

Public Document Pack

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PLEASE NOTE: - this meeting will take place at Phoenix House and members of the Public and Press are able to attend via Zoom. If you are intending to attend in person please contact the committee clerk in advance, in order that numbers of people can be appropriately managed in physical meeting rooms.

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MID DEVON DISTRICT COUNCIL

PLANNING COMMITTEE

A MEETING of the **PLANNING COMMITTEE** will be held in the Phoenix Chambers, Phoenix House, Tiverton on Wednesday, 7 September 2022 at 2.15 pm

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

STEPHEN WALFORD

Chief Executive

30 August 2022

Councillors: P J Heal (Chairman), E J Berry, S J Clist, Mrs C Collis, L J Cruwys, Mrs C P Daw, B Holdman, D J Knowles, F W Letch, R F Radford and B G J Warren

A G E N D A

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

1 APOLOGIES AND SUBSTITUTE MEMBERS

To receive any apologies for absence and notices of appointment of

substitute

- 2 **PUBLIC QUESTION TIME**
To receive any questions relating to items on the agenda from members of the public and replies thereto.

Note: A maximum of 30 minutes is allowed for this item.
- 3 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT**
To record any interests on agenda matters
- 4 **MINUTES OF THE PREVIOUS MEETING** (*Pages 3 - 18*)
To consider whether to approve the minutes as a correct record of the meeting held on 24th August 2022
- 5 **CHAIRMAN'S ANNOUNCEMENTS**
To receive any announcements the Chairman may wish to make.
- 6 **WITHDRAWALS FROM THE AGENDA**
To report any items withdrawn from the agenda
- 7 **THE PLANS LIST** (*Pages 19 - 86*)
To consider the planning applications contained in the list.
- 8 **APPLICATION 22/00672/FULL - Development Site at NGR 295336 112490 St George's Court, Tiverton, Devon - Formation of residential parking area and landscaping works** (*Pages 87 - 102*)
To consider an implications report with regard to this application.
- 9 **MAJOR APPLICATIONS WITH NO DECISION** (*Pages 103 - 104*)
To receive a list of major applications and potential site visits.
- 10 **APPEAL DECISIONS** (*Pages 105 - 106*)
To receive a list of recent appeal decisions

Meeting Information

From 7 May 2021, the law requires all councils to hold formal meetings in person. The Council will enable all people to continue to participate in meetings via Zoom.

If you want to ask a question or speak, email your full name to Committee@middevon.gov.uk by no later than 4pm on the day before the meeting. This will ensure that your name is on the list to speak and will help us ensure that you are not missed. Notification in this way will ensure the meeting runs as smoothly as possible.

An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, or

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

Tel: 01884 234209

Fax:

E-Mail: coliphant@middevon.gov.uk

Public Wi-Fi is available in all meeting rooms.

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MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 24 August 2022
at 2.15 pm

Present

Councillors

P J Heal (Chairman)
S J Clist, Mrs C Collis, L J Cruwys,
B Holdman, D J Knowles, F W Letch,
B G J Warren, C J Eginton and B A Moore

Apologies

Councillor(s)

E J Berry, Mrs C P Daw and R F Radford

Also Present

Officer(s):

Richard Marsh (Director of Place), Angharad Williams (Development Management Manager), Maria De Leiburne (Operations Manager for Legal and Monitoring), Dean Emery (Corporate Manager for Revenues, Benefits and Recovery), Adrian Devereaux (Area Team Leader), John Millar (Area Team Leader), Jake Choules (Planning Officer), Tim Jarrett (Arboricultural Officer), Jessica Rowe (Member Services Apprentice) and Carole Oliphant (Member Services Officer)

46 APOLOGIES AND SUBSTITUTE MEMBERS (0.03.14)

Apologies were received from Cllrs R F Radford, E J Berry and Mrs C P Daw who were substituted by Cllr B A Moore and Cllr C J Eginton

47 PUBLIC QUESTION TIME (0.03.39)

1. Hayley Keary, referring to No 1 on the Plans list asked:

I am Hayley Keary of 44 Higher Town, a heritage asset at the north east of the site.

You will recall land levels mean that the windows of our home can easily be overlooked from the site. This committee has not seen the situation from inside our home but did accept the problem last time. I ask my question first, and then explain why I think you should act on it.

My question is to the Officer and the Councillors:

If you are minded to approve this application, will you please re-instate Condition 7 that was before you on 29th June, and ensure the wording allows for land levels to be changed? Chair – Please will you ensure that my request is considered during the meeting?

Since June the applicant has removed trees from the land opposite 42-46 Higher Town which is helpful.

More is needed: In June the Officer confirmed to you that Condition 7 would allow the cycleway beside us to be lowered. To lower the path would match this email the Officer sent us in March, where he says:

‘...I have asked [the applicant] if the ground level of the path could be reduced in order to reduce any possibility of overlooking’.

The Officer clearly accepts that people at that level can overlook our windows and that this requires action. It still does.

In the plans before you, the path has now been moved away from 42-46. Although helpful, it still leaves us with at least two big problems:

Nothing has been done to confirm boundary treatments as Condition 7 required and, worst of all:

There is now a significant area of land between the fence, and the new line of the path. That land is even higher than the path was in the previous plan. Therefore we are worse off than we were before in terms of being overlooked. People can now ‘gather’ and stay there, rather than pass by. Parents may well do this whilst children play on the trim trail equipment. (Please do not allow the trim trail awful proposal).

On the 27th July, before the end of the public consultation, we explained this with diagrams and a proposed solution in our objection. But shockingly, the Committee Report says nothing about this in its summary of recent objections. This gives the impression that we are either satisfied, or, that we missed the deadline: neither of these are accurate. We heard just 48 hours ago that the Officer has sent an ‘update sheet’ to members, although of course our objection should have been available for members to read and have time to digest as from 27th July.

So, I ask the Committee to refuse permission today. I urge you, at the very least, to re-instate Condition 7, to preserve our amenity as required by Policy DM1. Please be led by Best Practice, rather than the repetitive suggestion the applicant’s agent makes about basic requirements. Thank you.

2. Stewart Smith, also referring to No 1 on the Plans list asked:

My name is Stewart Smith and I live at 13d, adjacent to the sites eastern boundary. It is the nearest property to any of the plots on the site.

In an illustrated plan at the Inquiry, the nearest proposed dwelling to my property was 45 metres away, with a wide green buffer zone between.

In a plan used for the community consultation, this had reduced to 25 metres. In the plans before you today, the boundary of this nearest new building is just 15 metres away, and the green buffer zone by our garden fence has shrunk to a laughable half metre.

I’ve sent the councillors an email and diagram showing a sections views through the applicant’s plans of 37, which proves that the residents of plot 37 would have clear line of sight into the floor to ceiling windows of my home.

Worse still, the new dwelling on plot 36 is even higher up the slope. A full two metres higher than my property, you may wish to have a look yourselves. In 2017, my bungalow was built. The planning inspector then ruled various major changes had to be made to the heights and proposed plans to ensure that the development would not harm the privacy of gardens numbers 42 and numbers 44 Higher Town. So, why on earth are the proposed buildings being allowed to look over me? Not just our garden, but the actual living room windows into my home.

If plots 36 and 37 cannot be removed from the plan, then we want the application refused. Alternatively, we want those plots to be lowered by at least half a metre. Incidentally, when I queried the sites slope and height, the applicant's representative told me that altering the height of the site is costly. Really? Your policy, DM1, is supposed to ensure that new dwellings do not have an adverse effect on the privacy and amenity of neighbouring properties. This plan does not comply.

My final point is that the application's boundary layout plan shows the fencing on the eastern boundary promises that details are all to be agreed with adjacent home owners. That has not been complete, and has not happened.

My question:

'Councillors, if you're minded to approve this awful, flawed application, will you please add a condition to lower plots 36 and 37, and another to require boundary details to be agreed with all adjacent neighbours before building commences?'

Chair, please will you ensure the conditions to this effect are formally considered by the committee before any vote to approve the application is taken.

3. Greta Tucker, again referring to No 1 on the Plans list asked:

My name is Greta Tucker, I'm a resident of Sampford Peverell. My question concerns access to the village for pedestrians. Since June, the 30 steps at the South East have been removed and a new path has been added to the south of the allotments. We are told these changes should address your concerns over disabled access. So, if I live at the South of the village development and I want to catch a bus, or make my way to the village shop with my wheelchair using friend, here is what we must do. Make our way along the South until we are almost at the South East access. We can see it clearly, it is just ten metres away. But, over three metres below us. We cannot follow our desired line. So, we turn North away from the access and head up the steep road. It has no footpath beside it, it is a shared surface. I watch and listen carefully for cars, as my friend struggles to get her wheelchair up the 8% gradient, just where we approach the allotments. We turn onto the path. It is made of gravel and clay, and the wheelchair wheels do not cope easily, especially if it has been raining and the surfaces become muddy. At the end, it joins the shared cycleway. We look carefully to the left. There is a bend just 13 metres away. Cyclists speeding down the 7% slope and around the bend cannot see us behind the hedges of the allotments. Now we make our way south down the cycleway but we can't go side by side. We must leave room for those cyclists, and it is only 2.5 metres wide even though we know the guidance says it should be wider. After another 60 metres we've finally reached the south east access itself, but this is where we really have to be careful as the slope of the path here, on a tight, blind bend, is steeper than anywhere on the whole site. We don't want the wheelchair to run out of control to Turnpike where most traffic has been recorded as moving at 44mph. There is no 30mph limit

here. Now we can cross the road and move on to the bus stop or to the village shop. I have two questions:

1 – To the officer – which part of the steep, awkward and dangerous detour to reach the south east access most closely matches your policy DM1, for high quality design? This is a serious question, please don't evade it. Please refer to specific design features when you respond.

2 – To the councillors – The local highway authority accepts that part of the pedestrian routes within the site may not meet national guidance, and has said that. You will wish to take these matters into account in the overall planning balance. The plans do not provide safe and suitable access for all. They do not encourage sustainable travel. They do not improve access to the village for pedestrians. Councillors, will you please reject the plans as they stand?

4. Gerald Dinnage, referring to No 1 on the Plans list asked:

I am Gerald Dinnage of Sampford Peverell.

On page 45 of the Report Pack, the officer says that '... drainage and flood risk have been fully considered'.

This is not true.

New drainage plans appeared in May and July – but the Devon Flood Team has not sent an official response since April.

Condition 18 says that the drainage design must be informed by percolation tests. These measure how well water drains into the ground.

But the Committee Report never even mentions Condition 18.

New data about Condition 18 was published on the outline application page just days ago, on 9th August. It confirms that expert engineers Hydrock ran percolation tests at the site in 2017.

Hydrock reported that none of the test pits managed to drain the required three times. In line with national guidance, Hydrock warned that this means that the test results '... should not be used for design purposes'. Hydrock made no exceptions and left no ambiguity. This is new information.

In 2021, Hydrock worked with South West Geotechnical. They ran a second set of infiltration tests.

These also failed for the same reason.

In July 2022, the applicant submitted a design for a filter drain beside the cycleway. The text beside the drawing says that its design is based on the second set of failed test results.

Lastly, the applicant promised that footpaths (plural) will have filter drains. Only one drain appears in July's new plans.

My questions to the officer are:

Has the cycleway filter drain been designed using data from incomplete tests, against the clear warning from Hydrock that such data should not be used for design purposes?

In your report published online for this Committee Meeting:-

- a) Do you inform Members that Condition 18 has not been discharged?
- b) Do you inform Members that the Flood Team has not responded on any plans submitted since April?
- c) Do you tell Members that the plans include only one pathway drain?
- d) Residents raised drainage concerns during the July consultation. Does your Report's summary of July objections even mention drainage?

So, will you please amend the statement you make on page 45 of the Report so that it reads - 'Drainage and flood risk have NOT been fully considered'

5. Paul Elstone, referring to item 10 on the agenda had the following read out by the Chairman and asked:

- a) Planning Enforcement Table 2.2 Shows 2 separate line entries for Breach of Condition 171. Was it intended that one line refers to Section 171 A breaches i.e. related to carrying out development without the required planning permission or failing to comply with any condition. That was it intended that the second line refers to Section s 171 B i.e. breach of planning control such as change in use of a building without planning permission etc.
- b) "The following table shows stats for enforcement cases over the past few months" What specifically is the period covered. Which calendar months and for which year.
- c) The text of the Planning Report Section 2 Enforcement says the following: "Cases outstanding include 334 of which 174 are pre-2022, these are being worked on. Many may not be high priority and can be cleared". Can the MDDC Development Manager please fully explain what "High Priority" means in MDDC planning enforcement terms?
- d) Can it be explained why lower priority enforcement cases can apparently be so easily cleared?
- e) Of the 41 Enforcement Cases shown as closed out in Table 2 how many of these were classed as "high priority"?
- f) Did any of the 41 enforcement cases that have been closed out relate to Anaerobic Digesters or associated Silage or Digestate Clamps?

- g) How many of the 334 cases outstanding relate to Anaerobic Digesters, or associated Silage or Digestate storage clamps and are deemed “high priority”?
- h) How many of the 334 cases outstanding are considered as “high priority”?
- i) How many of the 334 cases outstanding are within 12 months of the expiry date permitting enforcement action to be taken?
- j) How many retrospective planning applications have been received over the last year and how many of these have so far been refused?

6. Stephen Hirst, referring to No 1 on the Plans list sent in a question which was read out by the Chairman and asked:

I am Stephen Hirst. I live at 42 Higher Town the listed building at the north-east of the site.

Page 38 of the Public Report Pack tells you that ‘the formal LEAP has been moved and altered to less formal play equipment integrated into the landscape alongside the cycleway proposed’.

The fence has gone but there are still six items of play apparatus at the north-east. That is exactly the same as it was in the June plans.

The equipment is fixed on the Green Infrastructure that was added to limit impact on the setting of the Grade 2 listed building where I live. Unlike the path, it does not have to be there. It adds to the harmful impact. Anyone can see that.

It is ridiculous to say that this is ‘less formal play equipment’. It is play equipment and it is permanently fixed. The nearest is only half a metre further away from my garden than it was in the previous plans.

Noise will still be a problem – taking away a fence does nothing about that.

We still do not have designs for what equipment will go where and how high it will be. You are supposed to check these things before giving approval.

And what about the risks of having this play equipment either side of a cycleway? It invites children to run across from one side to another.

The equipment is within 12 metres of a window in the new bungalow near us. Last time the officer said it all had be 20 metres away.

My question is -

Councillors – Please will you refuse this application or at the very least remove all play equipment from the green infrastructure?

The Chairman advised that questions would be answered during the presentations apart from Mr Elstone who would receive a written reply.

48 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (0.27.12)**

Cllrs P J Heal, S J Clist, Mrs C Collis, L J Cruwys, C J Eginton, B Holdman, F W Letch, B A Moore and B G J Warren all made declarations in accordance with protocol of Good Practice for Councillors dealing with planning matters for application 22/00040/MARM as they had received correspondence from objectors

Cllrs B Holdman and F W Letch made personal declarations for 22/000408/MARM as they knew residents living next to the site

Cllr S J Clist made a personal declaration for application 21/01420/FULL as he knew the applicant

Cllr B A Moore made a personal declaration for application 21/01420/FULL as he was the Ward Member

Cllrs F W Letch and B G J Warren made declarations in accordance with protocol of Good Practice for Councillors dealing with planning matters for application 21/01420/FULL as they had received correspondence from objectors

Cllrs P J Heal and F W Letch made declarations in accordance with protocol of Good Practice for Councillors dealing with planning matters for application 22/000687/HOUSE as they had received correspondence from objectors

Cllr B G J Warren made a declaration in accordance with protocol of Good Practice for Councillors dealing with planning matters for TPO 22/0003/TPO as he was Chairman of Willand Parish Council and had attended a meeting where the application was discussed

49 **MINUTES OF THE PREVIOUS MEETING (0.28.05)**

The minutes of the meeting held on 10th August 2022 were agreed as a true record and duly **SIGNED** by the Chairman.

50 **CHAIRMAN'S ANNOUNCEMENTS (0.31.36)**

The Chairman had no announcements to make

51 **WITHDRAWALS FROM THE AGENDA (0.32.05)**

There were no items withdrawn from the agenda

52 **THE PLANS LIST (0.32.12)**

The Committee considered the applications in the *Plans List.

Note: *List previously circulated and attached to the minutes

- a) ***Application 22/00040/MARM - Reserved Matters for the erection of 60 dwellings and construction of new vehicular access onto highway to the west of the site (with access reserved) following outline approval***

17/01359/MOUT at Land and Buildings at NGR 302469 114078, Higher Town, Sampford Peverell.

The Area Team Leader outlined the application by way of a presentation which highlighted the site location plan, aerial view, site layout, affordable housing layout, street scenes, housing types, green infrastructure, play space design, cross sections, road hierarchy, cycleway details and photographs of the site.

The officer explained that the application before Members was Reserved Matters following outline approval 17/01359/MOUT granted by the Planning Inspectorate on 7th April 2021. He explained that a decision had been deferred by Committee so that further information set out in the minutes of the meeting on 29th June could be provided. As a result the applicant had submitted information which addressed the 13 specific concerns of Members.

In response to public questions and to the additional questions received (as detailed in the update sheet) the officer detailed the responses from the applicant which directly dealt with the concerns of objectors. He also provided detailed responses to specific questions raised regarding:

- Drainage
- Design Review Panel
- Removal of Permitted Development Rights
- Allotments
- Infrastructure pressures
- Documents available on the planning portal
- Further reduction of land levels
- Additional planting
- Trim trail
- Gradients
- Open Space specification and Management companies
- Site capacity for electrical consumption
- Solar Panels
- Archaeological mitigation

Consideration was given to:

- That a desire by some Members to remove permitted development rights to the new properties was not felt to be reasonable by officers
- That the Council would enforce the Management Plan if this became necessary in the future
- The number of electric vehicle charging points provided was above the required level detailed in the adopted policy
- Plots 57 and 58 where over 40 meters away from the nearest property and would not need to be lowered to prevent overlooking
- The views of the DCC Highways Officer who stated that the site was hilly and that they had worked with the developer to achieve the best possible solution to the cycleway
- That there was no adopted policy which could force the developer to make the site electricity only and that information from the electricity distribution

company was that they current supply to the site would not facilitate this as there was not enough capacity

- The views of the objector who stated that there was dodgy data used for the drainage and there was significant overlooking of existing properties. That the insulation proposed had not been independently checked, there were concerns with the separate site construction access and the location of the self-build plots. That the application should be refused due to poor layout and the cycle way gradients.
- The views of the applicant who stated that they had responded to all of the concerns raised by Members. There was no maximum gradient allowed for cycle ways and that the LEAP had been redesigned. Plots 47 and 48 had been lowered as requested. That the lighting plan was part of the discharge conditions and that the residents would take over the management plan after 10 years. That the electricity distribution company had confirmed that there was not the capacity to make all of the homes electricity only so they had used a fabric first approach to make the homes more energy efficient
- The view of the Parish Council who were concerned about road speeds and that gas boilers were to be installed
- The views of the Ward Members who felt that residents' concerns should be listened to and addressed. That the green infrastructure should be protected and that no play equipment should be sited on it. That there was no need for a trim trail

It was therefore **RESOLVED** that planning permission be granted subject to conditions as recommended by the Development Management Manager.

(Proposed by B A Moore and seconded by P J Heal)

Reason for the decision: As set out in the report

- Cllrs Mrs C Collis, S J Clist and B G J Warren requested that their votes against the decision be recorded
- Cllrs C J Eginton, F W Letch and B Holdman requested that their abstention from voting be recorded
- Jamie Byrom spoke as the objector
- Tim Smale of Edenstone Homes spoke as the applicant
- Cllr David Cutts spoke on behalf of Sampford Peverell Parish Council
- Cllrs J Norton and Mrs C Collis provided statements as Ward Members
- Brian Hensley spoke on behalf of DCC Highways Authority
- Cllr C J Eginton left the meeting at 16.38pm
- The following late information had been received:

Consultee Responses:

Sampford Peverell Parish Council – 15th August 2022

The documents concerning this Reserved Matters application which have been added since June have been studied by all Members of Sampford Peverell Parish Council. We appreciate the continuing efforts that have been made to improve and clarify the application and feel that the overall plans are much better now. The plans for refuse collection are clearer, with public waste bins marked, and the open space

specification is better, for instance specifying minimal use of herbicides and hedge-cutting. However we still have a few concerns:

Road speed around the area. We appreciate that changes to speed limits are controlled by DCC, but we suggest improved signage or gateway markers at the corners of the site could make it much clearer to drivers that they are entering the village. We would be happy to talk to Edenstone about our ideas.

We are very concerned about the effect of climate change, as evidenced by the recent heatwave, and like the district and county we want to reduce carbon emissions in the area. The changes in building regulations that took effect in June urge developers to install electric heating systems combined with renewable energy sources such as photovoltaics. The email from the developers' agent states "Unfortunately, the power company have advised that there is not sufficient power available to service the site as an 'electricity-only' development and they have no programme at the moment to upgrade the system. It is not, therefore, possible to propose an alternative system to that currently put forward". We contacted Western Distribution who could not tell us exactly what was said in this case, but they assured us that Sampford Peverell has no limit on the amount of electricity that can be used here, and there is also no limit on the number of houses that can have solar panels installed. Could the developers please explain the statement in their email? At the very least they could install solar panels, which are common in the village, and which are now well designed to fit in almost invisibly into new roofs. As the attached photograph shows, it is perfectly possible to build new houses (to the right) in the style of much older houses (to the left) with the most modern installations included (solar panels built into the roof structure). We expect a convincing explanation why this cannot be done for this development at a time when carbon footprint is of foremost concern.

We are happy that the LEAP for young children is now in the heart of the housing, with trim trail equipment provided to the north for teenagers and adults, we would, however like to see details of the equipment to be provided in both areas, and assurance that the trim trail equipment will not allow the overlooking of nearby houses.

The road hierarchy document does make it clear which roads are to be at an adoptable standard, but it was previously stated that they would not actually be adopted. We would like to be clear who will maintain these roads, collect rubbish from them, install and maintain the lighting along them, and what it means for, say, visitor parking.

We would still like to see a lighting plan. Item 20 in the list of planning conditions from the Appeal Inspector said that "no street and/or external lighting of public areas shall be installed on site except in accordance with a sensitive lighting plan that shall have previously been submitted to and approved in writing by the Local Planning Authority". We have not yet seen such a plan. The email from the agent says "This will be dealt with through the discharge of the outline condition (Condition 20 of planning permission 17/01359/MOUT) and this further detail remains within the MDDC's control". This missing plan is a requirement, as lighting is part of 'Appearance' in Reserved Matters.

We know parishioners who live near the site have other concerns regarding privacy, or the type and size of landscaping or planting near their homes. They are making their own objections and we hope their concerns will be dealt with.

Lead Local Flood Authority (D.C.C) – 18th August 2022 (response to concerns over drainage raised by Mr Byrom on 15th August 2022).

‘I responded to Jamie (response contained on page 7 of Jamie’s letter). I responded to Jamie’s further email this week stating the following:

The northern and southern connections of the eastern footpath are considered negligible and we consider that the highway drainage should be able to manage this (I am not aware that my Highways colleagues have raised concerns with these areas).

The south western footpath connection has been left to drain onto the highway (this is not uncommon). The flows would either drain west or south and I have not been made aware of any concerns with the drainage systems in these roads (only the systems draining eastwards down Higher Town and Turnpike).

We are content with the proposals.’

Local Highway Authority – 26th July 2022 (response to concerns raised by objectors to gradients)

‘The gradients within the site for the footway have indeed already been agreed with the Highway Authority at 8% so the further reduction to 7% will of course help.

I should point out that the guidance for gradients are a guidance and if these cannot be met, it would down the Highway Authority to agree on whether steeper gradients would be acceptable. And this is the case for many developments throughout Devon as a whole due to the topography of the County. The Developer has spoken to the Devon County Council Agreements Officer and gone through the proposal of what can be achieved regards the footway and proposed landing points, which has been agreed.

As you know this development is not being put forward for adoption and therefore the County Highway Authority would be asking for the development to be built to an acceptable standard, under the APC (Advanced Payment Code) of The Highway Act 1980. And the gradients proposed would be an acceptable standard.’

Objections received further to the revised information submitted.

