduce the risk of flooding elsewhere. This is required prior to commencement of any works to demonstrate that the system manages surface water safely and does not increase flood risk downstream.
10. To ensure landscape features and habitats are protected and enhanced to provide net gains in biodiversity on the site and to ensure the development assimilates well into the surrounding landscape, in accordance with the provisions of the National Planning Policy Framework and the guiding principles in the Tiverton Eastern Urban Extension Masterplan SPD.
11. To ensure the development makes a positive contribution to the area and to protect the residential amenity of neighbouring residents.
12. To ensure the development makes a positive contribution to the area in terms of its character and visual amenity in accordance with the guiding principles in the Tiverton Eastern Urban Extension Masterplan SPD.
13. To ensure the proper development of the site.
14. To ensure that adequate access and associated facilities are available for the traffic attracted to the site.
15. To ensure that the highway provisions remain available.
16. To ensure a good standard of residential amenity and security for residents.
17. To ensure adequate facilities are provided that are usable for all residents of the site in terms of accessibility in accordance with the provisions of the National Planning Policy Framework.
18. To ensure adequate facilities for waste management are provided on site to protect the residential amenity and visual qualities of the area.
19. In order to protect wildlife habitats from light pollution in accordance with the provisions of the National Planning Policy Framework.
20. In the interest of public health and safety.
21. In the interest of waste management and proper planning.
22. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with Policy DM1 of the Adopted Mid Devon Local Plan 2013 - 2033.
23. To protect water quality and minimise flood risk.
24. For the avoidance of doubt and in the interests of proper planning.
25. For the avoidance of doubt and in the interests of proper planning.

26. To ensure that the management system operates effectively to reduce the risk of flooding elsewhere.

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

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

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

Application No. 20/01483/TPO

Grid Ref: 304049 : 111229

Applicant: Mr Steve Densham, Mid Devon District Council

Location: 4 Cornflower Close  
Willand  
Cullompton  
Devon

Proposal: Application to shorten the lowest branches on the South and East side of 1 Oak tree by 2m and reduce regrowth from previous pruning back to old pruning points , protected by Tree Preservation Order 99/00002/TPO

Date Valid: 10th September 2020



**APPLICATION NO: 20/01483/TPO**

**RECOMMENDATION**

Grant Consent

**PROPOSED DEVELOPMENT**

Application to shorten the lowest branches on the South and East side of 1 Oak tree by 2m and reduce regrowth from previous pruning back to old pruning points, protected by Tree Preservation Order 99/00002/TPO at 4 Cornflower Close, Willand.

**APPLICANT'S SUPPORTING INFORMATION**

Application form, Proposed works description, 4 Cornflower Close Willand TPO plan

**RELEVANT PLANNING HISTORY**

99/02310/ARM - PERMIT date 1st March 2000  
Reserved Matters for the erection of 131 dwellings (Duplicate application to 4/59/98/1391) (Further Revised Site Layout) (Further Revised Scheme)

17/02043/TPO - PERMIT date 19th February 2018  
Application to crown reduce by 1-1.5m and crown thin lower canopy by 10-15% 1 Oak tree protected by Tree Preservation Order 99/00002/TPO

**DEVELOPMENT PLAN POLICIES**

None applicable to this application

**CONSULTATIONS**

Willand Parish Council – 3<sup>rd</sup> October 2020  
Willand Parish Council had no objection to this application provided that the MDDC Tree Officer agreed to the proposals.

**REPRESENTATIONS**

None received

**MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The reason for this work is to reduce the encroachment on the house and reduce the overhang of the garden area by the tree canopy, this will alleviate the overbearing feeling the tree has on the rear of the property. The proposed works to the Oak Tree are to shorten the lowest branch or branches on the south side of the tree by approximately 2m and reduce regrowth from previous pruning back to the old pruning points. In addition to this, to shorten the lowest branch or branches on the east side of the tree by approximately 2m and reduce regrowth from previous pruning back to the old pruning points, all the growth to be pruned emanates from a primary branch that originates from the main stem at approximately 6m on the east side.

