

# Public Document Pack

**Committee Administrator**

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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, 2 November 2022 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 30 November 2022 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

### **STEPHEN WALFORD**

Chief Executive

25 October 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 - 14)*  
To consider whether to approve the minutes as a correct record of the meeting held on 5<sup>th</sup> October 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To report any items withdrawn from the agenda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 15 - 76)*  
To consider the planning applications contained in the list.
- 8      **MAJOR APPLICATIONS WITH NO DECISION** *(Pages 77 - 78)*  
To receive a list of major applications and potential site visits.

#### 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](mailto:Committee@middevon.gov.uk) by no later than 4pm on the day before the meeting. This will ensure that your name is on the list to speak and will help us ensure that you are not missed. 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

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

Public Wi-Fi is available in all meeting rooms.

## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **PLANNING COMMITTEE** held on 5 October 2022 at 2.15 pm

### **Present**

#### **Councillors**

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

### **Apologies**

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

F W Letch

### **Also Present**

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

J Buczkowski and Mrs N Woollatt

### **Also Present**

#### **Officer(s):**

Richard Marsh (Director of Place), Angharad Williams (Development Management Manager), Andrew Busby (Corporate Manager for Property, Leisure and Climate Change), Simon Newcombe (Corporate Manager for Public Health, Regulation and Housing), Philip Langdon (Solicitor), Adrian Devereaux (Area Team Leader), John Millar (Area Team Leader), James Clements (Principal Planning Officer), Tina Maryan (Area Planning Officer), Christie McCombe (Area Planning Officer), Carole Oliphant (Member Services Officer) and Jessica Rowe (Member Services Apprentice)

## **66 APOLOGIES AND SUBSTITUTE MEMBERS (0.03.18)**

Apologies were received from Cllr F W Letch who was substituted by Cllr J M Downes.

## **67 PUBLIC QUESTION TIME (0.03.35)**

Sarah Coffin, a local resident, referring to No 4 on the Plans list stated:

Red Linhay operated a 5000kw farm fed AD and a herd of 25 beef Charolais cattle with no declared intent for increased cattle numbers and no legitimate planning approval to increase AD energy production from this 100 acre farm. Therefore environmental benefit and necessity remain the key planning considerations.

Prior to this application both entities have been serviced by one permanent concrete silage clamp operating under EA permit within the AD site, as well as larger temporary soil based field silage help on the farm. Whilst environmental benefit appears self-evident from the application it would only be effective if it replaces the present temporary soil based silage clamp. Will Councillors condition any approval of this application accordingly?

Are Councillors aware of the ongoing investigations into numerous complaints and planning breaches concerning excess production with on farm Anaerobic Digesters across the region? I there ask Councillors to show due diligence and ensure any approval of this application will not facilitate further production excess.

Applicant claims Red Linhay is the hub site for outsourced feed stocks but these are limited and specified under the initial AD planning conditions. Any intentions to exceed present permitted outsourced feed stocks will require a Transfer Operators Licence – Does Red Linhay have such a licence?

There are serious local concerns that this application is merely a precursor to yet more back door expansion at this sensitive location. I quote the following adverts seen this year:

1. An advert on Freeads.com under same name as the Red Linhay Manager offering sales of bulk grass pellet deliveries
2. And another in January 2022 for new farm staff quoting 'The company specialises in the growing and harvesting of a range of crops, not only for the on site AD unit but also our livestock feed pelleting enterprise

Paul Elstone, a local resident, also referring to No 4 on the plans list stated:

1. When making the recommendation for approval did the planning officer fully take into consideration that the silage clamp will contain enough silage to feed the registered Red Linhay herd of 17 Charolais cows and 23 calves born since 2020 for around 45 years assuming a 6 month indoor and outdoor feeding cycle?
2. If so how can this gross silage volume be fully justified other than it is being used for a different commercial purpose not related directly to this farm?
3. When stating that the silage clamp will cause no additional impact to the local road network did the planning officer fully take into consideration that the silage clamp will hold around 500 loads of grass silage delivered by tractor to fill?
4. When stating there will be no additional impacts on the local road network did the planning officer fully take into consideration that grass silage is being transported to Red Linhay to fill the clamp from as far as 23 miles away i.e. Clannaborough Barton at Bow or a round trip of 46 miles?

A farm that is currently up for sale at £7.5 million. This begs further questions I believe.

That 10 separate very large Red Linhay tractors and trailers were seen on the road at the same time, travelling from Bow passing through Copplestone, Crediton, Bickleigh and the Blundells School campus.

Halberton, Willand and Cullompton have also been seriously impacted.