Further to the writing of the officer report which is prepared just over two weeks in advance of the planning committee, 7 additional letters of objection have been received to the earlier 4 letters referred to. In summary the additional grounds of objection are:

- Failings of the drainage design for the development
- Concerns of the Design Review Panel and how they assessed the proposal
- Requirement of a condition to remove permitted development rights
- Concerns to the position of the allotment shed

- Note that residents object to the proposed oak tree which could be relocated opposite the cemetery
- The erection of 60 dwelling will add to infrastructure pressures
- The Council is withholding documents with comments referred to in the committee report from Highways and Natural England which are not viewable on file
- Land levels need to be reduced further to protect amenity to residents of 42-46 Higher Town
- Additional planting is required to screen harmful effects of the development
- The Trim Trail along the cycleway should not be allowed
- Objection to the proposed gradients which are not in accordance with guidelines
- Concerns over a Member briefing and that residents should be included
- Concerns in respect to the Open Space Specification and Management Companies
- Evidence required for site's capacity for electrical consumption needs to be made public
- The site could take a number of years to build and should include solar panels
- Evidence required of no specific archaeological mitigation in accordance with Policy
- There is no detail of drainage runoff onto Higher Town and how it will be dealt with

On the matters of objections received throughout the planning process, complaints have been received that the correct number of objections have not been referred to within the committee report. Members should be aware that there have to date been 61 letters of objection received (all viewable on file), which are from 24 individuals residing at 18 properties. In some instances individuals have written in multiple times and the public access website links these objections together in providing a total for objections.

b) Application 21/01420/FULL - Erection of an agricultural building, polytunnels and raised beds, septic tank and provision of new vehicular access at Land at NGR 289870 116865, Stoodleigh Cross, Stoodleigh.

The Area Team Leader outlined the application by way of a presentation which highlighted the site location plan, aerial image, block plan, plans and elevations, access plan and photographs of the site.

The officer explained that a decision had been deferred by the Committee for a site visit to take place which had now occurred.

Consideration was given to:

- That the removal of the existing containers could not be conditioned as they were not part of the application
- Enforcement action would have to take place if the containers were not removed
- The closest property was 500 metres away from the site

- The views of the Parish Council who stated that their objections still existed and there was anxiety and suspicion about the development. That if permission was granted, that conditions were enforced.
- The views of the Ward Member who felt that the development did not comply with policies DM20 or S14. That there were concerns over the proposed septic tank and that permission should be refused

It was therefore **RESOLVED** that planning permission be granted subject to conditions as recommended by the Development Management Manager subject to an amendment to condition 1 to read:

1. The development hereby permitted shall be begun before the expiration of 12 months from the date of this permission

(Proposed by B A Moore and seconded by B G J Warren)

Reason for the decision: As set out in the report

Notes:

- Cllr S J Clist requested that his abstention from voting be recorded
- John Widdowson spoke on behalf of Stoodleigh Parish Council
- Cllr R J Stanley provided a statement which was read out by the Chairman

53 **APPLICATION- 22/00687/HOUSE - RETENTION OF BUILDING FOR USE AS ADDITIONAL LIVING ACCOMMODATION AT OLD PARSONAGE, HIGH STREET, HEMYOCK, CULLOMPTON (3.02.57)**

At the Planning Committee meeting on 27th July 2022, Members advised that they were minded to refuse the application and invited an *implications report for further consideration.

The Planning Officer reminded Committee of the application by way of a presentation which highlighted the block plan, floor plan, elevations and photographs of the living accommodation.

He explained that the neighbours' concerns about excess noise could be dealt with through public health legislation.

Consideration was given to:

- The definition of ancillary accommodation
- 3 objections had been received
- Members views that an objection on parking issues could not be defended

Members were provided with case studies for previous applications that had been allowed at appeal but felt that the application before them was not similar and should be refused.

It was therefore **RESOLVED** that planning permission be refused contrary to the recommendation of the Development Management Manager for the following reason:

1. The proposed annexe, by virtue of its position, setting, scale and design would result in significant adverse impacts upon the amenity of residents of nearby properties contrary to policies S1, DM1 and DM11 of the Mid Devon Local Plan (2013-2033) and guidance in the National Planning Policy Framework.

(Proposed by Cllr S J Clist and seconded by B G J Warren)

Reason for the decision: As set out in the report

Notes:

- *report previously circulated and attached to the minutes
- Cllrs B A Moore, D J Knowles, Mrs C Collis and P J Heal requested that their votes against the decision be recorded
- Cllrs S J Clist, F W Letch and B G J Warren would defend an appeal if required
- Cllrs Mrs C Collis and F W Letch left the meeting at 17.50pm

54 **TREE PRESERVATION ORDER - 22/0003/TPO LAND AT NGR 303250 110816 (9-19 TAMARIND, 26 OAK CRESCENT) MEADOW PARK WILLAND (3.34.56)**

The Committee had before it a *report of the Development Management Manager with regard to an application for a Tree Preservation Order LAND AT NGR 303250 110816 (9-19 TAMARIND, 26 OAK CRESCENT) MEADOW PARK WILLAND

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

He explained that an objection had been received from a resident but that their concerns did not outweigh the amenity value of the trees.

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

(Proposed by Cllr B G J Warren and seconded by B A Moore)

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

Note:

- *report previously circulated and attached to the minutes

55 **Q4 PLANNING PERFORMANCE REPORT (3.43.04)**

The Committee had before it, and **NOTED**, a *report from the Development Management Manager providing the Q4 Planning Performance Report.

The officer outlined the contents of the report and highlighted that the results demonstrated what the team were achieving.

She explained that non major applications determined within 8 weeks was at 96% and was a massive achievement. Major applications determined within 13 weeks had dropped slightly due to them taking a long time to consult with applicants.

She explained that there were current difficulties with recruitment but this was industry wide but the teams' results were holding up well.

Members asked if the following information could be provided:

- The amount of planning fees returned
- How many appeals allowed for non-determination
- How many decision were overturned at appeal

The Chairman and Committee thanked the Planning Service for their continued hard work.

Note: *report previously circulated and attached to the minutes

(The meeting ended at 6.15 pm)

CHAIRMAN

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PLANNING COMMITTEE AGENDA - 7th September 2022

Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	22/00799/FULL - Change of use from chapel to single dwelling and parking opposite at Yeoford Gospel Hall, Yeoford, Devon. RECOMMENDATION Refuse permission.
02.	22/01182/MARM - Reserved Matters for appearance, scale, layout and landscaping for the erection of 41 dwellings and formation of vehicular access following Outline permission 16/01707/MOUT at Land at NGR 295494 113719, (South Of Lea Road), Tiverton. RECOMMENDATION Approve Reserved Matters subject to conditions
03.	21/02448/FULL - Erection of a dwelling at Land at NGR 268209 111511, Eggesford Close, Eggesford. RECOMMENDATION Refuse permission.
04.	22/00481/MARM - Reserved matters for the erection of 190 dwellings together with associated infrastructure following outline approval 17/01170/MOUT at Land at NGR 302186 108607 , North of Rull Lane and to The West of Willand Road, Cullompton. RECOMMENDATION Approve Reserved Matters subject to conditions

Application No. 22/00799/FULL

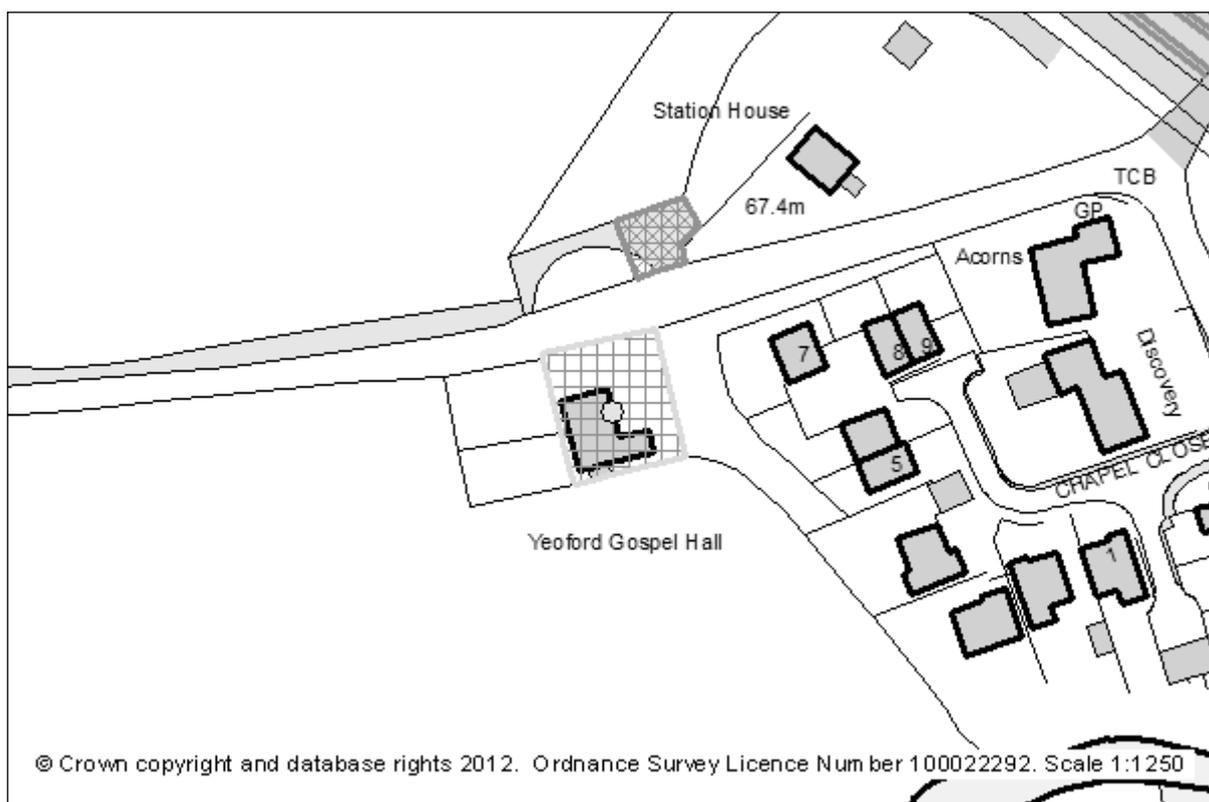
Grid Ref: 278194 : 98862

Applicant: Dr John Shelley

Location: Yeoford Gospel Hall
Yeoford
Devon

Proposal: Change of use from chapel to single dwelling and parking opposite

Date Valid: 17th May 2022



APPLICATION NO: 22/00799/FULL

MEMBER CALL-IN

The application has been called in by Cllr Coren for the following reasons;

1. To consider if there is sufficient reason to refuse permission on flooding grounds.
2. To consider if the proposed residential use of the building is supportable given the loss of community facility.

RECOMMENDATION

Refuse permission

PROPOSED DEVELOPMENT

Change of use from chapel to single dwelling and parking opposite.

Yeoford Gospel Hall is located within the settlement boundary of Yeoford. It is located within a rectangular plot to the south of the class C highway which heads westwards out of the village from Station Cross. The main building is constructed of brick with a slate roof and has a rectangular form with a single storey extension protruding from the east elevation to form an L shaped footprint. The building has an existing pedestrian access from the public highway to the north. There is a hardstanding area on the opposite side of the highway which is understood to have provided parking for the building.

The application seeks permission for the change of use from chapel to a single dwelling, with two parking spaces proposed to be allocated for the dwelling within the existing hardstanding area opposite the site. It is proposed to provide living accommodation at ground floor level with two bedrooms in the roof space.

APPLICANT'S SUPPORTING INFORMATION

Supporting information: application form, plans, FDA1, wildlife trigger list, flood risk assessment, FDA1, supporting statement re change of use (received 1st July 2022)

Revised plans were received on 14th July 2022 which proposed to increase the internal floor levels.

RELEVANT PLANNING HISTORY

81/00415/ADVERT - PERMIT date 1st April 1981 Consent to display a notice board (3'6 x 3' approx)

21/00693/FULL - WDN date 19th July 2021 Change of use from chapel to single dwelling

22/00798/FULL - PERMIT date 7th July 2022 Siting of a mobile home for use as annex to West Pitt Farm

22/00799/FULL - PCO date Change of use from chapel to single dwelling and parking opposite

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013 – 2033

Policy S1 -Sustainable development priorities

Policy S9 – Environment

Policy S13 – Villages

Policy S14 – Countryside

Policy DM1 -High quality design

Policy DM3 - Transport and air quality

Policy DM5 – Parking

Policy DM23 - Community facilities

Policy DM25- Development affecting heritage assets

National Planning Policy Framework

National Planning Practice Guidance

CONSULTATIONS

CREDITON HAMLETS PARISH COUNCIL- 07.06.2022

Crediton Hamlets Parish Council supports this application. The building is no longer in use as a chapel and conversion to a dwelling is preferable to allowing it to fall into disrepair and become an eyesore for local residents.

Councillors believe that the submitted plans are incorrect in that mains drainage is connected to the building

There have been incidents of flooding on the road outside the property in the past and, whilst it is not within the remit of MDDC or the property owner, the Council comments that it would be expedient for the cause of the flooding to be remedied before the proposed works are carried out.

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

PUBLIC HEALTH- We have considered the application and do not anticipate any environmental health concerns. A package treatment plant discharging cleaned water to a watercourse is proposed and we have no concerns regarding this.

HISTORIC ENVIRONMENT TEAM- Comments from Stephen Reed, Senior Historic Environment Officer

The proposed development involves the conversion of an early 20th century gospel chapel built in the arts and crafts style. While the proposed conversion to a dwelling will not lead to the loss of this non-designated heritage asset it will change the appearance and character of the extant building.

Given the impact upon the historic building and in accordance with Policy DM25 of the Mid Devon Local Plan and paragraph 205 of the National Planning Policy Framework (2021) I would advise that this application should be supported by the submission of a Written Scheme of Investigation

(WSI) setting out a programme of historic building recording work to be undertaken in mitigation for the impact upon the historic fabric and appearance of this building. 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 205 of the National Planning Policy Framework (2021) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM25 (2020), 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 to which this permission relates shall commence until an appropriate programme of historic building recording and analysis has been secured and implemented in accordance with a written scheme of investigation 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 DM25 of the Mid Devon Local Plan and paragraph 205 of the National Planning Policy Framework (2021), that an appropriate record is made of the historic building fabric that is affected by the development.'

This pre-commencement condition is required to ensure that the historic building recording works are agreed and implemented prior to any disturbance of the heritage asset by the commencement of preparatory and/or building works.

I would envisage the programme of work as taking the form of a rapid photographic and written record of the historic building as well as any architectural features, fixtures and fittings affected by the development. This work would be undertaken in advance of any conversion works and supplemented, if required, by observations made during the development. The results of the historic building recording work and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and any finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>.

ENVIRONMENT AGENCY-

Please see our attached guidance documents which will hopefully be useful going forward. I attach our new FRA checklist as well as our new Standing Planning Advice which should help the applicant identify what is needed for their revised application.

Additionally, the applicant may like to get Product 4 data from our flood risk engineers. Product 4 data is a suite of supporting documents outlining the flood risk for an area. This is free.

NB: see FRA checklist held on Uniform

REPRESENTATIONS

This planning application has been advertised by means of a site notice, by notifying immediately adjoining neighbours in writing and by advertising in a local newspaper in accordance with the Council's Adopted Statement of Community Involvement (October 2016) and the legal requirements for publicity on planning applications, as set out in The Town and Country Planning (Development) Management Procedure) (England) Order 2015.

11 Station Road Yeoford Crediton Devon EX17 5HU
9 Chapel Close Yeoford Crediton Devon EX17 5BL
8 Chapel Close Yeoford Crediton Devon EX17 5BL
7 Chapel Close Yeoford Crediton Devon EX17 5BL
6 Chapel Close Yeoford Crediton Devon EX17 5BL
5 Chapel Close Yeoford Crediton Devon EX17 5BL
4 Chapel Close Yeoford Crediton Devon EX17 5BL
3 Chapel Close Yeoford Crediton Devon EX17 5BL
2 Chapel Close Yeoford Crediton Devon EX17 5BL
1 Chapel Close Yeoford Crediton Devon EX17 5BL
14 Station Road Yeoford Crediton Devon EX17 5HU
12 Station Road Yeoford Crediton Devon EX17 5HU
Station House Yeoford Crediton Devon EX17 5JB
Acorns Yeoford Crediton Devon EX17 5HU
The Willows Station Road Yeoford Crediton Devon EX17 5HU

At the time of writing this report 6 objections have been received. The key concerns are summarised below;

1. There has been no opportunity to purchase the church to use as a shop or an alternative business or community use
2. How can it be proven to be no longer economically viable if there has been no opportunity for anyone to purchase it, as per policy DM23
3. Concerns regarding lack of information about what will happen to the graves
4. Support efforts to find a new use for the building rather than allowing it to crumble and fall down
5. The chapel has flooded on numerous occasions
6. The building could be used as a business premises

A further representation was received from the Chairman of Crediton Hamlets Parish Council writing as a trustee of the Chapel which sets out that;

1. They have made numerous enquiries to reopen the chapel all to no avail
2. The Chapel badly needs maintenance
3. Yeoford has a community hall which would be more viable to hire
4. The chapel has only been flooded twice during an unprecedented amount of rain

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. Policy, principle of development including loss of community facility
2. Design and impact upon the character and visual amenity of the area
3. Impact on residential amenity of surrounding properties

4. Flood risk and drainage
5. Impact to heritage assets
6. Impact on ecology/ biodiversity
7. Highway safety

1. Policy, principle of development including loss of community facility

The site is located mainly within the settlement boundary of Yeoford, however part of the proposed parking area is located outside the settlement boundary. Policy S13 identifies Yeoford as a rural settlement where a limited level of development is supportable given the level of services available which are considered suitable to support vibrant rural communities.

Policy DM23 relates to community facilities and states;

Proposals involving the loss of community facilities such as local shops, public houses, allotments, cultural and recreational facilities and other important local services will not be permitted where this would damage the settlement's ability to meet its day to day needs or result in the total loss of such services to the community. Only in circumstances where the facility is proven to be no longer economically viable, including for alternative community uses, will applications for alternative use be considered acceptable.

The application sets out that the building has been closed since 2017. There have been five funerals since then, otherwise the building is closed and no services have been held. The applicant's statement goes on to make the case that there is no demand for the church facility given declining church attendance, the small scale of the potential catchment and the presence of the other church within the village (the Anglican Holy Trinity Church).

The statement sets out that the building has not been advertised for sale due to the grave yard. It is intended that the old graveyard (included within the proposed change of use) will be relocated to the new grave yard to the west of the building. The work involves repositioning the headstones, the actual graves will not be moved. The position of each grave has been logged and recorded. The graveyard would then be returned to turf.

It is also suggested that the building is not suitable for an alternative use for reasons including; the deteriorating condition of the building; the size/shape of the building; lack of significant outside space; the presence of the Duck Public House (in terms of competition for a restaurant use); the presence of Yeoford Community Hall for residents.

It is noted that the Parish Council are supportive of the principal of the proposed change of use, considering it 'preferable to allowing it to fall into disrepair and become an eyesore for local residents'.

In this case, having regard to the presence of the other church facility in the village (which is understood to serve the same congregation), it is considered that the loss of the gospel hall facility would not damage the settlement's ability to meet its day to day needs or result in the total loss of such services to the community. However the policy goes on to state that applications for alternative use will only be considered acceptable in circumstances where the facility is proven to be no longer economically viable, including for alternative community uses.

The supporting text of DM23 goes on to state that;

4.71 The Council will guard against the unnecessary loss of valued community facilities and services. In circumstances where a community facility is proved to be no longer economically viable in a particular location, the Council will consider an alternative use. Assessment of viability will require the submission of detailed evidence relating to trading accounts, valuation considerations and the marketing of the business or property at a reasonable price for a minimum of 12 months.

It is not considered that the application has provided appropriate information to demonstrate that the facility is no longer economically viable. No details of trading accounts, valuation considerations or evidence of marketing have been provided. It is also noted that the representations have highlighted that there has been no opportunity to purchase the site for alternative business or community uses. Whilst the justification for not marketing the site (relating to the existing graveyard) and the constraints of the site as highlighted within the applicant's statement are noted, without appropriate evidence base it is not considered that it can be demonstrated that these matters are prohibitive to an alternative use and therefore that the policy tests of DM23 have been met.

2. Design and impact upon the character and visual amenity of the area

Policy DM1 states that;

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

- a) Clear understanding of the characteristics of the site, its wider context and the surrounding area;
- b) Efficient and effective use of the site, having regard to criterion (a);
- c) Positive contribution to local character including any heritage or biodiversity assets and the setting of heritage assets;
- d) Creation of safe and accessible places that also encourage and enable sustainable modes of travel such as walking and cycling;
- e) Visually attractive places that are well integrated with surrounding buildings, streets and landscapes, and do not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses, taking account of:
 - i) Architecture
 - ii) Siting, layout, scale and massing
 - iii) Orientation and fenestration
 - iv) Materials, landscaping and green infrastructure
- f) Appropriate drainage including sustainable drainage systems (SUDS), including arrangements for future maintenance, and connection of foul drainage to a mains sewer where available;
- g) Adequate levels of daylight, sunlight and privacy to private amenity spaces and principal windows;
- h) Suitably sized rooms and overall floorspace which allows for adequate storage and movement within the building together as set out in the Nationally Described Space Standard with external spaces for recycling, refuse and cycle storage; and
- i) On sites of 10 houses or more the provision of 20% of dwellings built to Level 2 of Building Regulations Part M 'access to and use of dwellings'.

The development proposes limited alterations to the building, primarily the replacement of windows and doors, alteration of a window opening to provide a door to the proposed external platform, demolition of the existing flat roof projection. The scheme also proposes limited alterations to the site boundaries and the parking area which is already established as a hard

surface. The dwelling would provide approximately 144sqm of internal floor space which is significantly in excess of the floor space required by the technical space standards.

Overall it is considered that the design is acceptable and would retain the character and appearance of the building and its setting in accordance with DM1.

3. Impact on residential amenity of surrounding properties

Having regard to the siting of the development and the relationship with neighbouring properties, it is considered unlikely that the proposal would result in any significant adverse impacts to the amenities of neighbouring occupiers and on this basis is considered to be supportable in accordance with DM1.

4. Flood risk and drainage

The site is located within flood zone 3 (highest flood risk).

Policy S1 requires that development meets the challenge of climate change including by managing flood risk. Policy S9 requires the provision of measures to reduce the risk of flooding to life and property, requiring sustainable drainage systems including provision for future maintenance, guiding development to locations of lowest floor risk by applying a sequential test where appropriate, and avoiding an increase in flood risk elsewhere.

In addition the NPPF sets out that;

159. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

167. When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
- b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;*
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
- d) any residual risk can be safely managed; and*
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.*

In this case, given the nature of the development it is considered that the sequential and exception tests are not applicable in accordance with paragraph 168 of the NPPF. However, notwithstanding this, the development would still need to demonstrate compliance with the tests set out at paragraph 167 as outlined above.

The applicant has submitted a flood risk assessment which is the same as that submitted at the time of the previous application. The Environment Agency have provided a consultation response

which provides a standard planning advice note for development such as this, where the proposal results in an increased flood risk vulnerability classification, and also provides a flood risk assessment checklist. The consultation response does not specifically support or object to the development. At the time of the previous application for change of use of the chapel, further clarification was sought from the Environment Agency in respect of their response and the following comment was received (7th July 2021);

Unfortunately we are not resourced to provide bespoke guidance on these proposals. Having read your email, the submitted FRA may, at this time, be inadequate. The applicant needs to submit information which assesses the risks, and provide information on the matters you raise: duration of the flood event, and the hazard matrix score of the access/egress route. Whilst the Sequential and Exception tests are not applicable, the proposal still needs to conform to national planning policy in that it is appropriately flood resilient and resistant, any residual risk can be safely managed and safe access and escape route included, ultimately ensuring that the development can be made safe over its lifetime. The safe refuge is a consideration, but we also advise that the applicant should consider whether the emergency services can access the building itself during a flood zone also.

The revised application has not sought to address the concerns raised at the time of the previous application regarding the lack of submitted detail regarding the safety of access/escape routes and whether emergency services could access the site in a flood event. Specifically the additional information requested included the likely duration of flooding and speed of onset of flood water. The revised application now proposes an external deck to the east elevation, this is proposed to be 0.75m high and 1.9mx 1.9m in area. It is also noted that the first floor of the building could potentially be used as a refuse area during flood events, however no evidence of the structural stability of the building during a flood event has been provided. Furthermore in the absence of information regarding the likely duration of a flood event, the LPA cannot be satisfied that this would provide an appropriate alternative in the absence of a suitable escape route.

The applicant's flood risk assessment sets out that the site is at risk of pluvial flooding as a result of exceedance of the channel capacity of the River Troney during heavy rainfall events when surface water flows overland through the application site towards the River Yeo. Surface water flooding is expected at a depth of between 300mm- 900mm during a 1:1000 year event. During a 1:100 and 1:30 year event the surface water flooding is not expected to encroach the site. The site is also at risk of fluvial flooding at a depth of 0-300mm within the chapel and 300-600mm in the surrounding area, during a 1:100 year event. In a 1:1000 year event the depth is expected to be between 300-600mm across the site (including within the footprint of the building).