The tree is owned by MDDC and is located on the highway boundary adjoining Willand Moor Road. It is located to the south west of the property and is situated in a former agricultural

hedgebank, which is subject to periodic trimming. The Tree Consultant undertaking the assessment of the works for the Planning Service MDDC notes that the tree is a 12-14m tree which appears to be in good health and it has a typical crown form for the species. The aerial photograph provided shows small rear gardens to the north of the tree and the relative dominance of the crown in relation to the gardens and the adjoining house.

In terms of the arboricultural justification, the Tree Consultant concludes that the proposals are relatively minor and will provide for an improved relationship between the tree and the adjoining residential properties. The works are therefore justified to improve the reasonable enjoyment of the properties.

## **CONDITIONS**

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

## **REASONS FOR CONDITIONS**

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

## **INFORMATIVES**

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

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

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

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

The specified works constitute good management of the tree in its location with no objection raised by the Tree Consultant advising MDDC on this proposal, confirming that the specification appears appropriate for the species and setting of the tree.

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. 20/01484/TPO

Grid Ref: 296713 : 113614

Applicant: Mr Steve Densham, Mid Devon District Council

Location: 9 Hawthorne Road  
Tiverton  
Devon  
EX16 6HD

Proposal: Application to shorten the lowest branches overhanging the garden(s) on the South side of 1 Oak tree to give approximately 4m clearance above ground level; reduce the canopy over the garden(s) by 2-3m and reduce branch on North side by 1-2m, protected by Tree Preservation Order 88/00004/TPO

Date Valid: 10th September 2020



**APPLICATION NO: 20/01484/TPO**

**RECOMMENDATION**

Grant consent

**PROPOSED DEVELOPMENT**

Application to shorten the lowest branches overhanging the garden(s) on the South side of 1 Oak tree to give approximately 4m clearance above ground level; reduce the canopy over the garden(s) by 2-3m and reduce branch on North side by 1-2m, protected by Tree Preservation Order 88/00004/TPO at 9 Hawthorne Road, Tiverton

**APPLICANT'S SUPPORTING INFORMATION**

Application form (redacted),  
Proposed works description,  
9 Hawthorne Rd Tiverton TPO plan,

**RELEVANT PLANNING HISTORY**

86/00530/FULL - DEMCON date 1st July 1986  
DEEMED CONSENT for detailed drawings for the erection of 49 units

**DEVELOPMENT PLAN POLICIES**

None applicable to this application

**CONSULTATIONS**

Tiverton Town Council – 7<sup>th</sup> October 2020  
Council feels there is insufficient evidence for the need to have a 4m clearance, therefore cannot support this application

**REPRESENTATIONS**

None received

**MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The reason for this work is to reduce the encroachment over the garden, improve access to the garden space and make it more usable, reduce feeling of overbearing, maintain full access to footpath. The application relates to a Common Oak located to the rear of No.9 Hawthorne Road. The specification of the works is to shorten the lowest pendulous branches overhanging the garden(s) on the south side of the tree to give approximately 4m clearance above ground level and to reduce the furthest extent of the tree canopy over the garden(s) by 2-3m, these branches extend from the main canopy and originate from a lateral branch at an old failure point. All the growth to be pruned emanates from a primary branch that originates from the main stem at approximately 6m on the south side. In addition to this, the proposal is to reduce the pendulous branch on the north side of the tree next to the public footpath by 1-2m.

The tree is owned by MDDC and is located on a hedge boundary to the north of No.9 Hawthorne Road. The Tree Consultant assessing the works for the Planning Service MDDC outlines that the

submitted aerial photograph shows a small rear garden which is clearly dominated by the tree in question. The arboricultural justification is that the works are relatively minor and will ensure statutory clearance over the public footpath can be maintained. Furthermore the crown reductions will improve the relationship of the tree with adjoining residential property whilst not detracting from the long term amenity of the tree.

## **CONDITIONS**

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

## **REASONS FOR CONDITIONS**

1. To ensure the works carried out remain appropriate to the conditions of the tree and in the interests of visual amenity. The works are justified for the appropriate management of tree in close proximity to residential property and for maintaining clearance over a public path.
2. To ensure the works are carried out in accordance with best Arboricultural practice.

## **INFORMATIVES**

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

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

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

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

The specified works constitute good management of the tree in its location with no objection raised by the Tree Consultant advising MDDC on this proposal, confirming that the specification appears appropriate for the species and setting of the tree.