5. Did the planning officer fully take into consideration that when he says there will be no impact on the local road network, the the Red Linhay AD transport statement forming part of the AD planning approval includes a map which very

clearly shows the road though Blundells School campus with over 3000 pupil crossings per day will not be used.

That as many as 200 Red Linhay tractor movements a day have transited the Blundells School campus. Similar numbers have travelled through Halberton.

6. When stating there will be no increase in traffic movements as the movements have been accounted for.

Did the planning officer fully take into consideration that then the MDDC agreed the AD transport plan the applicant said there would only be 748 loads per year accessing Red Linhay.

That the Red Linhay weighbridge data shows that over the period August 2021 and August 2022 there were 3972 loads passing across the Red Linhay weighbridge?

This being 3231 extra loads or nearly 5 times as many as was stated by the applicant in order to get planning approval

Hannah Kearns, a local resident, provided the following questions referring to item 4 on the plans list which was read out by the Chairman:

#### QUESTION 1

I would refer Committee Members to Page 58, Item 5 - Highway Impacts The Briefing Paper says the following

“Crops will therefore be brought by tractor from other parts of the applicants farm enterprise. However this would not increase traffic movements on the local road network because these movements have already been counted for”

“The tractors that serve the farm enterprise are permanently based at Red Linhay therefore the traffic movements already exist”.

Can the Planning Officer explain EXACTLY what is meant by the statement that the traffic movements have already been accounted for?

Additionally, when giving this explanation, can the Planning Officer confirm how many tractors are operating from the Red Linhay site and importantly why these traffic movements already exist?

#### QUESTION 2

In respect of Question 1 are the Committee Members aware that the proposed silage clamp will require an ADDITIONAL 500 plus tractor trailer loads to fill, or around 1000 tractor movements?

These figures have been independently verified. Therefore, can the Planning Officer please explain how these extra 500 loads will not add any burden to the local road network?

#### QUESTION 3

Have MDDC Planning Officers fully investigated and verified ALL of the current RED LINHAY TRANSPORT DATA that is available to them on the MDDC Planning Portal as provided by the Red Linhay owners themselves when making the Highways Impact statement, or have they just taken this data at face value?

#### QUESTION 4

The Committee Report has stated that the grass silage is being obtained from Farming Enterprises owned by the applicant. Has this statement regarding land ownership been fully interrogated by the Planning Officer?

I ask this question given that information provided in terms of crop locations to feed the Anaerobic Digester would seem to be very different from where the grass silage to fill the clamp is actually known to be coming from.

#### QUESTION 5

Given the silage clamp is claimed to be required to feed the applicants cattle, has the Planning Officer done any detailed research into the size of herd or the type of cattle being fed?

The Chairman advised that responses to questions and statements raised would be provided when the application was heard.

### 68 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (0.13.17)**

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

### 69 **MINUTES OF THE PREVIOUS MEETING (0.13.31)**

The minutes of the meetings held on 24th August 2022 and 7th September 2022 were agreed as a true record and duly **SIGNED** by the Chairman.

### 70 **CHAIRMAN'S ANNOUNCEMENTS (0.16.55)**

The Chairman reminded Members of the informal planning committee meeting on 9<sup>th</sup> November at 11.00am.

### 71 **WITHDRAWALS FROM THE AGENDA (0.18.40)**

There were no withdrawals from the agenda

### 72 **THE PLANS LIST (0.18.55)**

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

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

Applications dealt with without debate.

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

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

- a) ***Application 22/01753/NMA - Non-material amendment for 21/01957/FULL to allow reduction of building width by 1.5m, increase the stair core height by 0.6m and addition of a fixed clear glazing panel above the East elevation windows at Garages and Forecourt, Shapland Place, Tiverton.***  
Planning permission be granted as recommended by the Development Management Manager

(Proposed by the Chairman)

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

- b) ***Application 22/01668/TPO - Application to reduce limbs on south and southeast aspect of one Oak tree protected by Tree Preservation Order 94/00008/TPO by 3-5m, thin sub-lateral branches by 20%, reduce extended limb resting on floor to 4-5m from stem (truncating the limb) and truncate southwest limb at c.2.5m in height to c.3m from stem; crown reduce top height and northern aspect by c.1.5m and reduce the remainder of the south, southeast and west aspect by c.3-4m along with crown thinning of sub lateral branches c.10% at Land at NGR 295892 103149, Wyndham Road, Silverton.*** Consent granted

(Proposed by the Chairman)

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

- c) ***Application 22/00398/MFUL - Erection of swimming pool building, conversion of squash courts into a P.E. department, external services compound and associated landscaping at Land at NGR 297202 113154 (Blundells School), Blundells Road, Tiverton.***

The Area Team Leader outlined the application by way of a presentation highlighting aerial images, pool elevations, floor plans, roof plans, planting plan and photographs of the site.