It is proposed that the floor level within the building will be raised by between 0.15m and 0.75m. In terms of flood risk and resilience measures the FRA sets out that the following measures will be incorporated:

- Use of low permeability materials
- Avoid use of gypsum plaster and plasterboards
- Wall sockets to be raised as high as feasible
- Wood fixings on ground floor to be robust and/or protected by suitable coatings to minimise damage in flood events
- Airbricks will be raised as high as practicable
- Avoid fitted carpets
- Locate electrical, gas and telephone equipment and systems above flood level
- Use flood specific doors for large opening such as doors and windows

It is also advised by the FRA that the residents sign up to EA flood warning service and install a standalone flood alarm system. An emergency evacuation route is suggested via the unnamed highway to the north of the site for approximately 800m to flood zone 1. Residents are also advised to draft and implement their own personal flood plan.

The EA's FRA checklist states that they would normally consider any significant internal flooding (above 500mm) to be unacceptable. Prior to making a decision on applications like these planning officers will also need to consult with the council's emergency planners (i.e. matters of safe refuge and access/egress) and their building control teams (i.e. structural integrity during a flood event).

Having regard to the nature of the development it is not considered that it would increase flood risk elsewhere. Furthermore, subject to inclusion of the resistance and resilience measures as outlined within the FRA, the development is considered to be appropriately flood resistant. However there remains concern as to whether a safe access and escape route can be provided. The PPG sets out that *access considerations should include the voluntary and free movement of people during a design flood, as well as the potential for evacuation before a more extreme flood. Access and egress must be designed to be functional for changing circumstances over the lifetime of the development. Specifically:*

- *Access routes should allow occupants to safely access and exit their dwellings in design flood conditions. Vehicular access to allow the emergency services to safely reach the development during the design flood conditions will also normally be required.*
- *Where possible, safe access routes should be provided that are located above design flood levels and avoiding flood paths. Where this is not possible, limited depths of flooding may be acceptable, provided that the proposed access is designed with appropriate signage etc to make it safe. The acceptable flood depth for safe access will vary depending on flood velocities and the risk of debris within the flood water. Even low levels of flooding can pose a risk to people in situ (because of, for example, the presence of unseen hazards and contaminants in floodwater, or the risk that people remaining may require medical attention).*

The DEFRA Flood Hazard: danger to people matrix indicates that the flood events at this site (based on their depth and velocity) are considered as at least a 'danger for some' and in some events a 'danger for most'. The suggested escape route via the highway to the north of the site is located within flood zone 2 and 3 and therefore would also be likely to be at risk of flooding during a flood event. It is suggested that occupiers travel 800m through the flood zone area to land within flood zone 1 (lowest flood risk). The submitted FRA indicates that the road would be subject to flooding at depths over 900mm and 0.25mps velocity. It remains a concern that this would not be a safe means of escape for occupiers during a flood event. No information has been provided in terms of the accessibility of the site by emergency services.

Overall it is considered that insufficient information has been provided to demonstrate that the development would be appropriately safe over its lifetime, in particular how safe access and escape routes would be achieved for occupiers during a flood event in accordance with paragraph 167 of the NPPF and guidance in the Planning Practise Guidance

Foul drainage: The application is supported by an FDA1 form which indicates that the foul drainage will be managed via a package treatment plant. The Council's Public Health Team have confirmed that they have no objections to this. It is considered likely that further details would be required to understand the siting and potential impacts to the existing grave yard if the recommendation was for approval. The Parish Council have suggested that the building is served by mains drainage, if this is the case this would be a preferential option for the development (in

accordance with DM1). Clarification has been sought from the applicant's agent, however at this stage no response has been received on this issue.

5. Impact to heritage assets

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 building is not listed and the site is not located within the Yeoford Conservation Area. However the response from DCC Historic Environment Team considers that the building is a non-designated heritage asset, being an early 20th century gospel chapel built in the arts and crafts style. While the proposed conversion to a dwelling will not lead to the loss of this non-designated heritage asset it will change the appearance and character of the building. To mitigate the impact upon the historic fabric and appearance of the building it is recommended that a Written Scheme of Investigation is required to secure an appropriate programme of historic building recording. This can be secured via a pre-commencement condition and on this basis the proposal is considered to be supportable in accordance with policy DM25.

6. Impact on ecology/ biodiversity

The Council has a statutory duty to consider the impact of development to protected species.

Policy S1 states that development will be expected to support the creation of sustainable communities including by minimising impacts on biodiversity and geodiversity by recognising the wider benefits of ecosystems, delivering natural environment objectives, providing a net gain in biodiversity and by the protection of international, European, national and local designated wildlife sites;

The NPPF requires planning policies and decisions to contribute to and enhance the natural and local environment by minimising impacts on and providing net gains in biodiversity and states that when determining planning applications if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

The building is a pre-1948 detached structure, located at the edge of Yeoford, It is surrounded by agricultural land to the north, south and west and relatively close to the River Yeo and River Troney.

It is understood that the building has remained vacant for approximately 5 years. The works proposed include replacement of windows and doors, formation of a new door opening to the east elevation and demolition of the lean to (south elevation). Having regard to the nature of the development proposed and the construction, age and siting of the building it is considered that there is some likelihood that the building may support protected species and therefore that the works could impact upon them.

The application is not supported by an ecology appraisal and no details of net gains to biodiversity have been provided. The concerns have been raised with the applicant's agent however no appropriate ecology appraisal has been received at this stage. In the absence of an appropriate ecology assessment and measures for biodiversity net gain, it cannot be concluded that the impacts of the development in respect of protected species and biodiversity would be acceptable in accordance with policies S1, S14 and DM1 of the Mid Devon Local Plan 2013- 2033 and government advice in the NPPF.

7. Highway safety

Having regard to the lawful use of the building, it is considered unlikely that the proposed use as a dwelling would generate any specific concerns in terms of highway safety or capacity issues. No concerns have been raised by the Highway Authority. It is proposed that three parking spaces are provided within the existing hardstanding/ parking area on the opposite side of the highway. This arrangement is considered to be acceptable in accordance with policy DM5.

INFORMATIVES

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has looked for solutions to enable the grant of planning permission. However the proposal remains contrary to the planning policies set out in the reasons for refusal and was not therefore considered to be sustainable development.

The case officer has not carried out a site visit in the determination of the application. The officer has instead considered the application using maps, photographs and knowledge of the site from a previous visit and considers that to determine the application without a site visit would not prejudice any interested party.

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.

REASONS FOR REFUSAL

1. Policy DM23 of the Mid Devon Local Plan 2013- 2033 seeks to guard against the loss of community facilities. In the opinion of the Local Planning Authority insufficient information has been provided to demonstrate that the facility is no longer economically viable, including for alternative community uses, and therefore that an alternative use is supportable in accordance with policy DM23. On this basis the loss of the community facility is considered to conflict with policy DM23 of the Mid Devon Local Plan 2013- 2033.
2. Insufficient information has been provided to enable the LPA to assess the impacts to protected species and biodiversity and therefore it cannot be concluded that the impacts of the development in respect of protected species and biodiversity would be acceptable in accordance with policies S1, S14 and DM1 of the Mid Devon Local Plan 2013- 2033 and government advice in the NPPF.
3. Insufficient information has been provided to demonstrate that the proposed development would be acceptable from a flood risk perspective. In particular the application has not demonstrated how safe access and escape routes would be achieved for occupiers during a flood event in accordance with paragraph 167 of the NPPF and guidance in the Planning Practise Guidance.

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. 22/01182/MARM

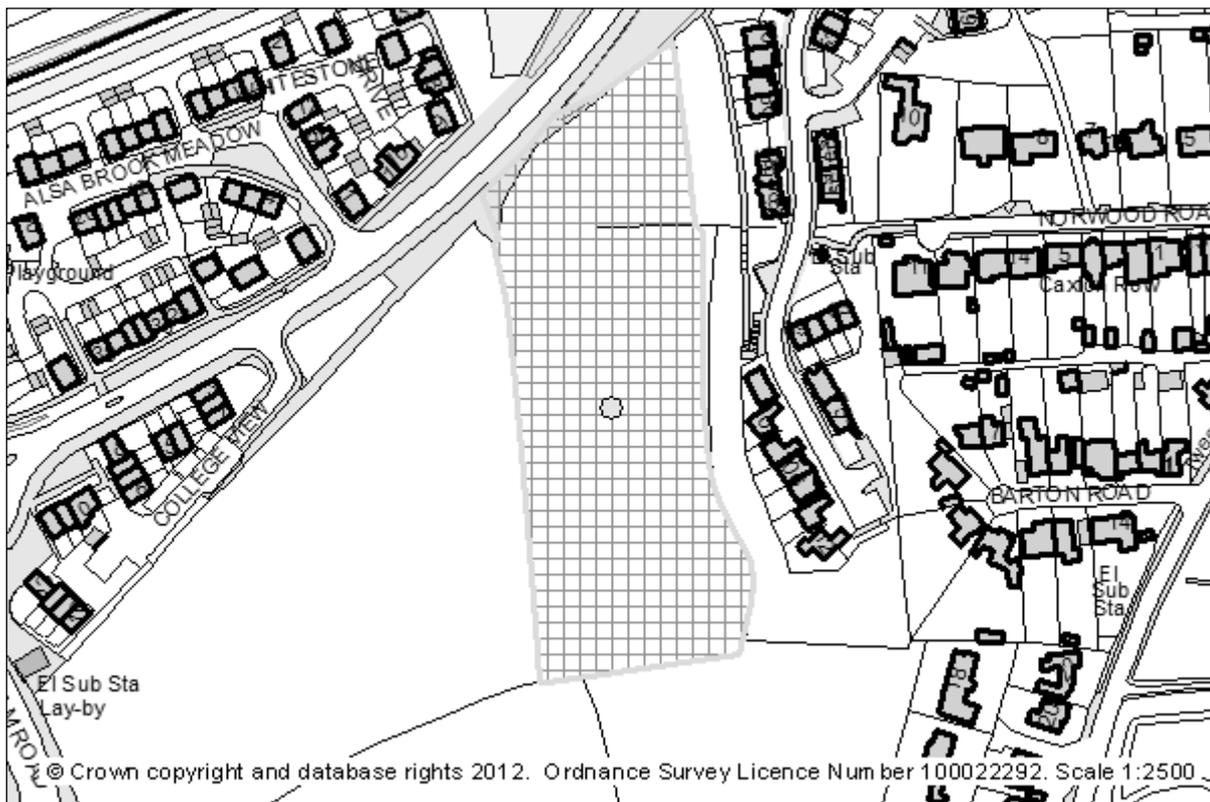
Grid Ref: 295527 : 113644

Applicant: Bellway Homes Limited (South West)

Location: Land at NGR 295494 113719
(South of Lea Road)
Tiverton
Devon

Proposal: Reserved Matters for appearance, scale, layout and landscaping for the erection of 41 dwellings and formation of vehicular access following Outline permission 16/01707/MOUT

Date Valid: 22nd June 2022



APPLICATION NO: 22/01182/MARM

MEMBER CALL-IN

At Planning Committee on the 13th July 2022 the Committee agreed that:

22/01182/MARM Reserved Matters for appearance, scale, layout and landscaping for the erection of 41 dwellings and formation of vehicular access following Outline permission 16/01707/MOUT 21/09/2022 Land at NGR 295494 113719 (South Of Lea Road) Tiverton Devon be brought to Committee – No site visit required

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

Reserved Matters for appearance, scale, layout and landscaping for the erection of 41 dwellings and formation of vehicular access following Outline permission 16/01707/MOUT on land at NGR 295494 113719 (South Of Lea Road) Tiverton. The proposed housing strategy follows the Outline planning permission which showed an indicative layout of new dwellings consisting of 2, 3 and 4 bedroom detached, semi-detached and terraced houses and 1 and 2 bedroom flats. The apartment block close to the entrance of the site would be three storey whereas the rest of the development would be a mix of 2 storey and 2.5 storey where rooms have been included within the roof with dormer windows.

Outline application 16/01707/MOUT was approved on the 10th July 2019 for the erection of 41 dwellings (12 affordable) on land south of Lea Road and to the west of the existing Moorhayes development at Oakfields. Access is to be from Lea Road and was determined under the outline application.

The site comprises approximately 1.29 hectares of sloping pasture land between the existing residential development at Oakfields, Moorhayes, and the school sports pitches fronting Bolham Road. Planning permission was previously granted under reference 07/01559/MFUL for the erection of 95 dwellings on a larger parcel of land including the site the subject of this application, however, that planning permission was not implemented and expired. This site was allocated for residential development in a previous plan but there is no current development allocation but it is within the settlement limits of Tiverton. A suitable surface water drainage scheme with attenuation was also proposed as part of the outline application approved.

APPLICANT'S SUPPORTING INFORMATION

Completed application form, Plans, Carbon Reduction Statement, Ecology Summary, Arboricultural Method Statement, Supporting Statement including SCI, Refuse Storage Strategy, Phasing Strategy, M4(2) Compliance Strategy, Compliance Statement, Surface Water Hydraulic Calculations, Permanent Surface Water Management Plan, Temporary Surface Water Management Plan.

RELEVANT PLANNING HISTORY

95/01451/FULL - WD date 1st March 2001 Construction of distributor road with cycleway including new junctions with Bolham Road and Brickhouse Hill and removal of bridge at Brickhouse Hill

99/03042/OUT - PERMIT date 31st July 2001 Outline for residential development (approx. 160 dwellings) with associated Distributor Road and access roads, public open space and landscaping

02/00236/ARM - REFUSE date 16th August 2002 Reserved Matters for the erection of 114 dwellings with garaging, roads, infrastructure and public open space

02/02104/FULL - DREF date 24th December 2002 Reserved matters for the erection of 106 dwellings with associated garaging and parking, roads, infrastructure and public open space (Revised Proposal)

02/02286/FULL - REFUSE date 28th January 2003 Reserved Matters for the erection of 106 dwellings with associated garaging, car parking, roads, infrastructure and public open space

03/01299/ARM - REFUSE date 30th September 2003 Reserved matters for erection of 70 no. dwellings with associated parking, garaging, roads, infrastructure, public open space and social housing

04/01541/ARM - PERMIT date 20th October 2004 Reserved Matters for the erection of 59 no. dwellings with associated parking, garaging, roads, infrastructure, public open space and social housing

07/01559/MFUL - PERMIT date 8th February 2008 Erection of 95 dwellings, access roads, pedestrian footpath links, landscaping and associated works

07/01671/FULL - PERMIT date 12th October 2007 Extension of estate road to southern boundary of site (Revised scheme)

16/01707/MOUT - PERCON date 10th July 2019 Outline for the erection of 41 dwellings and formation of vehicular access

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 DM1 - High quality design

Policy DM2 - Renewable and low carbon energy

Policy DM3 - Transport and air quality

Policy DM4 – Pollution

Policy DM5 – Parking

Policy DM26 - Green infrastructure in major development

National Planning Policy Framework

National Planning Practice Guidance

CONSULTATIONS

Tiverton Town Council – 19.08.2022

Unable to Support. The council feels that there is not enough parking allocated for this site. There are not enough electric charging points *new building regs. PS, June 2022 state; every new home with associated parking must have an EV charge point. Concerns that this is over development.

Tiverton Town Council – 13.07/2022

No play space has been allocated. Lack of footways (policy S5). Parking layout is poor. Natural planting required. Concerns that we understand S106 will not apply. Unable to support this application.

Highway Authority – 08.08.2022

The County Highway Authority has no comments to make on the revised drawings

Highway Authority – 15.07.2022

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, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT

Natural England - 18.08.2022

Natural England has no comments to make on this reserved matters application.

Natural England - 06.07.2022

Natural England has no comments to make on this reserved matters application.

Devon, Cornwall & Dorset Police – 19.08.2022

Having reviewed the relevant revised drawings and information I have no further comments from a designing out crime and anti-social behaviour perspective in addition to those previously submitted.

Devon, Cornwall & Dorset Police – 04.07.2022

Thank you for this application, police have no objections in principle to the overall design and layout proposed, which will on the whole, provide both active frontages and good overlooking to the new internal street. The predominate use of back to back rear gardens is also noted and supported. However, as there appears to be no mention within the Compliance Statement of security or crime prevention measures per se, it is not known if these key matters have been considered for the scheme or where they have been implemented. Therefore, to assist from a designing out crime, fear of crime and disorder perspective please find the following information, advice and recommendations:-

As the security element of the building regulations, namely Approved Document Q (ADQ), sits outside the decision making process for the planning authority the following information is to inform the applicant:-

ADQ creates security requirements in relation to all new dwellings, including those resulting from a change of use, for example commercial, warehouses or barns undergoing conversion into dwellings. It also applies to conservation areas.

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

As such it is recommended that all external doors and easily accessible windows are sourced from a Secured by Design (SBD) member-company. The requirements of SBD are 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 exceeding the requirements of ADQ and 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.

Secured by Design (SBD) is a police owned crime prevention initiative which aims to improve the security of buildings and their immediate surroundings in order to provide safer places to live and visit. The above should be considered in conjunction with the following attributes of Crime Prevention through Environmental Design (CPtED):-

- Access and movement: Places with well-defined and well used routes, with spaces and entrances that provide for convenient movement without compromising security
- Structure: Places that are structured so that different uses do not cause conflict
- Surveillance: Places where all publicly accessible spaces are overlooked; have a purpose and are well managed to prevent creating areas which could attract criminal activity, the antisocial to gather or for unacceptable behaviour such as dumping, littering and dog fouling etc. to go unnoticed
- Ownership: Places that promote a sense of ownership, respect, territorial responsibility and community
- Physical protection: Places that include necessary, well-designed security features as laid out in SBD Homes 2019 and ADQ
- Activity - Places where the level of human activity is appropriate to the location and creates a reduced risk of crime, fear of crime and a sense of safety at all times.
- Management and maintenance - Places that are designed with management and maintenance in mind to discourage crime, fear of crime and ASB

The proposed site wide boundary and plot separation treatments are noted as is the intention to define front gardens. Any shared rear access paths must also be secured with a lockable gate, fitted as flush to the building line as possible. This does not remove the need for each individual plot to have their own lockable gate into the rear garden.

I recommend that access to the rear of the apartment block is restricted to residents only. Where existing hedgerow and banking is likely to comprise new rear garden boundaries then it must be fit for purpose. They should be of both, sufficient 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.

From a designing out crime and disorder perspective it is vital that the parking provision for the proposed development is both enough when balanced against the schedule of accommodation and designed that it is convenient and practical to use thus reducing the level of any unplanned parking elsewhere throughout the development. It is the 'elsewhere parking' that can introduce a source of conflict and rancour amongst residents, generally due to inconsiderate or obstructive parking and chaotic and vehicle dominated streets.

Bin and bicycle stores should be designed with a lockable door to ensure they are secure and prevent unauthorised access. The locking system must be easily operable from the inner face by use of a thumb turn to ensure that residents are not accidentally locked in by another person. The bicycle rack should have a minimum foundation of 300mm with a ground anchor. Both the bin and bicycle stores should have some form of internal lighting.

South West Water - 12.08.2022

I refer to the above application and acknowledge the additional information and clarifications in relation to:

- Surface Water Hydraulic (Micro Drainage) Calculations;
- Drawing 3903-107 - which shows flood exceedance routes;
- Temporary and Permanent Surface Water Management Plans;

I would advise that South West Water has no objections and no comments.

South West Water – 20.07.2022

With reference to the planning applications at the above address, I would advise the applicant/agent to contact South West Water if they are unable to comply with our requirements as detailed below.

With reference to Condition 6

With particular reference to drawing number C151789 - C100 rev P4 "Drainage Strategy Layout" uploaded onto [16/01707/MOUT](#), the drainage design should be in accordance with Design and Construction Guidance Appendix C and Ciria SuDS manual C753. Surface Water underground storage should be constructed to attenuate the 1 in 100 year event +40% CC.

I would also refer the applicant to the DCG Appendix C, Clause B5.1.14. Should the intention be to offer the drainage elements for adoption, please be advised that South West Water will not adopt foul sewers under infiltration elements including permeable paving.

With reference to Conditions 7 and 9

The Construction Management Plan should ensure adequately sized storage for temporary construction site surface water flows, which, due to the level of pollutants during construction, should be tankered off site for disposal. Please note, it is not permitted to discharge the construction site surface water to a public sewer, which should be used for domestic flows only. Please also confirm that this document titled Technical Note, Proposed residential development Lea Road Tiverton by Healer Surveys, May 2022 (Temporary_Surface_Water_Management_Plan-1845505 - uploaded onto [16/01707/MOUT](#), attached here for reference) is associated with this particular geographical site. On page 2 of the report, reference is made to the M5 which is several miles to the east of this site, and mention is made of an existing Wessex Water sewer crossing the site.

Clean Potable Water

South West Water is able to provide clean potable water services from the existing public water main for the above proposal. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.

Foul Sewerage Services

South West Water is able to provide foul sewerage services from the existing public foul or combined sewer in the vicinity of the site. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.

The applicant can apply to South West Water for clarification of the point of connection for either clean potable water services and/or foul sewerage services. For more information and to download the application form, please visit our website:

www.southwestwater.co.uk/developers

Surface Water Services

The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):

1. Discharge into the ground (infiltration); or where not reasonably practicable,
2. Discharge to a surface waterbody; or where not reasonably practicable,
3. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
4. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that method proposed to discharge into a surface water sewerage network is acceptable and meets with the Run-off Destination Hierarchy.

I trust this provides confirmation of our requirements, however should you have any questions or queries, please contact the Planning Team on [01392 442836](tel:01392442836) or via email: DeveloperServicesPlanning@southwestwater.co.uk.

Public Health – 18.08.2022

No additional comments, we do not anticipate any environmental health concerns.

Public Health - 28.06.2022

We have considered this reserved matters application and the documents submitted in respect of it. There are no environmental health implications in this particular application in relation to this site.

Flood and Coastal Risk Management Team - 23.08.2022

Recommendation:

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

Observations:

Following my previous consultation response (FRM/MD/01182/2022; dated 18th August 2022), the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful. The applicant has noted that they will offer the pipework and attenuation tank to South West Water for adoption. The applicant should confirm who shall maintain the permeable paving.

Flood and Coastal Risk Management Team - 18.08.2022

Recommendation:

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

Observations:

Following my previous consultation response (FRM/MD/01182/2022; dated 4th August 2022), the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful. The applicant has included permeable paving within some parking spaces, as previously proposed during the outline planning application (16/01707/MOUT). However, as these spaces will be under-drained, the applicant should depict the connections from the permeable paving into the surface water network. The applicant must include maintenance details for the proposed surface water drainage system.

Flood and Coastal Risk Management Team - 04.08.2022

Recommendation:

At this stage, I am unable to withdraw our objection, but would be happy to provide a further substantive response when the applicant has formally submitted the additional information requested below to the Local Planning Authority.

Observations:

Following my previous consultation response (FRM/MD/01182/2022; dated 15th July 2022), the applicant has submitted additional information in relation to the surface water drainage aspects of the above planning application, for which I am grateful.

The applicant has proposed to manage exceedance flows through the rear garden of plot 36. However, if the levels are being raised at this site, then it might be possible to create the 'low spot' of the access road further north. This would mean that the exceedance flows could be routed to the open space north of plots 39 - 41.

If the levels of the site are being adjusted, then it may be suitable to design sealed permeable paving with underdrains connecting into the surface water drainage system. The applicant should assess this.

The applicant has referred to an infiltration basin within their maintenance details. However, no infiltration basins are proposed. The applicant should submit maintenance details relevant to the features proposed.

The applicant should also confirm who shall be responsible for maintaining the surface water drainage system.

The applicant has referred to Wessex Water, the M5 and a culvert within their temporary surface water management plan. The applicant should clarify these references.

MDDC Tree Officer - 14.07.2022

Relevant Tree Preservation Order/Conservation Area: None.

Information Provided/Reviewed: Arboriculture Method Statement, Tree Removal and Protection Plan and Landscape Proposal.

The proposal is sited within a field parcel that extends south of Lea Road with an established housing close border the east known as Oakfield. The field parcel declines considerable from the east bordering Oakfields to the west. Hedgerow and small copes of trees border and extend though parts of the field. The north aspect of the field bordering Lea Road is largely devoid of tree cover except for a pocket of trees on the northwest aspect that's noted as G1 on the Tree Removal and Protection Plan as well as the Arboriculture Method Statement.