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. 21/00678/TPO

Grid Ref: 296684 : 113775

Applicant: Mr Steve Densham, Mid Devon District Council

Location: Land at NGR 296672 113777 (East 7 Jasmine Close)  
Tiverton  
Devon

Proposal: Application to reduce overhanging branches by 1.5m and 2m of 1 Oak tree protected by Tree Preservation Order 88/00004/TPO

Date Valid: 8th April 2021



**APPLICATION NO: 21/00678/TPO**

**RECOMMENDATION**

Grant consent

**PROPOSED DEVELOPMENT**

Application to reduce overhanging branches by 1.5m and 2m of 1 Oak tree protected by Tree Preservation Order 88/00004/TPO on land at NGR 296672 113777 (East 7 Jasmine Close), Tiverton

**APPLICANT'S SUPPORTING INFORMATION**

Application form, Tree location plan, Aerial Photo, Planning Portal Online Submissions

**RELEVANT PLANNING HISTORY**

19/01237/TPO - Withdrawn

Application to carry out an overall crown reduction of 1 Oak tree by 4m protected by Tree Preservation Order 88/00004/TPO

**DEVELOPMENT PLAN POLICIES**

None applicable to this application

**CONSULTATIONS**

Tiverton Council – 27<sup>th</sup> April 2021  
Support

**REPRESENTATIONS**

None received

**MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The reason for this work is that the proposed T1 oak, tree is growing within bank adjacent to watercourse. The proposed works are for the primary branch on the west side of the tree overhanging the garden to reduce regrowth from previous pruning by approx. 2m, back to previous pruning points. To reduce small diameter branches overhanging the garden shed by 1.5m, to achieve 1.5m vertical clearance and with the horizontal limb on the north side of the tree, to prune back 2nd order branches by up to 2m where they are overhanging the boundary of 7 Jasmine Close.

In terms of the arboricultural justification, the Council's Tree Consultant has commented that the tree is a large mature common Oak overhanging a property. A very large primary limb extending west towards No7 has been subject to being heavily reduced in the past leaving it substantially truncated. Vigorous reiterative growth is has arisen from it as a result of the truncation. From the photographs submitted, the tree appears to be retrenching with evidence of good vitality but reducing vigour in the upper crown.

The Tree Consultant states that the proposed works are restricted to the portion of the crown overhanging the garden and garden shed. They are largely *de minimus* in scope and extent such that they are unlikely to cause significant physiological harm to the tree and do not significantly diminish the amenity value of it, certainly beyond that which has already occurred due to historic poor pruning practice. Maintaining 1.5 to 2m clearance from structures is advisable to maintain airflow and to reduce damp conditions. This is less important in the context of ancillary structures such as garden sheds and more important in the context of dwellings and other built structures.

The conclusion is that the proposed works are minimal in extent and have sufficient justification. The formal recommendation is that in pursuance of the powers under the Town & Country Planning Act 1990 and Town & Country (Trees) Regulations 1999, Mid Devon District Council as the Local Planning Authority should grant consent to carry out the following works:

1. Primary branch on the west side of the tree overhanging the garden – reduce regrowth to the previous pruning by removing approx. 2m, back to previous pruning points.
2. Reduce small diameter branches overhanging the garden shed by 1.5m, to achieve 1.5m vertical clearance.
3. Horizontal limb on the north side of the tree – prune back 2nd order branches by up to 2m where they are overhanging the boundary of 7 Jasmine Close.

## **CONDITIONS**

1. The works hereby permitted shall be carried out within two years of the date of this consent.
2. The works shall be carried out in accordance with BS3998:2010 Tree Work – Recommendations
3. The works hereby permitted shall consist of the following:
  - (a) Primary branch on the west side of the tree overhanging the garden – reduce regrowth to the previous pruning by removing approx. 2m, back to previous pruning points.
  - (b) Reduce small diameter branches overhanging the garden shed by 1.5m, to achieve 1.5m vertical clearance.
  - (c) Horizontal limb on the north side of the tree – prune back 2nd order branches by up to 2m where they are overhanging the boundary of 7 Jasmine Close.