No significant individual trees are present on site. G1 as noted on the supporting tree report is a mix of native and naturalised tree species that collectively provide good natural landscape value and provide valued buffering along Lea Road. Arboriculture Method Statement noted the group of trees as B2 (moderate landscape value). This is a reasonable assessment. The loss of some of this group as proposed though the Tree Removal and Protection Plan and Landscape Proposal will detract from the landscape and amenity value provided. This could be mitigated through replacement planning. In addition to the loss of some trees in G1. H6 a low hedge of native and naturalised species is noted for removal along with part of G3, again a mix of naturalised species. Subject to adequate replacement planting the loss of these hedges should be acceptable to facilitate the proposal.

The Arboriculture Method Statement and Tree Removal and Protection Plan has been provided and show adequate protection fencing to trees/hedging being retained. In reviewing the plans it's felt there will be low likelihood of conflict between retained trees and the current proposal. No significant construction works is highlighted within the retained trees RPA. Shade cast from G4 a group of oak trees offsite may cause conflict with garden space through the morning as they lie on higher elevated ground to the east of the proposal. This issue would increase as the trees fully mature. The report notes the trees at 7m in height. It would be anticipated that these trees double in height as a minimum by the time they reach full maturity. This may cause future management pressures on the trees.

The Landscape Proposal shows an adequate mix of standard tree stock to be planted. In total there are 47 standard type trees to be planted along with various shrubs, hedging and woodland species too. The tree planting details are adequate. A RootRain Metro tree irrigation system is to be installed to enable better effective water. It is unsure if this is to be utilised on all the standard trees being planted. Hydraction bag may be a better alternative for some location. Also the

installation of ReRoot 600 Barrier maybe installed. This does need to be clearer. Ideally highlighted on the plan where this is to be utilised. It would be expected that a root barrier is installed where tree are planted in reasonable proximity to parking bays and paths. In addition to the oak trees planted at the front entrance to the housing area additional shrub planting would be beneficial to compensate for the loss of part of G1. Additional tree planting between parking bay of 11 to 13 and 5 and 12 would also be beneficial too.

The Landscape Proposal has appears not to have provided a suitable aftercare program to ensure successful tree and shrub establishment. It is unclear site water visits will be carried, when tree stakes will be inspected, adjusted and removed along with formative pruning.

Summery:

- There are no significant trees present on site.
- The Arboriculture Method Statement and Tree Removal Tree Protection Plan has been provided and show adequate protection fencing to trees/hedging being retained.
- Suitable replacement planting can mitigate against the loss of some tree and hedge removal.
- Shade cast from the G4 a group of oak trees offsite may cause conflict with garden space through the morning.
- The Landscape Proposal shows an adequate mix of standard tree stock to be planted
- Further additional planting would be beneficial.
- The tree planting details are adequate though it is unclear if the full specification provided will be used.
- It would be expected that a root barrier is installed where tree are planted in reasonable proximity to parking bays and paths.
- The Landscape Proposal has appears not to have provided a suitable aftercare program to ensure successful tree and shrub establishment.

Historic Environment Team (D.C.C). - 29.06.2022

Comments from Stephen Reed, Senior Historic Environment Officer

HET ref: ARCH/DM/MD/30155b

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

REPRESENTATIONS

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

Two letters of objection has been received objecting on the following grounds:

- Construction of 2 three storey properties close to neighbouring properties will impact outlook
- Devaluation of neighbouring properties
- Noise during construction and occupiers of the development with impact amenity of neighbouring residents
- If the land is to be developed it should be two storey of preferable single storey
- Oakfields houses are on a hill, any changes lower down could lead to structural damage to former Oakfields homes higher up the slope

- There are several flatter, lower risk sites around the Tiverton area that are more ideal to be built on
- The proposed plans show houses close to and directly facing the row of Oakfields properties removing former levels of privacy, when they could be facing east/west rather than north and south
- The development will result in a loss of wildlife habitat

MATERIAL CONSIDERATIONS AND OBSERVATIONS

Policy and Procedure

The acceptability of the proposal, in principle, was established by the granting of outline planning permission 16/01707/MOUT. The main issues for consideration now concern the proposal's access, layout, scale, appearance and landscaping. An illustrative plan was submitted as part of the outline planning permission and this has formed the basis for the current proposal which follows the linear pattern of development across the site. The site is not allocated within the adopted Local Plan 2013 – 2033 but is within the settlement limit of Tiverton where the principle of residential development is supported.

The main issues in the determination of this application are:

- **Urban Design, Density, Scale and Layout of the Development**
- **Ecology, Landscaping and Green Infrastructure**
- **Impact on amenity, the character of the area**
- **Access, Parking and EV provision**
- **Other matters**
- **Planning balance**

Urban Design, Density, Scale and Layout of the Development

The NPPF is clear that the creation of high quality places is fundamental to what the planning and development process should achieve. Policy DM1 of the Mid Devon Local Plan 2013 – 2033 requires the design of new development to be of high quality, based upon and demonstrating a clear understanding of the characteristics of the site, its wider context and the surrounding area, and making efficient and effective use of the site. Development proposals should make a positive contribution to local character 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 impacts on privacy or amenity for proposed or existing properties. Policy DM1 also requires suitably sized rooms and overall floor space 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.

The Reserved Matters application is for a development of 41 homes in a sustainable location picking up the local character of the area in terms of general design. The proposed housing strategy follows the Outline planning permission which showed at the time, an indicative layout of new dwellings consisting of 2, 3 and 4 bedroom detached, semi-detached and terraced houses and 1 and 2 bedroom flats.

Each dwelling has been specifically orientated to enable a good relationship with the street and respond to the wider landscape context. The density will be approximately 32 dwellings per

hectare which is considered appropriate to the surrounding area and not representing overdevelopment of the site.

The proposed layout has derived from the illustrative plan submitted at outline which responded to the constraints and opportunities plan. The only deviation from the illustrative plan is the removal of the private drive shown. As a result all dwellings east of the access road now face in the same direction.

The key principles of the proposed layout are the formation of a 'green' frontage along the primary street through new tree and shrub planting, retaining and maintaining the existing trees and hedge rows to the site boundaries and an outward looking frontage to the western and eastern boundaries.

The proposed dwellings are to be reflective of the existing material palette of the local context. Dwellings will be of either brick or render, with brick details these will include Jack Arch headers details and corbels, recon stone cill and black painted plinths. Render units will be located at key points of the layout – i.e. corners and vistas to create local landmarks. Garages will be of brick to match dwellings. In terms of the sustainability credentials of the properties, the strategy follows a 'fabric first' approach to constructing energy efficient buildings.

Ecology, landscaping, green infrastructure and public open space

Policy S9 requires that development will sustain the distinctive quality, character and diversity of Mid Devon's environment. Criterion e) requires the preservation and enhancement of the distinctive qualities of Mid Devon's natural landscape. In addition, criterion f) requires that development supports opportunities for protecting and enhancing species populations and linking habitats. Policy DM26 requires that major development proposals must demonstrate that green infrastructure will be incorporated within the site.

As far as Green Infrastructure and Biodiversity are concerned, there would be a significant amount of new tree and hedge planting which would ensure a green residential environment achieving softer transformation into open landscape and the Council's Arboricultural Officer has commented that the landscape proposals are generally acceptable, only requiring maintenance details to be improved upon for the development which is included by a recommended condition.

On the matter of ecology, the Ecology Statement details relevant ecological avoidance, mitigation and enhancement measures proposed for the development. These measures are considered suitable to ensure the proposals comply with Policy DM26 of the Mid Devon Local Plan (2020) and Paragraph 180 of the National Planning Policy Framework (2021). In support of the outline application 16/01707/MOUT an ecological appraisal of the site was completed by Crossman Associates in February 2016 (Report ref: Ecological Appraisal: G1105.008). The Reserved Matters application for the site accords with the measures agreed during the outline application. In support of Reserved Matters an updated ecology assessment of the site was undertaken by Tyler Grange in 2022.

The specific surveys undertaken have recorded the habitats present to be of low ecological importance. Impacts have been avoided where possible, by retaining the habitat of the highest ecological importance, namely the majority of hedgerows, maintaining opportunities for any species that utilises this habitat, such as birds, bats and invertebrates. The proposals have been designed to ensure new native species-rich habitat creation is to be provided and that new opportunities are created within the site boundary for protected species creating an overall gain in biodiversity.

The Ecology Assessment outlines that to create additional enhancements for breeding birds, 21 built-in bird bricks will be provided on suitable buildings on the northern aspect of the building and close to the northern or western boundary. Bricks will comprise the Vivara Pro half-open nest box and swift box, or similar. Although no bat roosts are to be impacted by the proposals, to create further enhancements for bats, 20 built-in bat bricks/boxes will be provided on the southern aspects of the new buildings along southern or eastern boundary. Bricks will comprise the Vivara Pro Segovia Build-in bat box, or similar.

Conditions to secure bat and bird boxes, in addition to a scheme of soft landscaping, can be imposed at this stage and would help provide further biodiversity mitigations on site. As the final details for the dwellings has been provided through this reserved matters submission, a further condition has been imposed on this reserved matters application to require final details for the scheme for bat and bird boxes to be provided on site.

For the reasons outlined above, it is considered that the proposal complies with policies S9, DM1 and DM26 of the adopted Local Plan 2013 – 2033 ensuring an appropriate delivery of wildlife mitigation, landscaping, green infrastructure and public open space.

Impact on amenity, the character of the area

With respect to the living conditions of the occupiers of nearby residential properties, Paragraph 130 of the NPPF outlines that planning policies and decisions should ensure that developments:

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

This is reflected in policy DM1 of the Mid Devon Local Plan 2013 - 2033 which sets out that new development should respect the privacy and amenity of neighbouring residents. The siting of the residential dwellings and orientation of windows and separation distances involved to existing neighbouring properties is such that it is considered that the residential development has been designed to be in accordance with these two policies. The plans identify the land will be lower than properties off Oakfields to the east with certain sections of the site requiring retaining walls. A condition is recommended to agree the final facing materials of the retaining wall to ensure the design is appropriate for the setting.

A matter for consideration given the sloping nature of the site relates to boundary treatment. The types of boundary enclosure and materials shown for the dwellings are considered acceptable in principle. Policy DM1 of the Local Plan states that the design of new development must be of high quality and demonstrate a number of principles, including efficient and effective use of the site, an understanding of the local context, and appropriate siting, layout, scale, and other design

characteristics to ensure visually attractive and well integrated development. In addition to this new housing should be designed to deliver high quality, taking account of context, local character, density, and land use mix.

Subject to the use of the aforementioned conditions, overall, it is considered that the proposed development would not result in significant harm to the character of the area. In terms of its visual impact, the proposal is considered to be in accordance with Policies S1, DM1 and DM25 of the Local Plan.

Access, Parking and EV charging provision

Policy DM1 of the Local Plan states that new development should be safe and accessible and Policy DM5 states that sufficient vehicle parking and bicycle storage must be provided. The access points into the site are in the same positions considered at outline stage. In terms of the access and estate road proposed, no objections have been received from the Local Highway Authority on the matter.

Policy DM5 stipulates that the development must provide an appropriate level of parking, taking into account the accessibility of the site, including the availability of public transport and the type, mix and use of development. In respect of parking provision, Policy DM5 requires an average of 1.7 spaces per dwelling. Car parking provision follows the guidelines established in the Provision of Parking in New Development SPD, June 2013 and Policy DM5 whereby there is a requirement for 1.7 parking spaces per dwelling, 1 EV charging point per 10 units and 1 visitor space for every ten dwellings.

In respect of parking provision for this scheme, there are to be 71 allocated spaces and 4 visitor spaces which is in excess of the minimums which are required. This is in addition to the six garage spaces (which the SPG discounts from the total number) and the availability of space for some informal parking on the street through the site. In respect of EV charging the scheme has made provision for this with relevant charging provision being made for all homes with on plot or 'adjacent' parking. This information is shown on the revised Car and Cycle Parking Strategy Plan (Rev H).

Within the development 20% of the dwellings have been designed to comply with Building Regulations M4 Part 2, as required by planning policy and the latest building regulation requirements. Overall, by virtue of the provision for cyclists and electric vehicles, it is considered that the development is appropriate in enabling and encouraging the maximum use of sustainable modes of transport. Provision exceeds the standards established by Policy DM5 and therefore, the development accords with this policy.

Other matters

Drainage and Flood Risk

In respect of drainage and flood risk, the Lead Local Flood Authority (LLFA) has confirmed that they have no in-principle objections to this application. The LLFA were satisfied subject to the applicant providing further information which depicts the connections from the permeable paving into the surface water network and that further information is included to the maintenance details for the proposed surface water drainage system. Further discussions between the applicant and LLFA has occurred with this information submitted to address this with the only remaining comment being that the applicant should confirm who shall maintain the permeable paving for the parking areas. As these will be allocated to certain properties, it is likely to be the home occupier's

responsibility. The green infrastructure areas of the site would need to be maintained through a management company.

In addition to the above, South West Water have also raised no objections further to the information submitted, acknowledging the additional information and clarifications in relation to Surface Water Hydraulic (Micro Drainage) Calculations; Drawing 3903-107 - which shows flood exceedance routes and Temporary and Permanent Surface Water Management Plans.

Refuse Storage

Policy DM1 is clear that development should provide suitable external spaces for recycling and refuse. On the whole it is considered that sufficient consideration has been given to refuse storage and appropriate storage areas both within homes and externally has been provided to store bins. The provision is consistent with the general principles set out in adopted Refuse Storage for New Residential Properties SPD and therefore accords with Policy DM1 criterion (h).

Climate Change

The Government has enshrined in law, a commitment to achieving net-zero carbon emissions by 2050. Achieving sustainable development is also a clear priority of national planning policy. Policy S1 requires development to meet the challenge of climate change by supporting a low carbon future, energy efficiency and including the use and supply of renewable and low carbon energy. The principle of development has already been established by reference to the outline planning permission detailed above, which considered whether the development would contribute towards achieving sustainable communities. Together with the extensive EV provision proposed across the development, as well as the requirement for dwellings to be constructed in accordance with Building Regulations Part L, it is considered that the application accords with sustainable development priorities and in particular Policy S1 of the Local Plan.

Planning Balance

This is a Reserved Matters for appearance, scale, layout and landscaping for the erection of 41 dwellings and formation of vehicular access following Outline permission 16/01707/MOUT.

The proposed development provides a net density of approximately 32 dwellings per hectare and accords with the Local Plan 2013 – 2033 and the NPPF which requires effective use of land. On the whole, it is considered the development is well integrated with surrounding buildings, streets and landscape and is consistent with the principles enshrined within the adopted Mid Devon Design Guide SPD. The proposal meets Nationally Described Space Standards, Building Regulations Part M (4) and parking and EV standards. The landscape details form a key feature of the development and drainage and flood risk have been fully considered.

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

CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on this decision notice.
2. All planting, seeding, turfing or earthworks comprised in the approved details of landscaping as shown on the submitted plan, drawings number 22011.101 Rev C, 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 10 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 other of a similar size and species. Details of the maintenance of the landscaping and green open spaces shall be submitted to and approved by the Local Planning Authority prior to occupation of the development.
3. The proposed tree planting will need to be afforded suitable aftercare to ensure successful establishment. Tree planting that should be carried out in accordance with best practice following British Standards:
 - a. BS: 3882:2015 Specification for topsoil
 - b. BS: 3998:2010 Tree work Recommendations
 - c. BS: 3936-1:1992 Nursery Stock - Part 1: Specification for trees and shrubs
 - d. BS: 4428:1989 Code of practice for general landscaping operations (excluding hard surfaces)
 - e. BS: 4043:1989 Recommendations for Transplanting root-balled trees
 - f. BS: 5837 (2012) Trees in relation to demolition, design and construction Recommendations
 - g. BS: 7370-4:1993 Grounds maintenance part 4. Recommendations for maintenance of soft landscape (other than amenity turf).
 - h. BS: 8545:2014 Trees: from nursery to independence in the landscape Recommendations
 - i. BS: 8601:2013 Specification for subsoil and requirements for use

Where an irrigation system is not installed each tree should be provided with a hydration bag. For a period of three years all young trees should be watered, filling of hydration bags where fitted, by applying a minimum of 60 litres of water per visit with 14 visits per season during the spring and summer. Stake and ties should be reviewed at every second visit and adjusted appropriately and combined weeding carried out. After three years where a tree have been staked and tied these should be removed. Any trees that are found to be dead, dying, severely damaged or diseased within five years of the completion of the building works or five years of the carrying out of the landscaping scheme (whichever is later), shall be replaced in the next planting season by specimens of similar size and species in the first suitable planting season. Prior to the expiry of 10 years where dead, dying, severely damaged or diseased trees are to be replaced a review of the tree stock should be carried out by the council with a view to a Tree Preservation Order being placed to ensure long-term protection.

4. Prior to their use on site, details or samples of the materials to be used for all the external surfaces of the buildings and hard ground surfaces shall first have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved materials and shall be so retained.
5. No works relating to the retaining walls shall take place until details of all retaining walls, including heights, construction methods and surface treatments with reference to plot numbers or position on site, have been submitted to and approved in writing by the Local Planning Authority. The development shall take place only in accordance with the approved details.

6. The proposed residential development shall be implemented in accordance with the details submitted for the provision of electric charging points for electric vehicles as shown on the Car and Cycle Parking Strategy Plan (Rev H), as required by Policies S1 and DM5. These facilities shall be provided prior to occupation of the development.
7. Prior to the first occupation of the dwellings hereby approved, bat and bird boxes shall be installed in accordance with a scheme which shall previously have been submitted to and approved in writing by the Local Planning Authority. Once installed, the approved measures shall be retained indefinitely. This scheme shall be in accordance with the recommendations outlined within the Ecology Summary, reference 14612_R01_30th May 2022_RR_CW and produced by Tyler Grange which outlines the numbers and types of bird boxes/bat boxes to be integrated into the residential development. The ecology summary outlines the mitigation and enhancement measures which need to be carried out as part of the approved development.

REASONS FOR CONDITIONS

1. In order to ensure compliance with the approved drawings
2. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with Policies S1, S9, and DM1 of the Adopted Mid Devon Local Plan 2013 - 2033.
3. To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 to safeguard and enhance the amenity of the area, to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality.
4. In the interest of visual amenity and to ensure the development will harmonise visually with the character and appearance of the site and its surroundings.
5. To ensure the development assimilates well into the surrounding landscape and in the interests of amenity, in accordance with Policies S9 and DM1 of the Mid Devon Local Plan 2013-2033
6. To ensure that the development is resilient and sustainable in accordance with policies S1 and DM5 of the Mid Devon Local Plan 2013-2033 and the provisions of the National Planning Policy Framework.
7. In the interests of ecology in accordance with Policy S9 of the Mid Devon Local Plan 2013-2033.

INFORMATIVES

You are advised that, unless expressly indicated, nothing within this approval effects or varies the conditions imposed on outline planning permission no. 16/01707/MOUT.

If you alter your proposals in any way, including in order to comply with the requirements of the Building Regulations, planning permission may be required.

The developer must ensure compliance with the requirements relating to protected species by virtue of the Wildlife and Countryside Act 1981 and the Habitats Regulations. Any operations that would disturb bird nesting habitat should be undertaken outside the breeding season (March to August inclusive).

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The principle of development for 41 dwellings on site is already established by the granting of outline planning permission 16/01707/MOUT. Comprehensive consideration has been given to the overall design, scale and layout of the proposal. The scheme proposes a well-integrated landscaping, green infrastructure and public open space with appropriate wildlife mitigation. The design and layout including house types are acceptable meeting the requirements of Policy DM1 High Quality Design including compliance with Nationally Described Space Standards. Subject to the scope of mitigation proposed and conditions, the development is not considered to have an unacceptable impact on highway safety, heritage assets, the environment including flood risk and protected species and/or the amenities of local residents within the locality. The proposal is therefore in accordance with Policies S1, S9, DM1, DM5 and DM26 of the Mid Devon Local Plan 2013-2033.

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

Application No. 21/02448/FULL

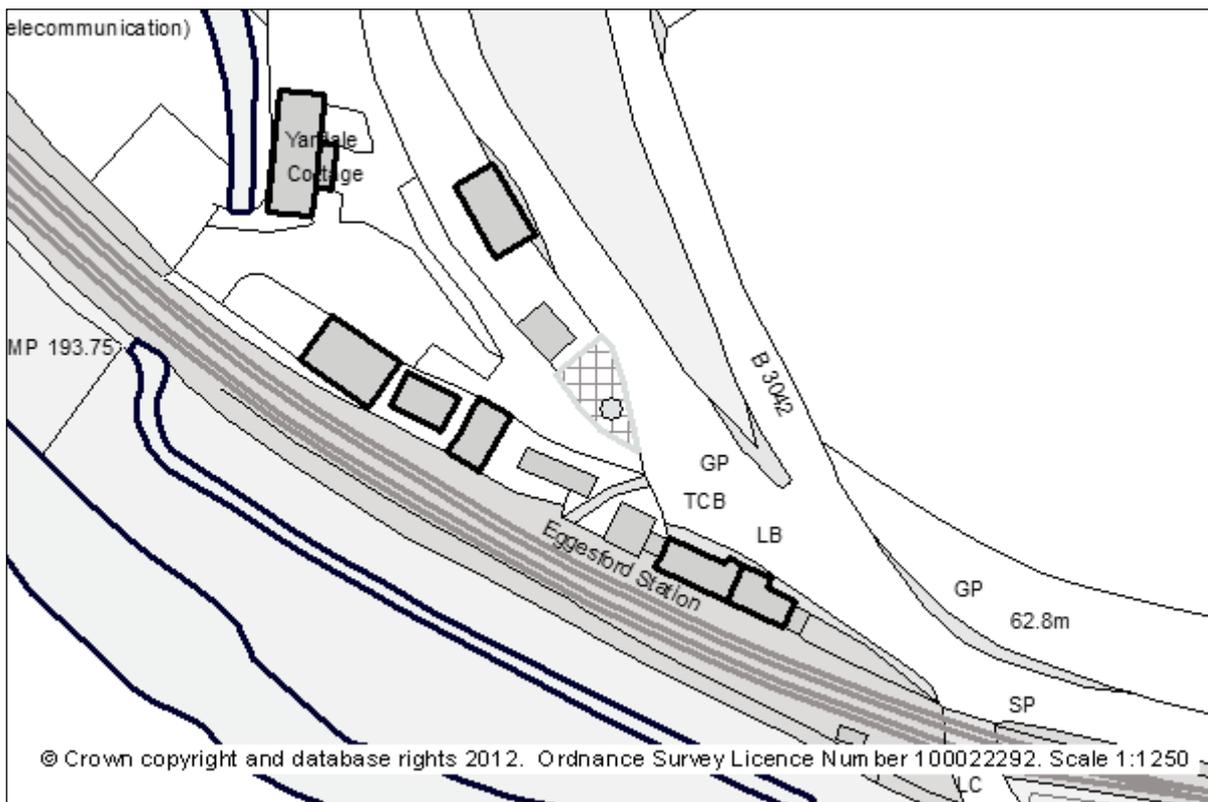
Grid Ref: 268209 : 111511

Applicant: Occident Capital Ltd

Location: Land at NGR 268209 111511
Eggesford Close
Eggesford
Devon

Proposal: Erection of a dwelling

Date Valid: 17th December 2021



APPLICATION NO: 21/02448/FULL

MEMBER CALL-IN

This application has been called in by Cllr Eginton for the following reasons:

1. The application is situated on a brownfield site.
2. The site is immediately adjacent to 2 other properties previously approved as separate applications by the Planning Committee.
3. Within several hundred metres there are in excess of 20 residential properties.
4. The proposed property is sustainable, with excellent travel links being adjacent to the A377 and Eggesford Station, with an on-site cafe and separate food shop.

RECOMMENDATION

Refuse planning permission

PROPOSED DEVELOPMENT

The application seeks planning permission for the erection of a dwelling on land at NGR 268209 111511, Eggesford Close, Eggesford. The site is located off Eggesford Close adjacent Eggesford Train Station with the land being formerly part of Eggesford Station Yard and used as a car sales forecourt. The site is deemed as open countryside in policy terms due to its location outside of any recognised settlement in the Local Plan with a development boundary. Eggesford does not have a settlement limit and this site is not identified to be allocated for residential development.

With respect to constraints of the site, the site is a small area with the northern boundary of the site being the A377 with the southern boundary adjoining the roadway of Eggesford Close and an access to the railway which Network Rail has access rights. Eggesford Station located further to the south is a Grade II listed and therefore any new development has the potential to impact on the setting of this listed building. The site is located in flood zone 1, the lowest level for flooding.

The application seeks to construct a single, detached two story dwelling. There would be off-road parking for two cars and a small area of amenity. The dwelling proposed would be 6.9m wide, 6.7m in length and 6.55m high having a slate roof and rendered walls.

APPLICANT'S SUPPORTING INFORMATION

Complete application form and plans, Planning Statement, Foul Drainage Assessment, Wildlife Trigger List

RELEVANT PLANNING HISTORY

There is no relevant planning history relating to the application site.

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 S8 – Infrastructure
Policy S9 – Environment
Policy S14 – Countryside
Policy DM1 - High quality design
Policy DM2 - Renewable and low carbon energy
Policy DM3 - Transport and air quality
Policy DM4 – Pollution
Policy DM5 – Parking
Policy DM6 - Rural exceptions sites
Policy DM25 - Development affecting heritage assets

National Planning Policy Framework

National Planning Practice Guidance

CONSULTATIONS

Public Health - 18.01.2022

Contaminated Land - No concerns 14.01.22

Air Quality - No concerns 14.01.22

Environmental Permitting - Not applicable 14.01.22

Drainage - The applicant proposes to connect to an existing septic tank system. We have no concerns regarding this. 14.01.22

Noise & other nuisances - No concerns anticipated 14.01.22

Housing Standards - No comments 04.01.22

Licensing - No comments 6.1.22

Food Hygiene - Not applicable 04.01.22

Private Water Supplies - If a private supply is to be used by more than one property or has a commercial function, The Private Water Supply (England) Regulations 2016 as amended will apply. A risk assessment and sampling regime will be necessary. The supply must not be used until the Local Authority (Mid Devon District Council) is satisfied that the supply does not constitute a potential danger to human health, including single domestic use.

You must also register with the Local Authority (Mid Devon District Council) any private water supply. Failure to do so may result in a Section 85 Notice, with which failure to comply is an offence. Please contact Public Health at Mid Devon District Council on completion of proposal. IF MAINS WATER IS TO BE USED, WOULD HAVE NO COMMENT. 04.01.22

Health and Safety No comments AK 04.01.22

Local Highway Authority - 19.01.2022

Observations:

The site is accessed off the A377 County Route which is restricted to 60 MPH

The number of personal injury collisions which have been reported to the police in this area between 01/01/2016 and 31/12/2020 is none.

The site will be accessed through the existing access which is limited to residents only, although the preferred access would be through the upper access, the access has to be considered against

the relevant planning policy. The key policy is the National Planning Policy Framework. Briefly, this identifies that safe and suitable access must be achieved and that applications should only be refused on transport grounds if the impact is severe. As the previous use for this land was a car sales and the number of trips would have been greater than this proposal.

Therefore the County Highway Authority has no objections

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT

Network Rail – 16.05.2022

Notwithstanding our previous objection to the above application, should the council decide to approve the application we would request a condition with regards to our access rights. The proposed development is likely to affect NR access rights across the land and therefore we would request a condition relating to the movement and orientation of the current access gate in order for access to be maintained to a standard that allows ease of movement of large HGV vehicles. We believe this could resolve some of the issues associated with the development with changes to the design.

Network Rail - 11.04.2022

We would like to remind the applicant that Network Rail is a statutory consultee responsible for maintaining and operating the country's railway infrastructure and associated estate and any comments made are concerned with the protection of our infrastructure and safety of those using and operating railway infrastructure.

Firstly, to address the points in this letter that fall to NR Property Services to respond on, the plan provided correctly shows the various ownership elements on site. For ease of information, I have attached the LR registry documents to this email. Considering these documents, Network Rail still stand by our understanding of the ownership and believe the plan is not incorrect.

Whilst Mr Churchill highlights points regarding the frequency of access we do not see this to be related to the application. Network Rail have a right of access for railway related purposes, and we therefore can expect large deliveries. If in an emergency, we cannot use our rights as intended, then this would restrict our ability to resolve any threats to life or property. Secondly comments made regarding using an alternative entrance bares no relevance to the objection Network Rail has made to the above application and therefore needs no further comment.

In response to recent developments and the adverse effect this has had on Network Rail access rights, Mr Churchill has correctly highlighted how large articulated lorries enter the ROW. We cannot comment on previous applications that we were not consulted on, but Mr Churchill does offer clear demonstration how a comparable development at this location has adversely affected our rights of access. In line with Government plans to reduce carbon, our railway line is now operating more services at this location, and it is likely that this will increase in the future. Our access rights will continue to be used for all railway related purposes and to service the increasingly used track bed. Our teams will need every opportunity to avoid any new challenges when using our access rights. In the absence of any practical solutions how we can resolve this issue, our objection to this application is deemed valid and remains.

With respect of the visibility and Mr Churchills comments on safety, we query whether Mr Churchill has evidence that Network Rail's safety and visibility leaving and entering the site will face no adverse effects from this development? If this is not the case and comment has been based on the Highways Authority response relating to proposed construction in isolation, then we can only acknowledge these comments as opinion only until Mr Churchill can demonstrate there are no adverse effects.

Furthermore, with regards to land ownership, Network Rails estate is situated right next to this proposed development, with Network Rail owning the tarmac area in front of the station and next to this development. We are happy to provide title documents to Mr Churchill to evidence this. Having re-read the files and looked over the submission drawings, it is noted that the Site_Location_Plan-1792657.pdf shows a blue line that appears to encroach into Network Rail estate, please note that no part of this development can encroach onto our land or into Network Rail's airspace.

Finally, to address comments with regards to drainage on site, your comments have been noted. However, we believe the points raised are considered reasonable, practical and pragmatic requests which have not been addressed in the letter received and therefore request a formal response addressing the 9 questions put forward in our previous response.

Having acknowledged the comments raised by Mr Churchill and in light of the above response, Network Rails objection remains on this planning application.

Network Rail – 26.01.2022

Having reviewed the proposals, Network Rail objects to the above application for the following reasons stated below:

Eggesford Yard has been sold from rail ownership. When the sale went through, Network Rail (NR) retained rights of access through Eggesford Yard to our compound. Please see the attached plan for reference. This compound often receives large deliveries of materials, Road and Rail Vehicles, and site cabins.

In 2020 there were attempts by the land owner to move Network Rail access to a non-comparable and unsafe new access point in which Network Rail intervened given that it is not suitable. Given this decision by NR, we retain the view that it is important to protect the access which is necessary for the operation of the line.

Having looked through the plans, we believe this new development would limit our ability to deliver the above said equipment and also present health and safety issue. Access is already very tight and this development would significantly impact on the access route through the site. The development appears to further create an angle from the gated entrance which will cause HGV or rigid lorries difficulty navigating, especially with long lengths of rail. Further to this, we believe the location of the property will cause siting issues when pulling out away from the yard. The visibility for drivers looking to re-join the highway may be blocked or reduced as a result. This could impact NR deliveries, workers et al or rail users parking at the station.

Further to the above safety concerns, we object on the grounds the development may encroach onto land vested in our title. The applicant may wish to discuss this with our Land Information team in order to have plans overlaid.

It has also been noted that this site is also subject to a Demarcation Agreement and also subject to a conveyance dated 29 October 1979 between the BRB and a (redacted). I have requested copies of these documents from NRG which I will review on their receipt.

Finally, we have had a number of untreated effluent incidents being reported on this line over the years and therefore object to the current drainage plans proposed. The applicant will need to answer/demonstrate the following:

1. Are there any specific reasons why the applicant can't connect into the public sewer
2. Septic tank - is this an existing one from the days of British Rail?
3. Septic Tank - Does the application know the condition of it i.e. Is it OK or does it need repair?
4. Septic tank - the applicant will need to confirm the outfall
5. Septic Tanks - How does the applicant propose to meet current Environment Agency standards regarding the outfall from the septic tank?
6. Septic Tank - Have they considered upgrading the effluent treatment system to the latest standard? If not, why not? Cost?
7. Effluent system - Can I have a sketch of the system in relation to the railway i.e. Distance from the NR boundary and its outfall please
8. Maintenance regime - What are the long term proposals?
9. Testing regime - What are their proposals? Are they planning to test the Output on a regular basis?

The developer should comply with the post-sale caveats below:

Land Registry Ref: DN 459064 - Para 3 - 30 October 1997

(3) That they will within three months hereof disconnect the sewerage pipes and drains leading from the Board's adjoining property onto the property hereby conveyed and thereafter make their own arrangements for drainage and sewerage disposal."

REPRESENTATIONS

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

Two letters of support were received outlining the following grounds for support:

- No objections to this application which will provide an additional new home which is much needed at this time.
- Fully support the erection of a new dwelling in Eggesford close.
- There is a current housing crisis in both sales and the rental market so any new builds are in great need.
- Would also be grateful of any potential extra trade having a local business.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in determination of this application are:

1. Policy and principle of development,
2. Highway and access issues
3. Design and amenity issues, including impact on Heritage Assets
4. Ecology and Biodiversity Net Gain
5. Impacts on the amenities of neighbouring occupiers
6. Other Matters

1. Policy and principle of development

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

In 2020 the Council adopted the Mid Devon Local Plan 2013- 2033 and this takes priority in decision making. Policy S1 sets a number of strategic priorities to support the creation of sustainable communities. In relation to residential development this sets a development focus at Tiverton, Cullompton and Crediton with a limited level of development in identified villages. Policy S13 identifies a number of rural settlements that are designated as villages suitable for limited development. Eggesford is not recognised as a village in terms of the local plan strategy and therefore this is considered to be an open countryside location.

Policy S14 (open countryside) states that development outside settlement boundaries will preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy.

It states that detailed development management policies will permit agricultural and other appropriate rural uses subject to the following criteria;

- a) *Affordable and low cost housing to meet local needs, gypsy and traveller accommodation, residential conversion of appropriate existing buildings, replacement dwellings, housing essential to accommodate a rural worker and accommodation ancillary to a dwelling;*
- b) *Appropriately scaled retail, employment, farm diversification, tourism and leisure related development (including appropriate conversion of existing buildings);*
- c) *Appropriately scaled and designed extensions and other physical alterations to existing buildings;*
- d) *Agricultural and equestrian development;*
- e) *Community facilities, such as educational facilities, buildings associated with public open space, transportation and infrastructure proposals (including green infrastructure); and*
- f) *Renewable energy and telecommunications.*

The NPPF is a material consideration in the assessment of planning applications. It seeks to achieve sustainable development through three overarching objectives which are interdependent and need to be pursued in mutually supportive ways; an economic objective, a social objective and an environmental objective. In relation to rural housing the NPPF requires planning policies and decisions to be responsive to local circumstances and support housing development that reflects

local needs. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

The application indicates that the proposal is for a single market dwelling. On this basis the proposal does not meet with any of the exceptions identified by Policy S14 as listed above and the provision of a market dwelling in this location is considered to conflict with the development plan. Policy DM6 of the Local Plan supports rural exception sites whereby the development of a site for affordable or low-cost housing, including self-build housing, to meet proven local need in rural area can be supported on a site adjacent to a settlement. As such, the development proposed for an open market dwelling on this site outside of a recognised settlement limit would not meet the social objective of sustainable development as outlined within the NPPF.

As there is no direct policy support for an open market dwelling in this location within the Mid Devon Local Plan 2013-2033 the assessment would come down to the material considerations and in balancing these up, whether the weight is such that the development can be supported being contrary to adopted Local Plan Policy. Officers have attempted to work with the applicant to identify what these could be and whether they could be sufficient to outweigh the policy position within the Local Plan.

The case being made to support the proposed development has been summarised as follows:

- Visual improvement to the site and surrounding area
- There will be no harm to heritage assets through the degree of separation to listed buildings/structures and the design of the building being similar to Pear Tree House
- There are sustainable benefits ranging from proximity of sustainable public transport (train and bus), services (shop/café/links to schools) and the regeneration of a brownfield site.
- Constructing to current building regulations being well insulated and heated by electric heating systems
- Provision of a low cost house, as evidenced through an assessment of marketing in the area
- A more preferable use than the fall back as a 'used car sales forecourt' given proximity of residential properties
- The site is in walking distance of public open space
- Residential developments at Morchard Road (including recent appeal decision) and that Eggesford has more facilities and services within a 500m radius of the application site.

The applicant has also advised that they would be willing to:

- Accept changes to materials and boundary treatment subject to the principle that the dwelling is designed as low cost housing.
- Provide biodiversity enhancements through the installation of one or two bat and bird boxes within the station yard along the tree-lined bank of the leat at the western edge of the Station Yard.
- Look at the feasibility of installing one electric charging point within the Station Yard adjacent to the farm shop with help through any grants available to help with the capital costs.

In respect to the electric charging point the applicant has advised that they are now in discussions with one of the largest providers of EV charging points in the UK who have already assessed the suitability of the site at Eggesford and approved it. They are now researching the infrastructure requirements with Western Power as it would be necessary to install a three phase supply capable of providing 150 KW to each charging point (an average domestic residence uses approximately 5KW to put this into perspective) and although the likelihood that this will be possible within their budget this EV charging point cannot be guaranteed.

As outlined earlier in the report, the main consideration as to whether this scheme can be supported relates to the principle of an open market dwelling on this site and to what impact it may have on the character of the area and nearby heritage assets and whether material planning considerations would outweigh harm.

The site is not within a settlement and does not provide affordable housing as defined under Policy DM6. The development is therefore not in accordance with planning policy.

Despite this being discussed with the applicant, they have advised that they would not wish to enter into a legal agreement requiring the unit to be an affordable dwelling. Without a legal agreement, the fact remains that this proposal is for an open market dwelling in a location without policy support. The other difficulty is that any recognised local need for further housing in the Parish is being met in the village of Chawleigh through the Chawleigh Community Trust planning permission for the erection of 8 affordable dwellings and 2 affordable flats (21/00967/MFUL) with a further reserved matters application expected by Live West on the adjoining site for 26 affordable dwellings. The provision of a new dwelling alone would not be sufficient to support the application as the Council are able to demonstrate a 5 year housing land supply.

There was a recent appeal decision in Morchard Road where a Planning Inspector allowed a proposal for an open market dwelling where access to public transport was given more weight, and it was found that the development would not result in a detrimental impact on the character of the area. However in such a case, there was an existing storage building on site to be replaced whereas in this case a new building would need to be provided. As such, it is back to basic principles of the Local Plan policy, of which the provision of an open market dwelling cannot be supported outside the settlement boundary. Existing dwellings near and around the site also constitute sites which originally benefited from existing industrial buildings on site whereby there is policy support for conversions in the countryside.

A recent appeal decision received on the 10th June 2022 dismissed an application for an open market dwelling on a site immediate adjacent the settlement limit of Cheriton Bishop (APP/Y1138/W/21/3282638). In dismissing the appeal the Planning Inspector noted:

'Whilst the development would be of modest scale and the plot set between Glenthorne and the affordable housing development, it is outside the settlement limits of Cheriton Bishop and would constitute the introduction of a new dwelling on what is a largely open and undeveloped plot. The potential visual impacts may be mitigated by its location and surrounding built development, but the proposal would be harmful to the clear policy strategy of resisting new market housing outside of settlement limits, other than where they are affordable or have some other form of appropriate justification.....Considering the siting of the proposed development based on current planning policy and settlement boundaries, the principle of a market dwelling in this location would be contrary to policies S1 and S14 of the LP. It would also not accord with policy DM6 which relates to affordable housing in rural areas.'

In weighing up the Planning Balance the inspector went on to state:

'The proposal would provide an additional dwelling adjacent to the boundary of Cheriton Bishop, which is a village with some facilities and public transport links. The appellant has also made clear the intention to develop a dwelling of high quality design that would not be harmful to the character and appearance of the area. There could be economic benefits, such as future residents helping to support the vitality of Cheriton Bishop. The dwelling as proposed could have direct access onto the highway, with no objections raised from a highway perspective at this stage. However, as only a

single dwelling is proposed the benefits would be limited.....Whilst acknowledging the benefits, paragraph 15 of the National Planning Policy Framework states that the planning system should be genuinely plan-led. In this case the Council have a recently adopted LP and state that they can demonstrate a sufficient amount of housing land supply. The site is outside of the settlement boundary/limit of Cheriton Bishop and so a new market dwelling in this location conflicts with policy.'

Therefore the proposal currently in front of us is for an open market dwelling, outside of a recognised settlement and whilst some material considerations have been outlined, these are not considered to be sufficient to enable the provision of the market unit to weigh in favour of the conflict with the planning policy.

2. Highway, access and parking issues

The access to the site would be off an existing road (Eggesford Close) which connects to the A377. The existing close serves a number of residential property and the Local Highway Authority has raised no objection to the access and visibility arrangements on the grounds of highway safety. As such it is considered that a vehicular access could be achieved from the public highway that would be appropriate to serve a single dwelling without undue impacts to highway safety.

Policy DM5 requires two parking spaces to be provided for a dwelling and this development would be in compliance with Policy DM5 of the Mid Devon Local Plan 2013-2033

3. Design and amenity issues, including impact on Heritage Assets

Policy DM1 requires designs to be of high quality based upon and demonstrating the following principles:

- a) Clear understanding of the characteristics of the site, its wider context and the surrounding area;*
- b) Efficient and effective use of the site, having regard to criterion (a);*
- c) Positive contribution to local character including any heritage or biodiversity assets and the setting of heritage assets;*
- d) Creation of safe and accessible places that also encourage and enable sustainable modes of travel such as a walking and cycling;*
- e) Visually attractive places that are well integrated with surrounding buildings, streets and landscapes, and do not have an unacceptable adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses, taking account of;*
 - i. Architecture*
 - ii. Siting, layout, scale and massing*
 - iii. Orientation and fenestration*
 - iv. Materials, landscaping and green infrastructure*
- f) Appropriate drainage including sustainable drainage systems (SUDS), including arrangements for future maintenance, and connection of foul drainage to a mains sewer where available;*
- g) Adequate levels of daylight, sunlight and privacy to private amenity spaces and principal windows;*
- h) Suitably sized rooms and overall floorspace which allows for adequate storage and movement within the building together as set out in the Nationally Described Space Standard with external spaces for recycling, refuse and cycle storage; and*
- i) On sites of 10 houses or more the provision of 20% of dwellings built to Level 2 of Building Regulations Part M 'access to and use of dwellings'.*

The site is currently a small vacant piece of ground which has in the past been used as a car sales forecourt. The dwelling proposed is small in size, having a footprint of approx. 46sqm, being 6.55m high with a very small amenity area. The applicant has outlined that it will be of a similar scale to the neighbouring property which would result in a single dwelling adequately accommodated within the site without adversely affecting the character and appearance of its immediate surroundings in accordance with Policy DM1. However it is questioned how useable the amenity space would be, given the overall size and position around the dwelling and the location of the dwelling close to the A377 and set at a lower level. With respect to the areas of private amenity the distance from the rear of the property to the retaining wall adjacent the verge of the A377 varies between 0.7m and 2.1m and the distance between the proposed dwelling and the neighbouring property of Pear Tree House varies between 0.4m and 1.4m. This demonstrates how tight the space is.

The garden area to the east of the proposed dwelling is more open, but is sited adjacent the parking area. Given the dimensions of the parking area, this could result in encroachment into this garden area to allow two vehicles to park so that no encroachment occurs on the access lane. This area is also overlooked from the neighbouring property of the Engine House opposite which would be approximately 5m away at its closest point.

In addition to the above, Policy DM1 (g) requires adequate levels of daylight, sunlight and privacy to private amenity spaces and principal windows whereas the private amenity area located directly north of the property will be small and sited lower down than the road, therefore the development would be at odds to this requirement. Policy DM1 (h) requires suitably sized rooms and overall floorspace which allows for adequate storage and movement within the building together as set out in the Nationally Described Space Standard with external spaces for recycling, refuse and cycle storage. Whilst Nationally Described Space Standards could be achieved, the proposal is considered to provide insufficient internal floorspace in order to provide a high quality and adaptable living space for the changing needs of future occupiers.

Any development on the station site has the potential to impact on the heritage asset of Eggesford Station (a Grade II listed building). Policy DM25 - Development affecting heritage assets is relevant which 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 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).'*

At the current time the site is vacant, being a small open area of space and the proposal would introduce a new small two storey dwelling which alters the character of the area. This is one reason why this proposal differs from other residential developments allowed in Morchard Road or

on the station yard whereby there was an existing building either to convert or to replace, resulting in either a neutral impact or an enhancement.

However notwithstanding the above, it cannot be forgotten that the starting point is the location of the site outside of a recognised settlement limit and being an open area of space where the principle of a new dwelling is not supported by policy and where the Council can demonstrate an up to date housing land supply. The erection of a dwelling and a solid fence enclosing the site also has the potential to impact on the setting of the nearby listed building, therefore the public benefits of the development need to outweigh the harm. Therefore the Local Planning Authority should only be granting developments of unrestricted new open market dwellings firstly within the settlement limit and secondly where they are enhancing the character of the area and offer good amenity space for future occupiers. As outlined in the reason for refusal, it is not considered that any of these objectives are being met, and nor are the material considerations put forward by the applicant considered to outweigh the policy requirements of the adopted Local Plan.

4. Ecology and Biodiversity Net Gain

The Council has a legal duty to consider the conservation of biodiversity. Policy S1 states that development will be expected to support the creation of sustainable communities including by minimising impacts on biodiversity and geodiversity by recognising the wider benefits of ecosystems, delivering natural environment objectives, providing a net gain in biodiversity and by the protection of international, European, national and local designated wildlife sites;

Policy S14 requires that development outside the settlements defined by Policies S10-S13 will preserve and where possible enhance the character, appearance and biodiversity of the countryside.

The NPPF requires planning policies and decisions to contribute to and enhance the natural and local environment by minimising impacts on and providing net gains in biodiversity (para 170) and states that when determining planning applications if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

The applicants have submitted a copy of the wildlife trigger list in support of the application which suggests that the application does not need to be supported by a wildlife survey. The site is an undeveloped parcel of land surrounded by the road and residential development on former railway yard used for car sales. It is considered that the site has low ecological value and the applicant has advised that rather than install biodiversity enhancements on the dwelling given its location, they would be willing to provide biodiversity enhancements through the installation of one or two bat and bird boxes within the station yard along the tree-lined bank of the leat to the western edge of the Station Yard which is in the ownership of the applicant to the west of the application site. Whilst this can be considered to be an improvement for biodiversity, it is not considered to go far enough to achieve a significant biodiversity net gain where the policy conflict would be outweighed by the biodiversity benefit.

5. Impacts on the amenities of neighbouring occupiers

There are existing residential properties to the south and west of the site. The provision of a dwelling on the site has potential to impact the amenities of the neighbouring occupiers. However, having regard to the orientation of those properties in relation to the site and the separation distances it is considered that the dwelling proposed could be accommodated on the site without

adversely affecting the privacy or amenity of neighbouring occupiers in accordance with DM1. There is a nearby industrial unit used for storage and a café but it is not considered that there would be significant disturbance from these uses through noise, air quality impacts with the Council's Public Health Team raising no objections.

6. Other issues- drainage, Network Rail concerns, PSED

Drainage: The proposal indicates that surface water drainage would be directed to an existing watercourse and foul drainage would be to a septic tank. Whilst concerns have been raised by Network Rail, the Council's Public Health Team has raised no objections on the grounds of drainage.

Network Rail: Further to the correspondence from Network Rail and their acknowledgement that the matter of concern to them relates to the gated entrance and access to the yard, it is considered that this issue would not fall within the scope of the red edge of the application of the site and therefore not a matter to be conditioned. On the face of it the comments raised over rights of way and gated entrances would appear to be a civil matter between the interested parties with the development not infringing on the current access arrangements.

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.

REASONS FOR REFUSAL

1. The site is located outside of a recognised settlement, being in open countryside in policy terms where policy S14 of the Mid Devon Local Plan 2013-2033 requires that development will preserve and where possible enhance the character, appearance and biodiversity of the countryside and where justification is provided for a residential dwelling in this location. The provision of an open market dwelling in this location conflicts with policy S14 which does not support the provision of unrestricted dwellings outside recognised settlements. Policy DM6 outlines the requirements for rural exception sites for affordable and low cost housing adjacent to a settlement to meet an identified local need and the applicant does not wish to enter into a legal agreement to restrict the dwelling to low cost housing, and the local housing need in any instance has been met through other developments within the nearby village of Chawleigh. As such an open market dwelling fails to meet the social objective of sustainable development as outlined within the NPPF. The development is therefore contrary to Policies S1, S14 and DM6 of the Mid Devon Local Plan 2013- 2033 and government advice in the NPPF.
2. In the opinion of the Local Planning Authority the proposal is contrary to Policy DM1 of the Mid Devon Local Plan 2103-2033 and guidance within the National Planning Policy Framework (NPPF) because the development would result in a development with inadequate levels of daylight, sunlight and privacy to amenity spaces, resulting in a poor quality of living for future occupiers.