## **REASONS FOR CONDITIONS**

1. To ensure the works carried out remain appropriate to the conditions of the tree and in the interests of visual amenity. The works are justified for the appropriate management of tree in close proximity to residential property and for maintaining clearance over a public path.
2. To ensure the works are carried out in accordance with best Arboricultural practice.
3. To preserve the continued contribution of the tree to the local character and amenity whilst enabling such works as are required to manage the tree and having regard to the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

## **INFORMATIVES**

**BREEDING BIRDS.** Nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended) and if discovered must not be disturbed. If works are to be carried out during the

breeding season (from February to August, possibly later) then the tree(s) should be checked for nesting birds before work begins.

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

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

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

The specified works constitute good management of the tree in its location with no objection raised by the Tree Consultant advising MDDC on this proposal, confirming that the specification appears appropriate for the species and setting of the tree.

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. 20/01825/TPO

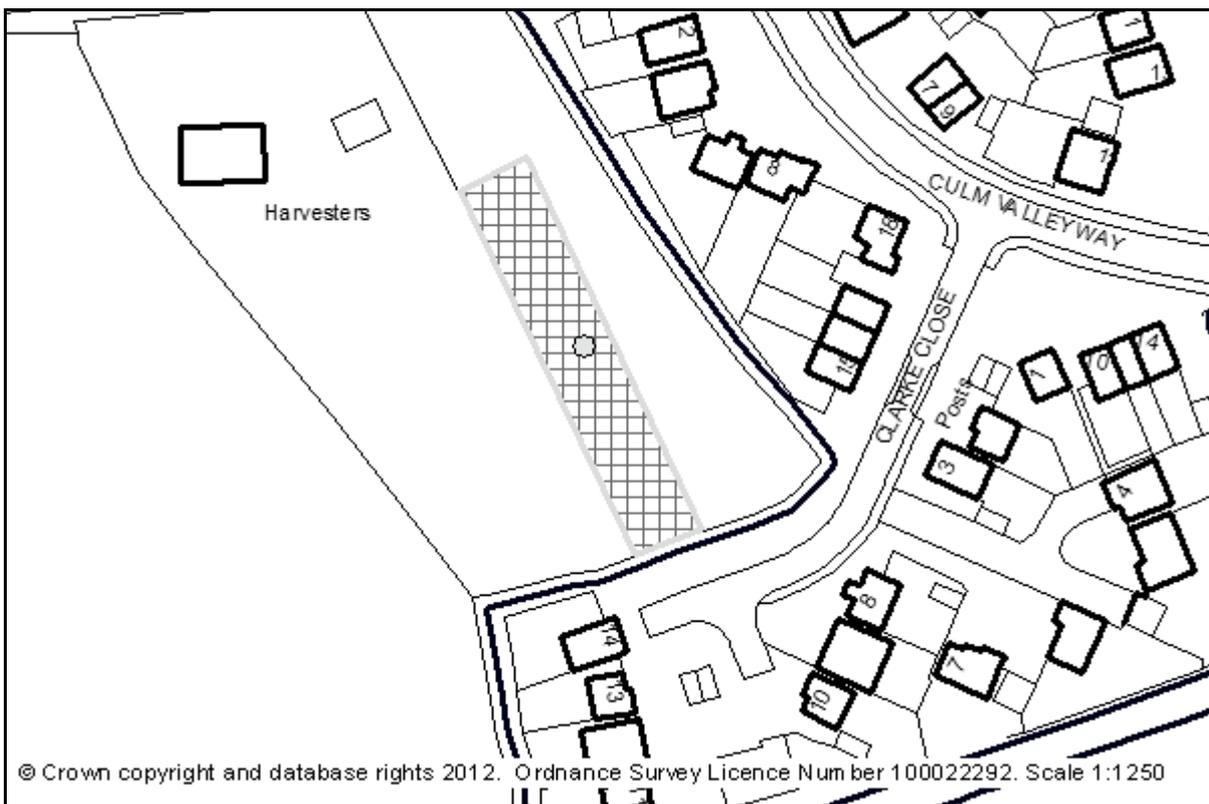
Grid Ref: 305855 : 112143

Applicant: Mr A Earl

Location: Land at NGR 305855 112143  
(Woodland East of Harvesters)  
Uffculme  
Devon