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. 22/00481/MARM

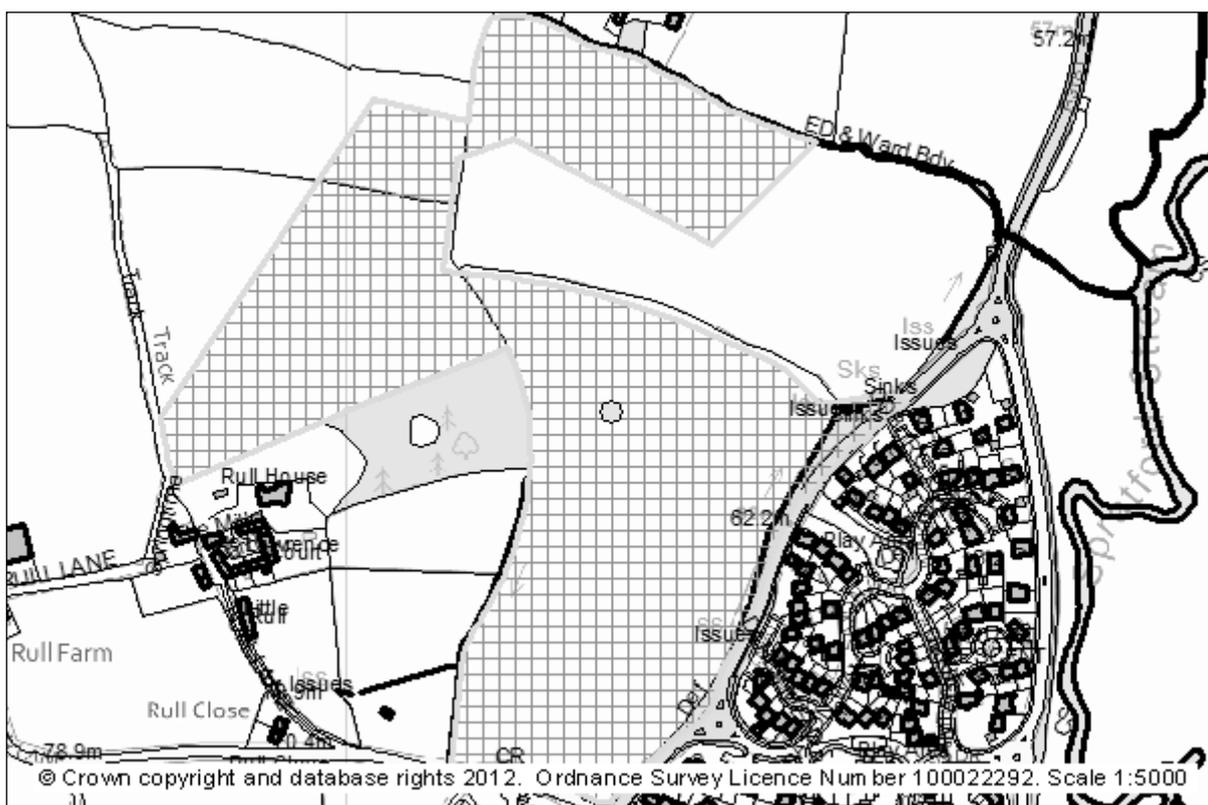
Grid Ref: 302186 : 108607

Applicant: Bloor Homes South West

Location: Land at NGR 302186 108607
North of Rull Lane and to the West of Willand Road
Cullompton
Devon

Proposal: Reserved matters for the erection of 190 dwellings together with associated infrastructure following outline approval 17/01170/MOUT

Date Valid: 22nd March 2022



APPLICATION NO: 22/00481/MARM

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

The application is for reserved matters for the erection of 190 dwellings together with associated infrastructure following outline approval 17/01170/MOUT.

Planning permission was granted for up to 200 dwellings on land allocated through policy CU1 of the Mid Devon Local Plan on the northern-most part of the NW Cullompton Urban Extension. Access to the site was approved through the outline planning permission and reserved matters approval is now sought in respect of the scale, appearance, layout and landscaping of the development.

The site comprises approximately 10 hectares of agricultural land to the north of Rull Lane and to the west of Willand Road. The eastern part of the site is gently sloping and is clearly visible from Willand Road/the B3181. The western part of the site is considerably steeper and slopes up towards a hilltop to the north of Rull Farm. The hilltop is the most northerly of the 3 hilltops identified as important landscape elements within the NW Cullompton Masterplan SPD.

There is an existing residential development to the east of the site on the other side of Willand Road and a small cluster of houses and farm buildings to the south west. Agricultural land lies to the north and west, and the Persimmon Homes development currently being constructed lies to the south.

The site is allocated and shown as suitable for residential development and green open space within the adopted NW Cullompton Masterplan SPD. The proposal is for 190 dwellings (with 19 affordable), attenuation ponds and areas of public open space and ecology enhancements.

APPLICANT'S SUPPORTING INFORMATION

Energy statement
Landscape mitigation plan
Wildlife trigger list
Waste management plan
Flood risk and drainage technical note
Urban design and architectural principles
Visualisations

RELEVANT PLANNING HISTORY

17/01170/MOUT - PERCON date 26th November 2021

Outline application for the erection of up to 200 dwellings, together with associated infrastructure and other works, including vehicular access, on land comprising northern portion of Phase 1 of the North West Cullompton Urban Extension

OTHER HISTORY

20/01551/PREAPP - Proposed Reserved Matters submission following Outline permission 17/01170/MOUT

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013 – 2033

S1 Sustainable development priorities

S9 Environment

CU1 North West Cullompton

CU2 North West Cullompton transport provision

CU3 North West Cullompton environmental protection and green infrastructure

CU5 North West Cullompton carbon reduction and air quality

DM1 High quality design

DM2 Renewable and low carbon energy

DM5 Parking

DM25 Development affecting heritage assets

DM26 Green infrastructure in major development

Cullompton Neighbourhood Plan

SD02 Links to the town centre

SD03 Flood attenuation

SD04 Solar design in housing schemes

SD05 Connectivity

HT04 Improving footpaths

HS01 Housing mix

HS02 Social and affordable housing

HS04 Parking on housing schemes

EN01 Protecting and enhancing the natural environment

TC02 Character of the built environment

WL03 Usable public open space

WL08 Dementia friendly town

National Planning Policy Framework

NW Cullompton Urban Extension Masterplan Supplementary Planning Document

CONSULTATIONS

Highway Authority – 4 August 2022

The Applicant has submitted Drawing Number 02-PHL-101 Rev E which shows the visibility splays of the pedestrian connection on to Rull Lane without steps which is acceptable.

Also the Applicant has submitted Drawing Number SW151-PD-002B which is also acceptable.

Therefore the County Highway Authority has no objections to this application.

Previous comments - 3 May 2022

This is a Reserved Matters application dealing with the layout of the site.

The site layout drawings do not show how the residents will access Willand Road apart from the main vehicle access. The Department for Transport (DFT) have issued new guidance for walking and cycling and how these sites are to be permeable, therefore this layout would need to show how further pedestrian/cycling access in accordance with the new DFT guidance Local Transport Note 1/20 July 2020.

The access points onto Rull Lane will also require further information showing the pedestrian visibility and the landing point construction.

The County Highway Authority would require the above to be addressed before we can submit a recommendation.

Flood and Coastal Risk Management Team – 18 August 2022

Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage. The applicant has clarified our concerns for the Discharge of Conditions application (17/01170/MOUT), therefore, we have no objections to this Reserved Matters planning application. The applicant has confirmed that whilst the site layout has changed slightly, the impermeable areas remain the same.

Previous comments - 5 April 2022

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.

The applicant should clarify our comments for the Discharge of Conditions application before this application is decided.

Public Health

Environmental Permitting - No comments - 07.04.22

Licensing - No comments - 24.03.22

Food Hygiene - No comments - 24.03.22

Private Water Supplies - If a private supply is to be used by more than one property or has a commercial function, The Private Water Supply (England) Regulations 2016 as amended will apply. A risk assessment and sampling regime will be necessary. The supply must not be used until the Local Authority (Mid Devon District Council) is satisfied that the supply does not constitute a potential danger to human health, including single domestic use.

You must also register with the Local Authority (Mid Devon District Council) any private water supply. Failure to do so may result in a Section 85 Notice, with which failure to comply is an offence. Please contact Public Health at Mid Devon District Council on completion of proposal. If mains water is to be used, would have no comment - 24.03.22

Health and Safety - No comments - 24.03.22

Sport England – 8 April 2022

Thank you for consulting Sport England on the above reserved matters application. This application falls within the scope of the above guidance as it relates to the creation of new playing fields.

Sport England assesses this type of application in light of the National Planning Policy Framework (NPPF) and against its own planning objectives, which are Protect - To protect the right opportunities in the right places; Enhance - To enhance opportunities through better use of existing provision; Provide - To provide new opportunities to meet the needs of current and future generations. .

The consultation response goes on to outline recommended playing field design and facilities.

The Football Foundation and the Devon County FA wish to object to this application and would welcome a discussion on how to provide a suitable facility for the area that can be used to meet the demands of football. In light of the above, Sport England is unable to support this application.

Historic Environment Team – 30 March 2022

The Historic Environment Team have no comments to make on this planning application other than to advise that the archaeological condition applied to the consent granted for the outline consent has yet to be formally discharged by the submission of the approved written scheme of investigation.

Historic England – 15 August 2022

The application, which covers the northernmost area of the Cullompton NW expansion area, has the potential to impact upon the significance of the Scheduled Monument, two Roman forts and two Roman camps on St Andrews Hill (1019543), through changes to the monuments setting.

Roman forts are rare nationally and are extremely rare south of the Severn Trent line. As one of a small group of Roman military monuments, which are important in representing army strategy and therefore government policy, forts are of particular significance to our understanding of the period. Situated on the prominent St Andrew's Hill immediately to the north west of Cullompton town centre, overlooking the valley of the River Culm, the Roman remains and in particular the multiple periods of usage, demonstrate their control of the surrounding land and strategic importance to the Romans.

The introduction of new development into the setting of the monument has the potential to impact upon both the rural nature and the outlook, and the strategic importance of the site. In this instance we believe that any impact may be of a 'less than substantial' nature and likely to be for your authority to determine the application having duly considered the planning balance.

Under the NPPF it is a core planning principle to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (para. 199 NPPF). The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification (para.200 NPPF). The onus is therefore on you to rigorously test the necessity of any harmful works.

Your authority should also aim to achieve sustainable development, seeking economic, social and environmental gains jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions. Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment. Your authority should therefore also seek to improve proposals so that they avoid or minimise harm to the significance of designated heritage assets.

Your authority should look for opportunities for new development within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably (para.206 NPPF). If a proposal cannot be amended to avoid all harm, then if the proposal would lead to less than substantial harm to the significance of a designated heritage

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

We are pleased to note a thorough Heritage section has been included in the supporting information and are generally content with the findings of that document in relation to this application.

We are also pleased to note that the application includes potential proposals to enhance public understanding and enjoyment of the monument through a package of increased access and the provision of interpretation. We would suggest that the interpretation boards be supplemented by a short monograph intended for general audiences. We would also note that the Scheduled Monument is currently inscribed on the Heritage at Risk register as being 'at risk'. This is primarily as a result of continued cultivation that is believed to be destroying the interior features identified by geophysical survey and aerial photography. Any proposals to remove the monument from cultivation would be likely to also remove it from threat and from the Heritage at Risk Register and, as such would provide significant public benefits for you to consider in your deliberations.

Should you be minded to approve the application we would recommend that a package of public benefits including improved and increased access, on and off site interpretation and removal from cultivation be secured by condition, with the final package to be agreed in writing with myself at Historic England and Mr S Reed at DCC.

Recommendation

Historic England has no objection to the application on heritage grounds.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

Conservation Officer – 16 August 2022

I have read the previous comments of the conservation officer on the outline and reviewed the relevant parts of the application. I feel that the applicant has addressed the comments made on the outline, and has responded well to the setting of the listed building and the associated buildings. The proposal is not harmful to the setting of the listed building.

Natural England – 11 April 2022

Natural England has no comments to make on this application.

RSPB – 25 March 2022

We have reviewed the document entitled Landscape and Ecological Mitigation Framework and note under Reserved Matters Compliance with LEMP:

Landscape and Ecological Management Plan (LEMP) detailing long-term management and monitoring actions and responsibilities for delivery for all retained and created habitats within public open spaces to meet objectives set out in Section 3 and maintain the favourable conservation status of the key species including bats, hazel dormice, badgers and nesting birds. The above information would be prepared with reference to BS 42020 and be based on appropriate baseline survey information, updated where necessary.

BS4102 Integral nest boxes - Selection and installation for new developments - Specification) is being published this week and we strongly recommend that it is also taken into consideration and we are given the opportunity to review it in due course.

MDDC Tree Officer – 11 April 2022

Prior to any development commencing Tree Protection Fencing should be in place as outlined in SW151-SL-1010, Tree protection plan.

Section 3.5 and 3.6 of the landscape management plan should be conditioned to ensure suitable management.

Devon, Cornwall & Dorset Police – 5 April 2022

I have no objections in principle to the proposal. The general layout proposed will provide both active frontages and good overlooking to the new internal streets and open spaces, which is welcome. The use of back to back gardens is noted and supported as is the on plot parking throughout the site.

However, as there appears to be no mention within the application supporting documentation of security or crime prevention measures per se, it is not known if these key matters have been considered for the scheme or where they have been implemented. Therefore, to assist from a designing out crime, fear of crime and disorder perspective please find the following information, advice and recommendations.

As the security element of the building regulations, namely Approved Document Q (ADQ), sits outside the decision making process for the planning authority the following information is to inform the applicant:

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. As such it is recommended that all external doors and easily accessible windows are sourced from a Secured by Design (SBD) member-company.

The above should be considered in conjunction with the attributes of Crime Prevention through Environmental Design (CPTED).

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

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

Surveillance: Places where all publicly accessible spaces are overlooked; have a purpose and are well managed to prevent creating areas which could attract criminal activity, the antisocial to gather or for unacceptable behaviour such as dumping, littering and dog fouling etc. to go unnoticed.

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

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

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

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

The proposed site wide dwelling boundary and plot separation treatments are noted. In addition, I recommend the indicated parking for plot 150 is separated from the adjacent footpath with for example, the inclusion of railings.

Any shared rear access paths must also be secured with a lockable gate, fitted as flush to the building line as possible. This does not remove the need for each individual plot to have their own lockable gate into the rear garden.

Where existing hedgerow and banking is likely to comprise new rear garden boundaries then it must be fit for purpose. They should be of both, sufficient 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.

From a designing out crime and disorder perspective it is vital that the parking provision for the proposed development is both enough when balanced against the schedule of accommodation, including any proposed future residential and community facility phases (school) and designed that it is convenient and practical to use thus reducing the level of any unplanned parking elsewhere throughout the development. It is the 'elsewhere parking' that can introduce a source of conflict and rancour amongst residents, generally due to inconsiderate or obstructive parking and chaotic and vehicle dominated streets.

South West Water - 12 April 2022

South West Water is able to provide clean potable water services from the existing public water main for the above proposal. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.

South West Water is able to provide foul sewerage services from the existing public foul or combined sewer in the vicinity of the site. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.

The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable).

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that method proposed to discharge into a surface water body and to a public surface water sewer is acceptable and meets with the Run-off Destination Hierarchy.

Wales & West Utilities - 4 April 2022

We enclose an extract from our mains records of the area covered by your proposals together with a comprehensive list of General Conditions for your guidance. Wales & West Utilities apparatus may be directly affected by these proposals and the Information you have provided has been forwarded to Asset Management for their comments.

If Wales and West are affected an Engineer will then contact you direct. Please note this is in regard only to those pipes owned by Wales & West Utilities in its role as a licensed Gas Transporter (GT). Gas pipes owned by other GT's and also privately owned may be present in this area and information with regards to such pipes should be obtained from the owners. You must not build over any of our plant or enclose our apparatus.

Cullompton Town Council – 19 July 2022

Resolved to comment that many of the houses look the same on the plan and appear to be very uniform in their design; this is not dementia friendly. It is suggested that there should be more of a mixture of shapes sizes and orientation.

Halberton Parish Council – 14 April 2022

It was resolved that no comment would be made on this application.

Willand Parish Council – 30 March 2022

Willand Parish Council has no further observations from those raised at the outline stage of the application.

REPRESENTATIONS

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

6 letters of objection were received. The grounds for objection are summarised as follows:

Objections relating to the principle of development or considered at outline planning permission stage:

- More beautiful countryside that could be used to grow food is being sacrificed for housing.
- Town Centre Relief Road and J28 improvements must be delivered first to relieve traffic congestion.
- Proposals to meet medical and education needs must be underpinned by confirmed funding and any development suspended until essential infrastructure under construction.
- Areas currently under development should be completed and impacts assessed before further development is allowed to proceed.
- Developments sites cannot be assessed in isolation and must be linked with other building work taking place, e.g. in relation to traffic and congestion.
- Roads are too dangerous for cyclists.
- There does not appear to be any external infrastructure provided, only on the site itself. There is no mention of additional health facilities, shops, fuel.
- There is too much development. Smaller, phased, developments would be better with more green space.

Objections relevant to this reserved matters application:

- Construction traffic should not travel through Headweir or Kings Oak Lea estates. What measures are being put in place to prevent this?
- Construction traffic will put further pressure on the roads, and construction will cause noise and pollution.
- There should be a timeframe in which all construction is completed and all roads/ drains etc adopted.
- There will be loss of habitats due to loss of open land in the area, and wildlife displaced.
- The landscape is going to be scarred and changed.
- The development will increase the risk of flooding.
- Are the garages of sufficient size to fit a reasonably sized family car? If not, they should be removed and the footprint used for additional off-street parking.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

- 1. Principle of development**
- 2. Design and layout, including parking**
- 3. Housing**
- 4. Flood risk and drainage**
- 5. Heritage**
- 6. Open space, landscape, trees and ecology**
- 7. Construction management**
- 8. Planning balance**

1. Principle of development

- 1.1. The site is part of a wider site allocated for mixed development by policies CU1-CU6 of the Mid Devon Local Plan 2013-2033 and is part of the NW Cullompton Urban Extension.
- 1.2. The NW Cullompton Urban Extension Masterplan SPD which adds detail to the Local Plan policies shows the site for residential development.
- 1.3. Outline planning permission was granted on 20 September 2019 for the erection of up to 200 dwellings, together with associated infrastructure including vehicular access, on land comprising northern portion of Phase 1 of the North West Cullompton Urban Extension. All matters were reserved for consideration through later reserved matters application/s, except for the access which was approved through the outline planning permission. The outline planning permission established the principle of residential development on this site. Only the detail submitted as part of this reserved matters application can now be considered.
- 1.4. This application is for approval of reserved matters in respect of the scale, appearance, layout and landscaping of the development. As mentioned above, the access into the development has already been approved through the grant of the outline planning permission.
- 1.5. Objections were raised about the principle of development on this site, loss of agricultural land and green space and the need for and timing of development. As the principle of development has already been established through the Local Plan allocation as well as the outline planning permission, this is not for further consideration. In addition, the delivery of infrastructure required to make the development acceptable in accordance with planning policy was also dealt with at outline planning permission stage.
- 1.6. As part of the provision of community infrastructure, the outline planning permission included the provision of community facilities at Rull Hill in the form of open space, play area, multi-use games area, allotments and community orchard. These facilities will need to be provided in accordance with the terms of the outline planning permission, and be completed before the occupation of 140 homes on this development. However, details of these facilities will be submitted separately and the application under consideration is for the housing area only with its closely associated public open space areas.

2. Design and layout, including parking

- 2.1. The NPPF (para 124) states that the creation of high quality places is fundamental to the planning process. Good design and planning should ensure that developments function well and add to the overall quality of the area, seeking to establish a strong sense of place.
- 2.2. Policy S1 of the adopted Mid Devon Local Plan requires good sustainable design that respects local character, heritage, surroundings and materials, creates safe and accessible environments, designs out crime and establishes a strong sense of place. Policy S9 seeks high quality design that reinforces the character and distinctiveness of the built environment and creates attractive places. Policy DM1 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 making efficient and effective use of the site. It should make visually attractive places that make a positive contribution to the character of the area. Policy DM5 requires new developments to provide an average of 1.7 parking spaces per dwelling, and sufficient secure cycle parking to meet the policy standards. Policy CU2 requires provision of pedestrian and cycle routes at appropriate locations throughout the development, creating an attractive, permeable network for non-car modes travelling within, into and out of the area including cycle and pedestrian links to and from the town centre and within the urban extension.
- 2.3. Policy SD02 of the Cullompton Neighbourhood Plan requires all major developments to make provision for accessible pedestrian and cycle routes that link safely to the wider network of route, and that public areas are safe and overlooked. Policy TC02 requires development to contribute positively to the character of the built environment and reinforce local distinctiveness and a strong sense of place. Policy WL08 expects development proposals to show how they incorporate the principles of dementia-friendly and fully accessible environments. Policy HS04 requires 2 and 3 bed houses to have 2 parking spaces and 4 bed houses to have 3 parking spaces.
- 2.4. The NW Cullompton Masterplan SPD sets out a number of guiding principles including requiring development to respect its landscape context and surroundings, create well designed streets and spaces with a network of well-defined, safe, streets and spaces and good pedestrian and cycle links. Development should reflect the character of Cullompton and take inspiration from its locality.
- 2.5. The proposed development is set around two primary roads, one leading from the access from Willand Road and running east-west through the development, and one running north-south. The access itself was previously approved through the outline planning permission. A cycle route runs along the main access road that links into an existing cycle way on the opposite side of Willand Road. There is a pedestrian route running north-south through the development, crossing Rull Lane, and into the neighbouring development, from which there are pedestrian links to the health centre, town centre, new school and community facilities at Rull Hill, and links from the development to bus stops in Willand Road. The development is considered to have a good level of permeability for cyclists and pedestrians.
- 2.6. A condition on the outline planning permission required the submission of an urban design and architectural principles documents to be submitted for approval before reserved matters applications are submitted. This document sets out how the reserved matters will respond to the guiding principles in the Masterplan SPD and sets out the urban design principles that would inform the layout and design, including elements such as character,

block structure, parking, house types and materials. This document was approved and the reserved matters submission follows the principles in the approved document.

- 2.7. The development is mainly formed with perimeter blocks of housing facing onto the street and public green spaces and gardens to the rear. There are houses facing onto all public spaces so they benefit from natural surveillance. Housing is laid out in terraces, semi-detached and detached forms with a higher density of housing along the primary roads and looser densities with larger dwellings at the green edges. Boundary treatments facing the public realm are brick walls or timber knee rail fences, with close boarded fences restricted to dividing back gardens. This adds to the design quality to the public realm.
- 2.8. The Devon & Cornwall Police have commented that the general layout will provide both active frontages and good overlooking to the new internal streets and open spaces. The use of back to back gardens is supported as is the on plot parking throughout the site.
- 2.9. Each house has 2 off-road parking spaces well-related to the housing. Larger houses also have a garage. There are also 12 visitor spaces within the development. Secure cycle parking will be provided in garages or where no garages, sheds will be provided within private gardens.
- 2.10. Whilst the development is characteristic of a modern housing development, the layout and design of housing picks up on some of the characteristics of Cullompton such as the use of materials and design details. The scheme has been designed to make use of existing landscape features such as trees and hedges. There is a variation of house types and materials through the development. Hipped roofs have been used on corner plots to aid wayfinding, and the use of a central primary road and secondary streets and private drives leading off that central road adds structure to the development, as do areas of different planting, a number of different house types, variations in materials, and clearly defined open spaces. Views through the site are open and the access points and pedestrian routes are clearly visible from the residential areas. All of this helps to make the development more dementia-friendly.
- 2.11. A large part of the site is on relatively level ground. However, the western part of the site rises up towards a hilltop to the north of Rull Farm. The NW Cullompton Masterplan is based on the concept of three hilltops, the Rull Farm hilltop being the most northerly. In accordance with the Masterplan, the hilltop area has been kept free of development, however, due to the rising land, some development rises up towards the hilltop and the roofs of the houses here would be partially visible in views from Rull Hill to the south. The proposal includes a steeply sloping area between the new road and this area of housing in order to avoid high retaining walls having to be provided between houses. The applicant has provided a number of sections, street elevations and visualisations to demonstrate how this part of the development would appear in the street scene and from Rull Hill. The footpath from the higher part of the site to the lower part is not accessible to those with reduced mobility being a route with a high number of steps. This is unavoidable due to the levels change, however there is an alternative route which, although longer, has less steep gradients and is step free.
- 2.12. Overall, the layout and design of the development is considered to be acceptable and to meet the relevant policies.