Proposal: Application to fell 1 Ash and 2 Oaks and remove deadwood/limbs from 2 Ash and 2 Oak trees protected by Tree Preservation Order No 96/00006/TPO

Date Valid: 30th October 2020



## **APPLICATION NO: 20/01825/TPO**

### **MEMBER CALL-IN**

This application was called in to Planning Committee for determination by Councillor Ray Radford for the following reason:

To consider whether there is a need of any tree felling or pruning that is necessary from a health and safety point of view, particularly as it is very controversial.

### **RECOMMENDATIONS**

1. Refuse consent for the proposed felling of trees T3, T4 and G2
2. Grant consent for the proposed felling of tree T1 ash in the application and for the removal of deadwood from the trees referred to as G2 and the proposed pruning of T5, ash, and T6, oak, to remove branch stubs.

### **PROPOSED DEVELOPMENT**

Application to fell 1 Ash and 2 Oaks and remove deadwood/limbs from 2 Ash and 2 Oak trees protected by Tree Preservation Order No 96/00006/TPO on land at NGR 305855 112143, (Woodland East of Harvesters), Uffculme.

The applicant has explained that Kier Living Limited (Main Contractor) now known as Tilia Homes were instructed by the Client (LiveWest) to trim boughs on the plot boundary between the Harvester's woodland and LiveWest Lucombe Park Plots 34 and 35. Both LiveWest and Tilia Homes relied on a specialist Arboriculturalist's Arboricultural Impact Assessment (AIA): LiveWest Uffculme DTS Arboricultural Impact Assessment DTS14.100.2.AIA and Tree works Specification: LiveWest Uffculme DTS 0632-Tree Works-Specification both produced by Devon tree Services on behalf of the client. The documents identified the on-site TPOs (section 3.1), however whilst specifying works to the trees encroaching from the Harvester's woodland copse did not identify the land as subject to a blanket TPO.

Section 4.4 II of the AIA expressly recommends a crown lift of group G13 /13B on site side to provide 3 metres ground clearance for garden space and scaffolding. The current application has been lodged by a second specialist Arboricultural consultant, independent of the original advisor. The applicant also notes that there was a near miss report raised on the 6<sup>th</sup> December 2020 where the branch of a tree adjacent to plot 34 (not one of those trimmed) fell within the plot during high winds, narrowly missing a site operative. Whilst there was no injury, an Initial incident report into the 'near miss' was raised and forwarded to the Kier Living Health and Safety Manager in line with company policy.

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

Application form, tree location plan, tree report

### **RELEVANT PLANNING HISTORY**

09/00827/TPO - REFUSE date 19th August 2009

Application to carry out works to trees protected by Tree Preservation Order 96/00006/TPO

09/01375/TPO - WITHDRAWN date 19th January 2010

Application to carry out works to trees protected by Tree Preservation Order 96/00006/TPO

10/00184/TPO - PERMIT date 31st March 2010

Application to remove 3 Oaks and 1 Beech and to carry out works to 2 Oaks and 4 Beech trees protected by Tree Preservation Order 96/00006/TPO

14/00660/TPO - PERMIT date 9th July 2014

Application to fell 1 Oak tree under Tree Preservation Order No 96/00006/TPO

17/01370/MARM - PERMIT date 4th December 2017

Reserved matters for the erection of 60 dwellings

## **DEVELOPMENT PLAN POLICIES**

None applicable to this application

## **CONSULTATIONS**

Uffculme Parish Council - 20/11/2020

The Council refers the application to the arborologist. The works described are seemingly as a result of unsympathetic pruning of the trees on this site and the Parish Council wonders if this was the intention of the developer so that removing the trees was possible. The information provided is very vague and in the opinion of the Parish Council intentionally incomplete. Given the previous issues with this site the Parish Council recommends that the District Council arborologist carries out their own survey of the trees.

The Council also recommends that if the trees are removed then suitable replacement trees are planted, preferably of a semi-mature nature, rather than saplings. The parcel of land had extensive tree surveys carried out and details published under application 18/01739/MARM and therefore the Parish Council queries why these considerations were not made at the time.

## **REPRESENTATIONS**

15 Letters of representation received objecting to the proposals. The grounds for objection are summarised as follows:

- When the Lucombe development originally applied for planning permission residents were assured that the Copse in question would not be touched as these trees were individually protected by a Tree Preservation Order (TPO). However, within a very short period of time the then contractors felled and "pruned" the edge of the wood adjacent to their development.
- I am not convinced that any "permissions" were obtained to carry out this action and should be investigated.
- The current planning permission strives to fell three trees and coppice two others. The two oaks T3 and T4 are said to have been "unsympathetically pruned leaving tree as a monolith". The questions raised are –
  1. Who carried out this pruning in the first place to make it unsympathetic?
  2. Was planning sought and granted? If not, why not?
  3. What action should be taken if such trees have been adversely disadvantaged by such illegal degradation?
- It could be reasoned that the current state of these trees is only the result of such potential illegal action and one wonders what the motivation was of the individuals/ organisations that instigated this "pruning".

- If planning was requested and granted for this pruning, then the question is, "Why was such unsympathetic pruning allowed?"
- Disagree that the current trees are monoliths. The two oaks are far from full, because of the aforementioned pruning but not a single trunk with no branches or foliage as described as monolithic in the application.
- The copse is home to around 30 species of birds including a resident family of Tawny Owls as well as foxes and deer that have been seen over the years frequenting this habitat. Removing these trees will surely have a significant negative impact on this wildlife and destroy their habitats.
- The copse also houses a colony of Rooks that have lived and bred here for well over 23 years to the accurate knowledge of the neighbours living in the estate from its inception.
- A digger has been driven through the copse where the daffodils are/were to lay some piping or drainage and now we are informed that some of the trees are under threat.
- Has any environmental survey been carried out to assess the full impact of this proposed action?
- The trees provide privacy from the houses at Lucombe Park and preserve the semi-rural location.
- Other trees in the copse that are not subject to the planning application have been left in an atrocious state following the aptly described unsympathetic pruning some of which are overhanging housing and others look in danger of falling.
- How will the developers gain access to work on trees overhanging neighbouring properties where no permission is given by the occupiers?
- As an immediate neighbour of the woodland concerned, we should have been notified by the planning department of this application but were not.
- If the trees cannot be preserved the developers should be asked to plant trees to replace them.
- Experts should be brought in to report on how the proposed felling and pruning is likely to affect the wildlife.
- The developers should never have been allowed to build so close to the copse.
- Lucombe Park has been built on a flood plain and the copse especially has lots of standing water and the trees that are there would provide a good source of drainage. So to remove these trees that are established would mean that you will have less trees to help soak up the excess standing water.
- The removing of deadwood/limbs from other trees, has only come about because the builders have assured the new house purchasers that they would do so.
- It would be helpful if the developers were required to erect a substantial fence around the area rather than a wire one which over time will be climbed over and damaged enabling people to disturb more of the wildlife there.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The proposed works are to fell 1 ash and 2 oaks and remove deadwood/limbs from 2 ash and 2 oak trees, the reasons cited being that the ash is infected with Ash Dieback disease, safety reasons for the deadwood, and previous poor pruning for the oaks and 1 ash, and to improve appearances.

The full Tree Works Specification as provided by GE Consulting (Ecology, Arboriculture, Land Management) for the applicant to outline the works and reasons for doing so is as follows:

Tree Number	Species	Comments	Tree works / Management Recommendation	Reason for works
T1	Ash	Ash Dieback Disease (ADD) throughout crown	Fell to coppice	Infected with ADD, much of the tree is dead.
G2	Oak and Ash	Significant deadwood present in crown of numerous trees. Etiolated individual oak with significant phototropic growth towards site.	Remove significant deadwood (>30mm diameter) which overhangs site boundary. Remove etiolated oak.	To reduce risk of failure on garden users.
T3	Oak	Unsympathetic pruning leaving tree as monolith.	Fell to ground level	Tree unlikely to develop into quality specimen
T4	Oak	Unsympathetic pruning leaving tree as bifurcated monolith.	Fell to ground level	Tree unlikely to develop into quality specimen
T5	Ash	Unsympathetic pruning leaving primary bifurcated limb without foliage.	Remove limb to source.	To improve aesthetics of tree and provide more space for remaining stem to develop.
T6	Oak	Unsympathetic pruning leaving large limb stubs.	Remove limb stubs which lack any retained foliage to source.	To improve aesthetics of tree.