3. Housing

- 3.1. Policy S1 of the adopted Mid Devon Local Plan seeks to deliver a wide choice of high quality homes through a diverse housing mix including the provision of accessible housing. The policy also requires energy efficiency measures and the provision of renewable energy. Policy DM1 requires housing to demonstrate adequate levels of daylight, sunlight and privacy to private amenity spaces and principal windows; suitably sized rooms and overall floor space as set out in the Nationally Described Space Standard with external spaces for recycling, refuse and cycle storage; and on sites of 10 houses or more the provision of 20% of dwellings built to Level 2 of Building Regulations Part M 'access to and use of dwellings'. It should be noted that in response to consultation on raising accessibility standards for new housing schemes, the Department for Levelling up, Housing and Communities said it was moving ahead with the regulatory changes in an attempt to help older disabled people. We await further update on this, but this will be a building control matter. Policy DM5 requires one electric car charging point per 10 dwellings. Policy CU5 requires renewable and low carbon energy to provide a proportion of the site's energy use.
- 3.2. Policy HS01 of the Cullompton Neighbourhood Plan Development requires major developments to contain an appropriate mix of house types and sizes and show how they contribute to meeting current local housing needs. Policy HS02 requires that affordable housing is visually indistinguishable from other housing and not located separately. Policy SD04 supports the use of passive solar design and renewable energy technologies in new housing, whilst ensuring acceptable standards of privacy and amenity. Policy HS04 requires appropriate provision of electric car charging points, and Policy SD05 requires developments to endeavour to include high speed broadband.
- 3.3. The proposal is for 190 dwellings, 10% of which are required to be affordable as agreed in the outline planning permission already granted. As such, this is not a matter for the reserved matters to consider and this cannot be altered at this time. The proposal is for a mix of 2, 3 and 4 bed houses. Market housing consists of 60 x 4 beds, 35 x 3 beds and 76 x 2 beds. Affordable housing consists of 5 x 2 bed and 5 x 3 bed affordable rent houses and 5 x 2 bed and 4 x 3 bed shared equity houses. Housing is to be provided in a mix of detached, semi-detached and terraced properties. The affordable housing is indistinguishable from the market housing in that the house type designs look very similar and the same materials will be used. The affordable housing is in the centre of the site, interspersed with market housing. The proposal is considered to provide an appropriate mix of dwellings for the site.
- 3.4. There are 16 different house types proposed. Most are two storeys with 14 x 2.5 storey houses along the central north-south primary road. All house types meet the Nationally Described Space Standard and have good sized private gardens.
- 3.5. Materials reflect the character of Cullompton being red brick and render with grey roof tiles. Windows are white UPVC casements and front doors a mix of green, red, grey and black with a traditional look. The house types are fairly traditional in design with some feature windows and gable fronts.
- 3.6. A fabric first approach has been taken to house design with improvements in energy efficiency above Building Regulations requirements. In addition, every house will be provided by an electric car charging point, which is in excess of the policy requirement and 50% of the houses will be provided with solar panels. High speed fibre broadband will be provided to every house.

- 3.7. Garages to be provided on site meet the minimum size requirements set out in the adopted Mid Devon parking provision in new development SPD.
- 3.8. Overall, the housing provision is considered to be of good quality design with materials and detailing to reflect the character of Cullompton. Carbon reduction measures are in excess of policy requirements.

4. Flood risk and drainage

- 4.1. Policy S9 seeks to guide development to areas of lower risk of flooding and requires the provision of measures to reduce the risk of flooding, including the provision of sustainable drainage systems. Policy CU3 of the Mid Devon Local Plan requires appropriate provision for sewerage systems and provision of a sustainable urban drainage scheme to deal with all surface water from the development. Policy DM1 requires appropriate drainage including a sustainable drainage system and connection of foul drainage to a mains sewer where available.
- 4.2. Policy SD03 of the Cullompton Neighbourhood Plan requires that flood attenuation on major developments should make use of off or on site water features in suitable and safe locations, to contribute to the visual amenity and biodiversity of the area.
- 4.3. The areas of the site that are to be developed are in Flood Zone 1, the lowest flood risk category according to Environment Agency flood maps. A strip of land in the north of the site is Flood Zones 2 and 3 and this area will be planted as wildflower meadows and tree planting and will provide a buffer to the watercourse to the north.
- 4.4. The site lies within the Environment Agency's critical drainage area for Cullompton which requires a higher level of scrutiny of drainage proposals to ensure that surface water run-off is managed appropriately and does not increase flood risk elsewhere.
- 4.5. A sustainable urban drainage system will be provided to include two large attenuation ponds between the development and the wildlife area to take the all the surface water from the scheme. These will be planted with a seasonally wet meadow mix. The second of these ponds is subject to a separate planning application as it is outside of the original red line of the outline planning permission.
- 4.6. The development will connect into the main sewer system.
- 4.7. Following their initial objections, the Lead Local Flood Authority are now happy with the drainage proposals, the applicant having provided further information.

5. Heritage

- 5.1. Policy S1 of the Mid Devon Local Plan seeks to conserve and enhance the historic environment through protection of heritage assets and assessing the impact of new development on historic character. Policy S9 requires the protection of listed buildings, conservation areas, scheduled monuments and local heritage assets. Policy CU3 requires archaeological investigation and measures to record, and where necessary, protect the archaeological interest of the site seeks design solutions which respect the settings of listed buildings. Policy DM25 requires proposals likely to affect the significance of heritage assets to consider their significance, character and setting use. Policy CU3 sets out the requirement for archaeological investigation, protection and mitigation, and design that respects listed buildings within and adjoining the site.

- 5.2. Policy TC01 of the Cullompton Neighbourhood Plan requires development proposals affecting designated and non-designated heritage assets to comply with national policy and the development plan.
- 5.3. The National Planning Policy Framework affords great weight to the conservation of heritage assets and requires that any harm requires clear justification. 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.
- 5.4. The development site lies approximately 850 metres to the north of the St Andrew's Hill Scheduled Monument (SM) and, although allocated, development on the site has some potential to affect the setting and understanding of the SM. The development already has outline planning permission so the assessment of the scheme's effect on heritage assets is in relation to its design.
- 5.5. Historic England has raised no objection to the proposal and are generally content with the findings on the heritage assessment that was submitted with the outline application. They have recommended a package of interpretation be secured. The SM is taken out of cultivation and access to it is increased.
- 5.6. The heritage assessment submitted at outline stage covered a large proportion of the NW Cullompton Urban Extension and its recommendations were spread across the three applications submitted for phase 1. As this application relates to the parcel of land furthest from the SM, there is no proposal to include interpretation. A package of interpretation was secured at outline planning application stage in respect of the parcel closest to the SM. The SM is outside the NW Cullompton Urban Extension and in different land ownership. Any change to its access and cultivation cannot be secured through this reserved matters application.
- 5.7. Whilst Historic England's comments conclude that "Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice", no harm has been identified within the text of the response. Very little development on the site would be visible from the SM and there are other allocated development land parcels, some with planning permission already, between the site and the SM that would have a much greater impact on its setting. Harm to the heritage asset from the design of this development parcel that already benefits from outline planning permission is therefore considered to be very limited, with the public benefit of the delivery of 190 new homes, including 19 affordable homes, and newly accessible open space is considered to outweigh this limited harm.
- 5.8. A requirement to carry out archaeological investigation was secured by condition through the outline planning permission. This condition will need to be formally discharged before development commences.
- 5.9. There is one Grade 2 listed building approximately 100 metres to the south of the development and Cullompton Conservation Area lies approximately 1km to the south. The development would not be visible from the conservation area. MDDC's conservation officer has commented that he has read the previous comments of the conservation officer on the outline and reviewed the relevant parts of the application, and considers that the applicant has addressed the comments made on the outline, and the design responds well to the

setting of the listed building and the associated buildings. He concludes that the proposal is not harmful to the setting of the listed building.

- 5.10. Overall, the proposal is considered to have a limited effect on nearby heritage assets, and any less than substantial harm that could occur would be outweighed by the public benefits of the proposal. The development is therefore considered to be in accordance with the relevant policies in respect of heritage.

6. Open space, landscape, trees and ecology

- 6.1. Policy DM26 of the Mid Devon Local Plan requires major development proposals to demonstrate that green infrastructure will be incorporated within the site to include as biodiversity mitigation, resulting in a net gain in biodiversity; flood and water resource management; green corridors to link the site to the wider GI network and avoid habitat fragmentation. Policy S1 seeks to minimise impacts on biodiversity and provide a net gain in biodiversity. Policy S9 requires that on both designated and undesignated sites, development will support opportunities for protecting and enhancing species populations and linking habitats. Policy CU3 sets out the green infrastructure and open space requirements for the whole of the NW Cullompton Urban Extension.
- 6.2. Policy EN01 of the Cullompton Neighbourhood Plan seeks to protect important ecological sites and wildlife corridors and to incorporate enhancements into development wherever possible. Policy WL03 requires public open space on major new developments to be located and designed so that it is usable by residents and other members of the public for a range of leisure and recreation activities.
- 6.3. Concern has been raised that the landscape will be scarred and changed and there will be habitat loss and species displaced.
- 6.4. The landscape will change from open fields to a housing development. This is an allocated site with outline planning permission and effort has been made to integrate the development into the existing landscape wherever possible, for example by retaining existing hedges and trees and providing additional hedge, tree, meadow and wetland planting.
- 6.5. Existing trees and hedges will be retained wherever possible, although there will be some loss of hedges to accommodate the development. The loss of the hedges will be compensated for by additional planting, linking habitats where possible. Trees are mostly to be incorporated into the scheme in areas of public open space with some street trees included throughout the development.
- 6.6. This reserved matters application is making a contribution towards the overall provision of open space and green infrastructure at NW Cullompton including an area of public open space referred to in the Masterplan SPD as a hilltop park. The open space will be landscaped with grassland and trees. Smaller areas of green space including a village green are incorporated into the development which will also be landscaped with grass and trees.
- 6.7. In addition to the hilltop park referred to in 6.8 above, the outline application secured a larger area of public open space at Rull Hill which is more central to the urban extension as a whole which will also be delivered by the applicant. This open space area will include an equipped play area, allotments, community orchard, sports pitch and a multi-use games area, and needs to be fully completed before no more than 140 houses can be occupied

(the outline planning permission is for 200 houses). This trigger is a realistic one in terms of access being available to the open space area that is located on a separate land parcel to the development and needs to be accessed through other land. Although these areas are already secured, the details of this larger open space area will be subject to a later planning application that the applicant is currently preparing for submission.

- 6.8. The consultation response from Sport England states that they are not able to support this reserved matters application as only one pitch is being delivered, and they have a requirement for multi-pitch sites. This is not an objection from Sport England, but the response does raise concerns. However, the single sports pitch is part of the open space being delivered at Rull Hill described in 6.7 above and is not part of this reserved matters application. A single sports pitch in this location is all that is required by the Local Plan policy and all that was secured through the outline planning permission. The pitch is located next to the primary school site which will have its own playing field so there will be a co-location of sports uses.
- 6.9. The landscape and ecology impacts of the development were initially assessed at the outline application stage. One of the conditions on the outline planning permission is that a Landscape and Ecological Mitigation Framework (LEMF) needs to be submitted for approval. This document demonstrates how a biodiversity net gain can be achieved on site and has been assessed by Devon County Council's ecologist and landscape architect and has been approved.
- 6.10. The proposals reflect the approved LEMF, however, the LEMF also requires preparation of a Landscape and Ecological Management Plan (LEMP) to be prepared once the landscaping and ecological enhancement have been approved but before commencement of the development. The LEMP will include detail of the long-term management and monitoring, actions and responsibilities for delivery for all retained and created habitats and maintain the favourable conservation status of the key species including bats, hazel dormice, badgers and nesting birds, and other information, such as full details of ground preparation for planting and external lighting to maintain dark corridors. It is therefore recommended that the LEMP is conditioned for approval as recommended by DCC's ecologist.

In addition, a Tree Protection Plan and Arboricultural Method Statement have been submitted. It is recommended that a condition is added to the approval that tree protection fencing is in place before commencement and the development proceeds in accordance with the Method Statement. At the time of writing this report, the Tree Protection Plan needs to be updated to correct some minor discrepancies. The revised plan has not yet been received at the time of writing this report, but providing these minor corrections are made, the plan is considered to be acceptable. Members will be updated on this.

- 6.11. Subject to the submission of the LEMP for approval, the proposals are considered to comply with the relevant policies in relation to open space, landscape, ecology and trees.

7. Construction management

- 7.1. Concern has been raised with regard to construction management and the time for construction to complete and for roads to be adopted.
- 7.2. There is a condition on the outline application requiring submission of a Construction Environmental Management Plan (CEMP) for approval. This details how the development will be constructed, including storage compounds, parking, traffic routing and noise and

other pollution mitigation, and the developers will need to comply with the agreed CEMP. Whilst not for consideration in this reserved matters application, the condition will need to be discharged before the development starts.

- 7.3. Environmental Health and the Highway Authority are happy with the contents of the report, subject to minor alterations which have been agreed with the applicant, and there will also need to be a section added in respect of soils management. The CEMP will include details of construction traffic routing which will not be permitted to access the site through neighbouring residential streets.
- 7.4. There is no legislative or policy requirement for developments granted planning permission to be completed within a certain time and this cannot be imposed. Similarly, Devon County Council Highway Authority cannot require roads to be adopted within a certain timeframe.

8. Planning balance

- 8.1. This reserved matters application is considered to be acceptable in terms of the layout, appearance and design of the development, in terms of highway design and pedestrian and cycle permeability, the design of housing, green infrastructure and public open space. There are some issues with accessibility due to the topography on part of the site, however, it is generally of a good standard. The development will provide mitigation in respect of any negative impacts on landscape and ecology, including additional tree and habitat planting. A sustainable urban drainage system is being provided to deal with surface water run-off from the site, including attenuation basins which also secure biodiversity benefits.
- 8.2. Additional benefits are being provided in terms of electric car charging points at every house and solar panels on 50% of the houses. Any harm to the setting of heritage assets is considered to be limited and less than substantial in nature, and to be outweighed by the public benefit of providing 190 new homes including 19 affordable, and new accessible public open space and biodiversity benefits that meets the terms of the Section 106 Agreement.

CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on this decision notice.
2. No dwelling shall be occupied until the pedestrian access onto Rull Lane shown on drawing number 02-PHL-101 Rev E has been provided and is open for use. Such pedestrian access shall be permanently kept open and maintained for such use at all times.
3. All planting, seeding or turfing comprised in the approved details of landscaping as shown on the approved landscaping 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 10 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 other of a similar size and species.
4. No development shall take place until tree and hedge protection measures/fencing have been provided on site and in respect of any off-site compounds to protect all retained trees and hedges, in accordance with details that shall have been previously submitted to and

approved in writing by the Local Planning Authority. These approved measures/fencing shall be kept in place for the duration of the construction period and the development shall proceed only in accordance with the approved details.

5. No dwelling shall be occupied until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall include:
 - A. A checklist of provisions and actions and detailed habitat balance sheet as set out in the Landscape and Ecological Management Framework approved under condition 3 of outline planning permission 17/01170/MOUT.
 - B. Detailed long-term management, maintenance and monitoring actions and responsibilities for delivery for all retained and created habitats, including but not limited to within public open spaces, to maintain the favourable conservation status of the key species including bats, hazel dormice, badgers and nesting birds.
 - C. Detailed landscape and ecological design proposals including a) details of ground preparation, planting/sowing (species, stock size/type, planting density) and aftercare maintenance to ensure successful establishment and long term maintenance of new vegetation; and b) a plan indicating the mature canopy spread and height of proposed street trees together with shadow path. All tree planting shall be carried out in accordance with best practice following British Standards.
 - D. The provision and maintenance of nest boxes throughout the development in compliance with BS4102, where possible.
 - E. Lighting specification for public-realm lighting, supported by lux contour plans demonstrating maintenance of continuous dark corridors.
6. Before it is occupied, each house shall be provided with an electric car charging point as shown on the charging points plan.
7. Before first occupation, a scheme of renewable energy provision to the development setting out the locations and details of solar PV panels to be provided to 50% of the dwellings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
8. There shall be no changes in ground levels within Environment Agency Flood Zone 3 and no soils or other materials shall be removed from or deposited in these areas unless previously agreed in writing by the Local Planning Authority.
9. There shall be no changes in ground levels and no soils or other materials shall be removed from or deposited on the area of public open space to the west of the development shown on the approved plans, unless previously agreed in writing by the Local Planning Authority.

REASONS FOR CONDITIONS

1. In order to ensure compliance with the approved drawings.
2. To ensure the development is accessible for pedestrians and to allow provide a safe walking route to facilities and services in the NW Cullompton urban extension and into the town centre, in accordance with policies CU2 of the Mid Devon Local Plan 2013-2033 and SD02 of the Cullompton Neighbourhood Plan.
3. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with policies S1 DM26 and CU3 of the Mid Devon Local Plan 2013-2033.
4. To protect all retained trees and hedges on the site to ensure that the development makes a positive contribution to the character and amenity of the area in accordance with policies S1 DM26 and CU3 of the Mid Devon Local Plan 2013-2033.
5. In the interests of ecology in accordance with policies S1, S9, DM26 and CU3 of the Mid Devon Local Plan 2013-2033 and EN01 of the Cullompton Neighbourhood Plan.
6. In the interests of creating a sustainable development that helps mitigate the impacts of climate change in accordance with policies S1, DM1 and DM5 of the Mid Devon Local Plan 2013-2033 and HS04 of the Cullompton Neighbourhood Plan.
7. In the interests of creating a sustainable development that helps mitigate the impacts of climate change in accordance with policies S1, DM1 and CU5 of the Mid Devon Local Plan 2013-2033 and SD04 of the Cullompton Neighbourhood Plan.
8. To ensure the flood zone areas retain their function and to prevent the risk of flooding elsewhere in accordance with policy S9 of the Mid Devon Local Plan 2013-2033.
9. To ensure the public open space retains its hillside character and in the interests of ecology in accordance with S1, S9, DM26 and CU3 of the Mid Devon Local Plan 2013-2033 and EN01 of the Cullompton Neighbourhood Plan.

REASON FOR APPROVAL

The principle of development of 200 dwellings on site is already established by the granting of outline planning permission 17/01170/MOUT. Consideration has been given to the design, scale and layout of the proposal. The scheme proposes well-integrated landscaping, green infrastructure and public open space with appropriate ecology mitigation. The design and layout including house types and materials are acceptable and comply with Nationally Described Space Standards and the application proposes adequate parking and accessibility in terms of walking and cycling. Subject to conditions, the development is not considered to have an unacceptable impact on highway safety, heritage assets, the environment including landscape, flood risk and drainage, protected species or the amenities of local residents within the locality. The proposal is therefore in accordance with policies S1, S9, CU1, CU2, CU3, CU5, DM1, DM5, DM25 and DM26 of the Mid Devon Local Plan 2013-2033 and policies SD02, SD03, SD04, SD05, HT04, HS01, HS02, HS04, EN01, TC02, WL03 and WL08 of the Cullompton Neighbourhood Plan as well as the National Planning Policy Framework and the design principles set out in the NW Cullompton Urban Extension Masterplan Supplementary Planning Document.

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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PLANNING COMMITTEE
7th September 2022

REPORT OF THE DEVELOPMENT MANAGEMENT MANAGER

Application No. 22/00672/FULL - Development Site at NGR 295336 112490
St George's Court, Tiverton, Devon - Formation of residential parking area and landscaping works

Reason for Report:

At the Planning Committee meeting on 27th July 2022, Members advised that they were minded to refuse the above application and invited an implications report for further consideration.

RECOMMENDATION(S)

Grant planning permission subject to conditions.

Financial Implications:

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

Legal Implications:

The report identifies the risks in proceeding with an appeal based on the reasons given by the Committee on 27th July 2022 – both in terms of outcome of an appeal and the risk of a costs decision. The Council will still need to prepare draft planning conditions for the appeal. External legal representation may be required if the appeal proceeds to a public inquiry. The applicant has indicated that they plan to lodge an appeal should this planning application be refused.

Risk Assessment:

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

1.0 INTRODUCTION:

1.1 At the meeting on 27th July 2022, Members indicated they were minded to refuse the application and therefore wished to defer the application for consideration of an implications report to consider reasons for refusal, with regard to:

- *The application was detrimental to the visual enjoyment of views to the river.*
- *It is over development on an already crowded site.*

- *There were concerns regarding car fumes getting into neighbouring basement properties*

2.0 **UPDATE**

2.1 Since this application was considered at the 27th July 2022 committee meeting, further information has been submitted by the applicant, in the form of a more detailed landscaping scheme, which includes the provision of additional tree planting, as well as detailing the mix of shrubs and perennial planting to be included. It is now also proposed to enclose the car park with 1.8m high timber fencing with climbing plants at the base to create a 'living' green fence.

2.2 In light of the 3rd potential refusal reason relating to impact of car fumes to neighbouring properties, further comments have been sought from the Council's Environmental Health Officer. They have commented as follows:

"A concern has been raised regarding the potential for vehicle fumes to enter basement residential properties. This is not something that tends to be noticed or reported in other parking areas, even those immediately adjacent to residences. The car park is an open air area, so any fumes will tend to dissipate rapidly as they do in the town centre. In any case vehicle fumes are much better treated within vehicles than was the case in the past. Should any parking space be located very close to a residential window (i.e. within 2-3m) then signage can be provided requiring drivers to park nose-in. However this would not be a planning matter."

2.3 A question has been received in respect to whether the applicant owns the entire red line site, as Land Registry documents indicate that the land owned by the applicant does not extend all the way to the river edge. The applicant, 3 Rivers, have confirmed that the application site is within their ownership, having been purchased from the previous owners in its entirety. It has been advised that the area shown on the Land Registry documents was purchased with absolute title and therefore fully registered. The additional land making up the application site (i.e. up to the river bank) was purchased with possessory title. As a result it is unregistered and does not show up on the Land Registry search, however is for all intents and purposes, owned by 3 Rivers. The application has therefore been submitted correctly to meet all the necessary statutory requirements for submission of planning applications.

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

3.1 With regards to the concerns raised by Members at their previous meeting, your officers would advise as follows:

3.2 The application was detrimental to the visual enjoyment of views to the river

3.3 Following a request for further clarification, it was advised that this refusal reason related specifically to the visual amenity of this riverside site and the loss of existing green space.

3.4 In respect to the visual impact of the proposed development, and its impact on the character of the area, your officers noted in the committee report that while the development would lead to an expansion of hard landscaping to the north of the existing residential development under construction, the siting of the parking area was such that it would allow the retention of key existing vegetation on the margins of the site, including trees and shrubs to the riverside frontage, and to the northern

boundary of the site. When seen from the main public vantage points along the River Exe, officers felt that the proposal would be viewed in the context of the adjoining development, and was not considered to lead to any increased harm to the general character and appearance of the area. Since the application was considered at the 27th July 2022 committee, the applicant has supplied a more detailed landscaping scheme, which includes further enhancements, including additional tree planting to the north, east and west extremities of the site, as well as providing the specifications of the shrub and perennial planting previously indicated on the plans. Additionally details are given of a 'living' fence around the hard surfaced parts of the proposed car park. Officers already considered that the retained planting would assist in softening the proposed development and reducing its visual impact. The additional landscaping scheme will lessen the impact further and lead to the proposed development having a more positive contribution to local character.

- 3.5 It should also be noted that the site is within the local Conservation Area too. Following their visit to the site, the Council's Conservation officer raised no objections to the proposal, although did recommend the provision of fencing to provide a sense of enclosure. The latest details submitted expand on this further, with the proposed 'living' fence, comprising climbing plants at the base of the proposed fencing, which would now extend around the site, rather than just to the western boundary.
- 3.6 The officer's original view was that the proposal would have an acceptable impact. The scheme is now further enhanced due to the submitted detailed landscaping scheme, which would further lessen the impact on the river views. With this in mind, your officers do consider that a reason for refusal in relation to the visual impact of the proposed car park, in this instance, would be most likely overturned, with an appeal likely to be allowed.
- 3.7 In relation to costs applications, the Planning Practice Guidance (Appeals) advises that costs may be awarded where a party has behaved unreasonably; and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour in the context of an application for an award of costs may be either:
- Procedural - relating to the process; or
 - Substantive - relating to the issues arising from the merits of the appeal
- 3.8 Consideration of the visual impact of the parking area is however a subjective matter so the risk of costs being awarded is reduced as long as it is demonstrated that this matter has been properly considered by members, and any refusal reason is coherently formed. It is not sufficient to say that a proposal would have an unacceptable effect, or simply that it does not comply with policy. It must be clearly and cogently stated what the alleged harmful effects would be in relation to.
- 3.9 Due to the subjective nature of this matter, it is not however felt that a refusal on these grounds would be likely to lead to an award of costs, subject to any refusal reason being carefully considered, however it is still your officers recommendation that a refusal on these grounds is unlikely to be successful.
- 3.10 It is over development on an already crowded site
- 3.11 In further considering the impact of the proposed development, Members discussed concerns that the last available open space adjoining the St Georges Court development, approved by 17/01509/MFUL, was being now also being developed, leading to overdevelopment of the already densely built site as a whole.