MDDC employed a Tree Consultant to assess the works proposed within the application, conducting a visual inspection of the trees whereby the Visual Tree Inspection methodology was used. The amenity evaluation methodology is based on the Borough of Poole 'Amenity Evaluation of Individual trees or Group of trees.

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

The findings and conclusions of the Council's Tree Consultant were as follows:

### Description and findings

1. Plot 34 Lucombe Park is currently under construction and forms part of the ongoing residential development known as Lucombe Park, Uffculme.
2. The subject trees are growing along the edge of a broadleaf woodland that forms the eastern boundary of the site. The woodland provides a buffer between the new development and the properties in Clarke Close to the east.
3. Recent tree works have been undertaken to a number of the trees located along the edge of the woodland, the works have involved the topping of 2 oaks trees and the pruning of 1 oak and 1 ash in the application. Pruning works have also been undertaken to a further 3 oaks that are not in the current application. The pruning works have been poorly executed, leaving numerous branch stubs and the topping has indiscriminately removed nearly all the crown of 2 oaks.
4. The subject trees are components of a woodland that forms a natural screen and buffer between the new development and nearby older residential area. The upper storey of the woodland is composed predominantly of native oak trees and is easily seen from the public realm, as such it makes an important contribution to public amenity. Native woodlands are also valuable and important because they provide habitat and shelter for wildlife and support biodiversity.
5. It was observed that no proper tree protection measures have been implemented to protect the trees adjacent to plot 34 while the site works are being undertaken. There is a chain link fence along the edge of the site that may indicate the boundary and some heras panels but this is inadequate to protect the roots of the trees from damage caused from ground compaction by heavy vehicle movements or groundworks. It was noted that there are vehicle tracks within the root protection areas (RPAs) of the trees. The setting up of construction exclusion zones (CEZs), prior to groundworks or construction around the trees in line with BS5837 (2012) would have avoided these issues.
6. It appears there was a pre commencement condition (cond.10) attached to the planning consent for the development (granted on appeal) that required the submission of a tree protection plan (TPP) and arboricultural method statement (AMS) to the council for approval. The condition required the development to be carried out in strict accordance with the approved tree protection details. I have not seen these documents.

### Arboricultural Justification

1. A tree work specification, dated 23/10/20, has been submitted in support of the application, the trees have been numbered in the specification and relate to the tree location plan.
2. The trees in the application have been described as T1 through to T6 from south to north, they are all mature ash and oaks. T1 is the mature ash growing in the low hedge bank forming the edge of the woodland. The tree appears to be affected by ash dieback disease (ADD), showing approximately 25-50% crown dieback, the disease is likely to progress and debilitate the tree further and the proposed felling to a coppice stool is considered justified.
3. G2 appears to be the group of ash and oaks slightly set back into the woodland, the proposed removal of deadwood > 30mm diameter from the trees is exempt from protection under the TPO and can be allowed to proceed. It is proposed to remove an etiolated oak from within the group, this tree has grown up with etiolated form due to light competition with its neighbours, the removal of T1 will allow the tree to receive higher light levels and grow into the space created. The tree is a

component of the woodland and its removal is not considered justified or necessary for management reasons.

4. T3 is the oak growing in the hedge bank that over hangs the site, the tree has recently been topped by cutting through the main stem, removing its entire crown and leaving an abruptly truncated stem. The works have drastically diminished the size and appearance of the tree and have effectively ruined the amenity it afforded, however there are a number of epicormic branches on the stem that will continue to grow and may eventually form a new crown. Even such drastic pruning is not likely to kill the tree and the proposed felling of the tree because of its poor appearance is not considered necessary or justified.

5. T4 is another oak in the hedge bank that has been topped in the same way as T3, but the tree bifurcates at 1.5-2m so there are 2 stems rather than a single one. The same principles apply to T4 as to T3 and its proposed felling does not seem to be justified on aesthetic grounds.

6. T5 is a mature ash that has been pruned by removing all the bud and foliage bearing material from 2 lower branches. The proposal is to remove the whole branch to improve the appearance of the tree and provide more space for the remaining stem to grow. If the branches are removed, the point of pruning should be distal to the bifurcation to avoid creating a large wound on the main stem of the tree that would provide an entry point for pathogens.

7. The proposals for T6, oak, are to remove limb stubs lacking any retained foliage, to improve aesthetics of the tree. The tree has been poorly pruned leaving branch stubs, the removing of the stubs to a suitable growth point would leave a tidier appearance and is considered justified.

### Application Appraisal

1. It appears that the recent pruning works have prompted the current application to fell 2 of the trees and prune the others.

2. The works to remove deadwood from G2 are exempt, and the felling of T1, ash can be justified due to the presence of ADD.

3. The proposed pruning of T5, ash and T6, oak to remove pruning stubs would not adversely affect the appearance of the trees and appears to be reasonable management, if carried out in line with good arboricultural practice.

4. T3 and T4 are components of the protected woodland, and they are now of severely truncated form, due to the topping and this has effectively decimated their value to amenity. However, they are likely to survive and their crowns will eventually regrow. Moreover, the proposed felling of T3 and T4 is not considered to be justified, especially in view of the circumstances of their recent pruning.

### Summary

1. The proposed removal of deadwood from the G2 trees does not require formal consent under the TPO. The proposed pruning of T5 and T6 to remove or reduce branch stubs to a suitable growth point is considered acceptable. T3, T4 and the oak within G2 are all components of protected woodland and their removal is not considered to be desirable or justified.

2. Several references have been made in the Council's Tree Consultant's report and representations to previous tree work undertaken on site, whether it was undertaken with consent and whether planning conditions were complied with. These matters are under separate

consideration outside the scope of the assessment of this application whether has been considered on its arboricultural merits.

### **Refuse consent for the proposed felling of trees T3, T4 and G2**

#### **REASON FOR REFUSAL**

The Local Planning Authority refuses consent for the proposed felling of T3 and T4 for the reason that notwithstanding the recent pruning works, T3 and T4 are living components of protected woodland, the woodland makes a significant contribution to public amenity and the felling of the trees would diminish the woodland. With reference to the reasons given in support of the application, the felling is considered not to be justified. The Local Planning Authority also refuses consent for the felling of a tree within G2 described as an etiolated oak for the reason that the tree is a living component of protected woodland, and as such its removal is considered not to be justified.

### **Grant consent for the proposed felling of tree T1 ash in the application and for the removal of deadwood from the trees referred to as G2 and the proposed pruning of T5, ash, and T6, oak, to remove branch stubs.**

#### **REASONS FOR APPROVAL**

The Local Planning Authority considers that the proposed felling of T1 ash in the application is acceptable. In addition to this the removal of deadwood from the G2 trees does not require formal consent under the TPO and that the proposed pruning of T5 and T6 to remove or reduce branch stubs to a suitable growth point is considered acceptable.

#### **CONDITIONS**

1. The works hereby permitted shall solely consist of the following:
  - (a) The proposed felling of T1 ash in the application
  - (b) The removal of deadwood from the G2 trees
  - (c) The proposed pruning of T5 and T6 to remove or reduce branch stubs to a suitable growth point.
2. The works hereby permitted shall be carried out within two years of the date of this consent.
3. The works shall be carried out in accordance with BS3998:2010 Tree Work - Recommendations

#### **REASONS FOR CONDITIONS**

1. To preserve the continued contribution of the trees to the local character and amenity whilst enabling such works as are required to manage the trees and having regard to the Town and Country Planning (Tree Preservation)(England) Regulations 2012.
2. To ensure the works carried out remain appropriate to the conditions of the trees and in the interests of visual amenity.
3. To ensure the works are carried out in accordance with best Arboricultural practice.

## **INFORMATIVES**

It is an offence to disturb nesting or breeding birds under the Wildlife and Countryside Act and the Countryside and Rights of Way Act 2000. The timing of tree work must be considered to avoid disturbing any nesting or breeding birds or bat roosts, the time to avoid is from March to August.

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

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

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

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