- 3.12 In some respects, this is a similar concern to the previous refusal reason. Officers do have some concern that the issues highlighted in respect to this reason relate more to concerns about the development approved under 17/01509/MFUL, as the application for the car park does not introduce any material built form to the site. There would of course be the provision of additional hard surfacing and associated presence of parked cars, if approved, however this would be at low level and should be effectively screened by the proposed landscaping scheme.
- 3.13 Returning to the consideration of a costs application being made, the Planning Practice Guidance (Appeals) gives more detailed examples of unreasonable behaviour in unreasonably refusing, or failing to determine planning, or by unreasonably defending appeals, one of which is:
- *Vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.*
- 3.14 As highlighted earlier, it is not sufficient to say that a proposal would have an unacceptable effect, without clearly stating what the harmful effects would be. Officers feel that it would be difficult to substantiate a refusal reason on ground of overdevelopment alone. It is also considered that there is some duplication in this particular reason with it overlapping somewhat with the wider concerns over the visual impact of the proposal. It is respectfully suggested that should Members retain this concern and wish to pursue a refusal on these grounds that a single refusal reason may be more appropriate covering the concerns raised in these first two considerations.
- 3.15 Notwithstanding this advice, the officer's thought on the likelihood of an appeal being successful remain.
- 3.16 There were concerns regarding car fumes getting into neighbouring basement properties
- 3.17 In considering the impact of development on neighbouring occupiers, Members identified concerns, specifically in respect to vehicle fumes getting into neighbouring basement properties.
- 3.18 As a result of these concerns being raised, the Council's Environmental Health Officer has been consulted to offer further advice to Members on this matter. Their response is quoted earlier in this report, in which case Members will note that the Environmental Health Officer raises no objections. They have advised that the matter identified is not something that is usually noticed, and due to the open air nature of the site, any fumes tend to dissipate rapidly, even those close to adjacent residences. The site is compared to other town centre locations, in this regard. The Environmental Health Officer also advises that vehicle fumes are much better treated within modern vehicles so as to further reduce the concerns associated with fumes. It is suggested that should any parking space be within 2-3m of a residential window, parking signs should be provided to encourage drivers to park 'nose-in'. It is however suggested that this would not be a planning matter.
- 3.19 It is noted that the nearest residential buildings are between 10-12m in distance from the nearest parking spaces. Taking into account the Environmental Health Officer's advice, this distance is more than sufficient to avoid a negative impact from vehicle fumes, and as such it is considered that refusal on these grounds would be unreasonable. On this basis, it is not clear what evidence there is to support the

assertion that there will be an unacceptable impact from car fumes. Another example of unreasonable behaviour is cited as follows:

- *Failure to produce evidence to substantiate each reason for refusal on appeal.*

3.20 In considering the effect of car fumes on neighbouring properties, no concerns have previously been raised in respect to this matter, and there is no clear indication that this would be a problem. As such any reference to this matter within any reasons for refusal is not considered to be defensible, and your officers recommend that a resolution to refuse on these grounds should not be pursued. Noting the further specialist advice of the Council's Environmental Health Officer, an award of costs is considered to be a distinct possibility should an appeal and corresponding costs application be made, following any decision to refuse planning permission without providing evidence to substantiate such a refusal reason. Members may also wish to consider the outcome of the appeal and costs application following refusal of planning application 20/00622/OUT (12 Kabale Close). In this case costs were awarded on the basis that planning permission was refused for reasons contrary to consultee advice, without satisfactorily justifying departure from that advice.

4.0 **CONCLUSION**

4.1 Your officers are of the opinion that the refusal of this current planning application in relation to the above reasons is not defensible and should not be pursued. There is considered to be a real risk of an award of costs in relation to any reference to the third refusal reason relating to the impact of car fumes. Similarly, there are concerns in relation to the second refusal reason as a standalone refusal reason, It is therefore suggested that any concerns relating to overdevelopment of the site should be integrated into the first refusal reason, should Members feel that the submission of a more detailed landscaping scheme does not address the issues raised at the 27th July 2022 Committee.

5.0 **REASONS FOR REFUSAL**

5.1 Should Members resolve to refuse planning permission, they will need to be able to demonstrate that their concerns have been properly debated and cogently articulated in any final refusal reason.

5.2 Should Members resolve that they would have still recommended refusal, and therefore wish to defend the appeal, it is recommended that any refusal is based on more subjective reasons, where it may not be considered unreasonable for Members to come to a different view of the recommending officer and other professional expert advice. As such, it is recommended that any resolution be based solely on the visual impact, and that Members ensure that they can demonstrate that this has been properly debated and considered.

5.3 Two refusal reasons are suggested below covering the matters raised, however it is still your Officers advice that neither are considered to be defensible, and there may be a risk of an award of costs, particularly in respect to a refusal relating to the impact of car fumes on neighbouring properties, bearing in mind the advice of the Council's Environmental Protection Officer.

1. The proposed development comprising the formation of residential car parking and associated landscaping works, would comprise over development of the site and have an adverse impact on the visual enjoyment of the river by reason of the loss of remaining green space and encroachment of built form. As such the

proposed development would have a detrimental impact on the visual amenity of the locality due to its failure to demonstrate a clear understanding of the characteristics of the site, its wider context and the surrounding area. Furthermore, the proposal fails to make a positive contribution to local character, and would not lead to the creation of visually attractive places that are well integrated with surrounding buildings, streets and landscapes. The development is therefore considered to be unacceptable and contrary to policies S1, S9 and DM1 of the Mid Devon Local Plan 2013-2033, and the aims and objectives of the National Planning Policy Framework.

2. The proposed development would result in unacceptable harm to the residential amenities of the occupiers of neighbouring properties and have an unacceptable negative impact on health and general amenity, as a result of the introduction of car fumes in close proximity to existing neighbouring properties. As such, the proposal is contrary to policies DM1 and DM4 of the Mid Devon Local Plan 2013-2033, and the aims and objectives of the National Planning Policy Framework.

Contact for any more information

John Millar

Background Papers

Application file and previous committee reports

File Reference

22/00672/FULL

Circulation of the Report

Cllr Richard Chesterton

Application No. 22/00672/FULL

Grid Ref: 295336 : 112490

Applicant: Mr Nick Sanderson

Location: Development Site at NGR 295336 112490
St George's Court
Tiverton
Devon

Proposal: Formation of residential parking area and landscaping works

Date Valid: 5th May 2022



APPLICATION NO: 22/00672/FULL

REASON FOR REFERRAL TO COMMITTEE

This application is required to be considered by the Planning Committee, in line with the Council's adopted Scheme of Delegation, as the applicant is 3 Rivers Developments Ltd.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

Formation of residential parking area and landscaping works

The proposal relates to the adjoining 3 Rivers residential development of 39 dwellings at St George's Square, on the northern bank of the River Exe, off St Andrew Street. It is proposed to develop a parcel of land, approximately 455 square metres in area, immediately to the north of the development site. This would include the provision of hard surfacing to about 245 square metres of the site, with the remainder being landscaped. The hard surfaced area would provide eight parking spaces, and associate turning area to be used in connection with the adjoining residential development. Works have commenced on the scheme, although these are not complete. As such, this application is part retrospective.

APPLICANT'S SUPPORTING INFORMATION

Existing and proposed plans, design and access statement, heritage statement, flood risk assessment, wildlife trigger table

RELEVANT PLANNING HISTORY

77/01015/FULL - PERMIT date 16th September 1977

Certificate of Alternative Development for:

- (a) Car park and access road
- (b) Public open space
- (c) Town Hall Extension
- (d) Residential

87/01799/FULL - DEMCON date 12th November 1987

DEEMED CONSENT for the erection of prefabricated building for office purposes

90/00065/OUT - PERMIT date 3rd July 1990

Outline for the erection of offices and parking and construction of new and alteration to existing vehicular access

93/00348/FULL - PERMIT date 16th April 1993

Renewal of temporary permission 4/52/87/1799 for prefabricated office building

96/00520/FULL - PERMIT date 10th June 1996

Retention of temporary prefabricated office building (previously approved under reference number 4/52/93/348/R)

99/02595/FULL - PERMIT date 23rd July 1999
Retention of temporary prefabricated office building (previously approved under ref 4/52/96/520)

04/02120/CAC - PERMIT date 11th January 2005
Conservation Area Consent for the demolition of a derelict pavilion

08/00639/MFUL - PERMIT date 12th June 2009
Erection of 46 dwellings and cafe with associated car parking following demolition of 1 and 2 St Andrew Street, conversion of 3-10 St Andrew Street and 1, 2 Ham Place into 10 dwellings

08/00641/CAC - PERMIT date 13th August 2008
Conservation Area Consent for demolition of 1 and 2 St Andrew Street and garages, sheds, buildings and north/south retaining wall on land to rear

12/00745/MFUL - PERMIT date 1st November 2012
Application to replace extant planning permission 08/00639/MFUL (to extend time limit) Erection of 46 dwellings and cafe with associated carparking following demolition of 1 and 2 St Andrew Street, conversion of 3-10 St Andrew Street and 1, 2 Ham Place into 10 dwellings

12/00755/LBC - PERMIT date 11th December 2012
Listed Building Consent for internal and external alterations - PERMISSION ALLOWED BY NATIONAL PLANNING CASEWORK UNIT - 11TH DECEMBER 2012

12/00756/CAC - PERMIT date 11th December 2012
Conservation Area Consent for demolition of 1 and 2 St Andrew Street and garages, sheds, buildings and north/south retaining wall on land to rear - PERMISSION ALLOWED BY NATIONAL PLANNING CASEWORK UNIT - 11TH DECEMBER 2012

13/00298/MFUL - PERMIT date 21st August 2013
Erection of 45 apartments for older persons, including communal facilities, associated car parking and landscaping, following demolition of 1 & 2 St Andrew Street

13/01600/LBC - PERMIT date 1st April 2014
Listed Building Consent for internal and external alterations

13/01601/MFUL - PERMIT date 6th March 2014
Conversion of 3-11 St Andrew Street and 1-2 Ham Place into 14 dwellings - NON MATERIAL AMENDMENT GRANTED 24th April 2015
2ND NON-MATERIAL AMENDMENT GRANTED 18.06.2015

13/01601/MFUL/NMA - PERMIT date 24th April 2015
Non-Material Amendment for the alteration of windows - conversion of 3-11 St Andrew Street and 1-2 Ham Place into 14 dwellings
2ND NON-MATERIAL AMENDMENT GRANTED 18.06.2015

13/01601/MFUL/NMAA - PERMIT date 18th June 2015
Conversion of 3-11 St Andrew Street and 1-2 Ham Place into 14 dwellings - Non-Material Amendment to allow provision of render to walls on unit 10 and 14 in place of the existing uPVC cladding; provision of composite doors to non-listed units; retention of the small existing blockwork extension to the rear of units 9 and 10 with this being provided with a rendered finish; handing of the bedroom & lounge to Unit 9

13/01601/MFUL/NMAB - DELETE date 8th June 2015
Conversion of 3-11 St Andrew Street and 1-2 Ham Place into 14 dwellings (DELETED - SET UP IN ERROR)

14/01313/FULL - DELETE date 23rd September 2014
Variation of condition (2) of planning permission 13/00298/MFUL to allow the substitution of previously approved plans

14/01847/MFUL - PERMIT date 24th March 2015
Erection of 44 apartments for older persons, including communal facilities, associated car parking including construction of parking deck and landscaping (Revised Scheme)

15/00733/FULL - WDN date 13th November 2015

Variation of condition 13 (1) of planning permission 14/01847/MFUL to allow highway works to be submitted and provided prior to occupation rather than prior to implementation

17/01509/MFUL – PERMIT date 8th December 2017

Erection of 39 dwellings following demolition of existing garages and adjacent substructure, together with bike storage, underground car parking, landscaping and associated works

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013-33

S1 - Sustainable development priorities

S9 - Environment

S10 - Tiverton

DM1 - High quality design

DM3 - Transport and air quality

DM4 - Pollution

DM5 - Parking

DM25 - Development affecting heritage assets

National Planning Policy Framework

CONSULTATIONS

TIVERTON TOWN COUNCIL - 18.05.2022

Tiverton Town Council does not support this application because it is contrary to DM5 and would result in green space beside the river and near to listed buildings.

HIGHWAY AUTHORITY - 09.05.2022

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

MDDC CONSERVATION OFFICER - 06.06.2022

Further to our meeting on site earlier today. You will be aware that this site is within the setting of three listed buildings (Nos 12, 14 and 16 Angel Hill, and War Memorial Library and Hall, and the Town Hall) and is within the conservation area.

We have a statutory duty to have special regard to the setting of listed buildings and conservation areas.

The proposal is to provide parking to take the place of parking lost elsewhere on the site. It is proposed to submit amended drawings which slightly amend the position of the parking area.

I am happy that the proposal in context is not harmful to the setting of the listed buildings.

The car park level is quite high and the cars from the walkway on the far bank of the river. I would like to see some form of screening for the parking in the form of a wall or fence on the eastern boundary of the car park. This would also form a sense of enclosure and would naturally lead on from the brick wall which extends from the northern block of housing on the site. The landscaping plan may well need updating for this alteration for the extent of building on the land.

REPRESENTATIONS

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

One letter of objection has been received from a local resident. The objections is raised on the grounds of loss of approved planting and increased amount of hard landscaping. It is suggested that as the site is outside of the original boundary of the development approved by 17/01509/MFUL, the application should be refused and soft landscaped to reduce the visual impact of the residential development.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main material considerations in respect of this proposal are:

- 1) Principle for development in this location**
- 2) Design and impact on the character and appearance of the surrounding area**
- 3) Parking and access**
- 4) Impact on residential amenity**
- 5) Flood Risk**

1) Principle for development in this location

The application is made to replace approved parking lost in connection with the adjacent residential development. It is advised that in providing the retaining boundary walls to the north of the site, adjacent to the memorial hall, it was discovered at technical stage that a significantly larger wall would be required than originally anticipated. As a result, the wall has encroached onto three of the originally approved parking spaces, effectively leading to the loss of these three spaces. Furthermore, another five spaces have been lost following the provision of 3 large accessible electric charging points that will be available for communal use.

As such, there is a reduction on site of eight parking spaces. This application seeks to provide an additional parking area on land to the north of the development, with access available via the main vehicular road at the centre of the residential development. The proposed parking would amount to eight spaces to replace those lost. In order to provide sufficient parking for the residential development, in line with policy DM5 of the Mid Devon Local Plan, and the requirements of the County Highway Authority, the proposed development is considered acceptable in principle. Subject to consideration of other relevant national and local planning policies, and taking into account site specific constraints.

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

Policy DM1 of the Mid Devon Local Plan 2013-2033 requires designs of new development to be of high quality, demonstrating a clear understanding of the characteristics of the site, its wider context and the surrounding area. Development should make a positive contribution to local character, creating visually attractive places that are well integrated with surrounding buildings, streets and landscapes.

The site is also located within the Tiverton conservation area and close to several listed buildings, including numbers 12, 14 and 16 Angel Hill, and War Memorial Library and Hall, and the Town Hall. As such consideration will have to be given to the impact that the development will have on the significance of these heritage assets. Paragraph 192 of the NPPF advises that “in determining applications, local planning authorities should take account of:

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

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

- a) Apply a presumption in favour of preservation in situ in respect of the most important heritage assets
- b) Require development proposals likely to affect heritage assets and their settings, including new buildings, alterations, extensions, changes of use and demolitions, to consider their significance, character, setting and local distinctiveness, and opportunities to enhance them.
- c) Only approve proposals that would be likely to substantially harm heritage assets and their settings if substantial public benefit outweighs that harm or the requirements of the NPPF are met.
- d) Where a development proposal would lead to less than substantial harm, that harm will be weighed against any public benefit, including securing optimum viable use; and
- e) Require developers to make a proportionate but sympathetic assessment of the impact on setting and thereby the significance of heritage asset(s)”

In coming to this decision the council must also be mindful of the duty as set out in section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66 relates to having special regard to the desirability of preserving the listed building, its setting and features of special architectural or historic interest which it possesses, and have given it considerable importance and weight in the planning balance. Section 72 requires the decision to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area, and have given it importance and weight in the planning balance.

In assessing the impact of the development, against the aforementioned local and national policy requirements, the proposal is considered to be acceptable. The development will inevitably lead to an expansion of hard landscaping to the north of the residential development, however the siting of the parking area has allowed the retention of key existing vegetation on the margins of the site, including trees and shrubs to the riverside frontage, and to the northern boundary of the site, separating it from neighbouring land. These will assist in softening the proposed development and reducing its visual impact. It is also proposed to include ornamental shrub planting on the remainder of the site, beyond the hard surfacing, similar to that proposed within the wider residential site. This final landscaping scheme is in the process of being devised in order to discharge the relevant conditions for 17/01509/MFUL, and this scheme will also cover the application site. As such, should permission be granted, a landscaping condition will be included.

When seen from the main public vantage points along the River Exe, the proposal will be viewed in the context of the adjoining development, and is not considered to lead to any increased harm to the general character and appearance of the area. The hard surface will be finished in permeable block paving to match that proposed in the residential development, which is considered to be acceptable.

In considering the proposal, the Council's Conservation Officer has visited the site and raised no objections. It is noted that the site car park level is quite high, where it links into the adjoining on-site road, however the Conservation Officer has suggested that modest screening would address this, providing a sense of enclosure, whilst also softening the visual impact. As such, the submitted plans have been amended to include a 1.5 metre high close board fencing to the western edge of the parking area. This measure, alongside the existing planting is considered appropriate to lessen the impact. Otherwise, the Conservation Officer has considered the impact on the local heritage assets and does not consider that the proposal is harmful to their setting.

Overall, it is considered that the proposal is acceptable and accords with policies DM1 and DM25 of the Mid Devon Local Plan.

3) Parking and access

Policy DM3 of the Local Plan requires development to ensure safe access to the transport network. Policy DM5 requires that new development to provide appropriate levels of parking, taking into account the availability of public transport, and the type, mix and use of the development.

In this case, access will be provided via the residential site, and ultimately via St Andrew Street though the approved main access. The proposal therefore would have no impact on the existing access arrangements or on the wider highway network.

As discussed earlier in the report, the reason for this application is to provide eight parking spaces lost from the main residential development. As such, the proposal would effectively reinstate those lost parking spaces, bring the required levels of parking back to those considered necessary to be in line with the requirements of Local Plan policy DM5, and the recommendations of the Highway Authority.

Overall, the proposed development is deemed to be acceptable from a highway safety point of view, according with policies DM3 and DM5 of the Mid Devon Local Plan.

4) Residential amenity

Policy DM2 e) states that new development should be create *“visually attractive places that are well integrated with surrounding buildings, streets and landscapes, and do not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses...”*

The proposed development is located relatively close to the adjoining properties off Angels Hill and St Andre’s Street, however the car park adjoins the existing approved parking areas to the front of, and under the new houses. As such, it is not considered that the proposal would lead to any additional unacceptable impact on residential amenity. The physical works are set at ground level, with the exception of the proposed fence to the western edge of the parking area. Due to the position and nature of these works, no concerns are raised in respect to impact on residential amenity as a result of overshadowing or other overbearing impact.

5) Flood risk

The site is partially located within Environment Agency designated Flood Risk Zone3a, with the remainder within Flood Risk Zones 2 and 1. Flood Risk Zone 3a relates to land identified as having a high probability of flooding from rivers and/or sea, while Flood Zone 2 has a medium probability of flooding, and Flood Zone 1 is the lowest probability. In this case the site is adjacent to the River Exe, although is located behind existing river defences. The site is however considered to be at risk of flooding in the event of flood defences being breached.

Local Plan policy S9 requires that 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. This is echoed in national policy guidance contained within the NPPF and National Planning Practice Guidance *Flood Risk and Coastal Change*, which seeks to direct development to areas of lowest flood risk.

In this case, the aforementioned planning practice guidance includes classifications of different types of development and a compatibility table, indicating which development types are permissible in different area of flood risk. The proposed development, which comprises a car parking area, is identified as being a ‘less vulnerable’ use, which is permitted within Flood Risk Zones 2 and 3a. As such, the principle of this type of development is acceptable. There is still usually the need to apply the Sequential Test, which assesses the suitability of other land within lower flood risk areas, however the size of the area to be used for providing hard surfacing, is

under 250 square metres, and as such falls within the definition of 'minor development' for the purposes of consideration against flood risk. As such, the national guidance precludes the need to apply the Sequential Test. Therefore, considering that the proposed use is compatible with the Flood Risk Zones identified on site, and that there is no requirement to apply the Sequential Test, the proposed development is acceptable from a flood risk perspective.

In addition to considering the risk of flooding to the site itself, the scheme has been designed to ensure that the risk of flooding to adjacent land is not increased. This is done by the use of permeable paving with porous granular sub-base to allow infiltration of rainwater, reducing the risks of surface water runoff beyond the site. Furthermore, the site levels will slope towards the western edge of the site, tying into existing levels, maintaining exiting exceedance flow routes. The car park area will contain flatter slopes to improve flood storage. As was required with the original scheme, a 'no build' zone is proposed along the site frontage, set back from the river defences, maintaining the existing levels and leaving this area unobstructed. The hard surfaced parking area is set back seven metres from the western boundary to avoid this no build area and limit encroachment into Flood Zone 3a.

With the above taken into account, it is considered that the proposed development is suitable for the area and would not lead to an increased risk of flooding.

SUMMARY

The proposed development comprising the creation of a parking area, with associated landscaping, is considered to be acceptable. The proposal by virtue of its siting, scale and finish, will appropriately respect and relate to the character and appearance of the surrounding development, will not have a harmful impact on the character and setting of the conservation area and the significance of other heritage assets, and would have no unacceptable impact on the private amenities of the occupiers of neighbouring properties. Furthermore it is not considered to cause unacceptable harm to highway safety or increase the risk of flooding locally. It is considered appropriate to recommend approval with conditions necessary to ensure the success of the development in this location. As such, it is considered that the proposed development is in accordance with policies S1, S9, S10, DM1, DM3, DM5 and DM25 of the Mid Devon Local Plan 2013 and the National Planning Policy Framework.

CONDITIONS

1. The date of commencement of this development shall be taken as the 5th May 2022, when the application was registered by the Local Planning Authority.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Prior to the parking area hereby permitted being first brought into use, a landscaping scheme to include details of all planting, seeding, turning or earth profiling, shall be submitted to and approved in writing by the Local Planning Authority. The plan shall not include any planting or recreational features, benches, or tables within 4m of the River Exe flood defence wall. The approved landscaping shall be carried out within the first planting season following substantial completion of the development, or the development first being brought into use, which is sooner. Any trees or plants which, within a period of five years die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with

others of similar size or species.

REASONS FOR CONDITIONS

1. In order to establish a legal commencement date for the development to enable the development to be monitored by the Local Planning Authority.
2. For the avoidance of doubt in the interests of proper planning.
3. To safeguard the visual amenities of the area in accordance with policies S1, S9 and DM1 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.

INFORMATIVES

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

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

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

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

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

<i>Item No.</i>	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>	<i>Expected Decision Level</i>	
							<i>Delegated</i>	<i>Committee</i>
1	1	17/11/2022	22/01581/MARM	Reserved matters in respect of access, following Outline approval 18/00175/MOUT for the erection of up to 125 dwellings with public open space and associated infrastructure	Land at NGR 303288 110467 Adj Meadow Park Silver Street Willand Devon	Mr Adrian Devereaux	DEL	
2	2	04/11/2022	22/01482/MFUL	Variation of Condition 2 of Planning Permission 21/00710/MFUL - Extension of existing business park and erection of 2 industrial buildings Class E (2395sqm) - to amend previously approved plans	Land at NGR 305748 107208 Post Cross Business Park Kentisbeare Devon	Mr Jake Choules	DEL	

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LIST OF APPEAL DECISIONS FROM 25th July 22 to 25th August 22

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
20/01263/MFUL	Erection of 22 dwellings with parking, landscaping and construction of new access	Allotments Tumbling Field Lane Tiverton Devon	Grant permission subject to conditions.	Committee Decision	Refuse permission	Written Representations	Allow with Conditions
21/00825/LBC	Listed Building Consent for conversion of barn to ancillary accommodation	Downhayne East Village CREDITON Devon EX17 4DN	Refuse Listed Building Consent	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed

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