The officer explained that the application was to improve facilities and increase sustainability and that the application had given consideration to the conservation area.

Consideration was given to:

- The Squash Club would lose the facilities that they had rented for over 60 years



- The pool would not be open to the general public and would not impact the local leisure centres
- The views of the objector who stated that they had carried out extensive renovations to the existing squash courts over the years and that they would like it conditioned that new courts were made available before the old were converted
- The views of the agent who stated that the new facility would be for the benefit of the school and pupils and that the current squash courts were not being utilised by the school. The squash courts would be replaced at some time in the future but that in the meantime there were other squash facilities in the local area

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

(Proposed by E J Berry and seconded by Cllr L J Cruwys)

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

Notes:

- Cllr B G J Warren made a personal declaration as his children had attended the School
- Cllr B Holdman made a personal declaration as he knew Teachers at the school
- Mark Stimpson of Tiverton Squash Club spoke as the objector
- The agent Charles Derby spoke

**d) Application 22/00665/MFUL - Retention of silage clamp and erection of roof over at Land at NGR 299554 112915 (Red Linhay), Crown Hill, Halberton.**

The Planning Officer outlined the application by way of a presentation highlighting a site location plan, aerial image, proposed elevations, floor plans, roof plans and photographs of the site.

The officer explained that the clamp would only be filled from the applicant's landholdings which were spread throughout the area. The clamp was not just to feed cattle but was also to stock the applicants silage business which produced silage pellets and cubes. Both activities were agricultural and therefore defined as agricultural use on an agricultural property.

There would be no additional traffic movements on the local highway network as the traffic movements had already been accounted for. The tractors were based at Red Linhay and already made regular trips to the applicant's other landholdings in the area. There would be an increase in traffic movements bringing silage back to the clamp but this would not harm highway safety.

In response to public questions asked and statements made the officer stated:

- There would be no additional traffic movements as previously explained



- The number of tractor loads stated by the public had not been verified or confirmed but that the Highways Authority had no objections to the application
- It was not a material consideration how many cows would be fed from the clamp
- The advertisements made by the applicant confirmed that the clamp was being used for agricultural purposes
- The application before Members had to be considered on its own merits and did not include the Anaerobic Digester (AD) plant on site

Consideration was given to:

- The application was retrospective for the clamp which was already in place but the roof had not yet been constructed
- Environmental Health had no objections to the arrangements for surface water run off
- Officers had sought Counsel views on previous applications of a similar nature who had confirmed that the silage clamp was agricultural use
- The application before Members was separate from the Anaerobic Digester business on site
- Officers would not be able to condition to restrict exact activities the clamp could be used for as this would not be reasonable or meet the 6 tests of planning conditions as set out in the NPPF
- The views of the Parish Council who stated the application was bigger than one which had already been turned down on the site and that it should be conditioned that the clamp was solely for agricultural use
- The views of the Ward Member who suggested that a site visit was undertaken by Members and that it should be conditioned that the clamp could only be for agricultural use
- That although some Members had concerns about increased traffic movements, the Highways Authority had no objections to the application on road safety concerns

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 4 and an additional condition 6:

#### Condition 4

Within three months of this decision a Landscape and Ecological Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The management plan shall provide details of the following:

- (a) Retained Ecological and Landscape Features
- (b) Proposed Habitats, Ecological and Landscape Features including length, height, width and specification of the new hedge bank around the perimeter of the silage clamp
- (c) Habitat and landscape Management Measures for the lifetime of the development
- (d) Demonstrate a biodiversity net gain using the Natural England metric
- (d) Monitoring and Review of Plan.

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

#### Condition 6

The building hereby approved shall be used only for agricultural purposes as defined in Section 336(1) of the Town and Country Planning Act 1990 and if at any time the building ceases to be used or required for such purpose it shall be removed and the site re-instated in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the building is used for agricultural purposes only since it lies within a countryside location where restrictive planning policies apply.

(Proposed by the Chairman)

5 votes for. 5 votes against. 1 abstained. Chairman's casting vote.

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

Notes:

- Cllrs B G J Warren, D J Knowles, S J Clist, B Holdman and L J Cruwys all made declarations in accordance with protocol of Good Practice for Councillors dealing with planning matters as they had received correspondence
- Cllrs C P Daw, C Collis and R F Radford all made declarations in accordance with protocol of Good Practice for Councillors dealing with planning matters as they had attended a JAC meeting where the application was discussed
- Cllr D J Knowles made a personal declaration as he knew the applicant
- Cllrs B G J Warren, B Holdman, C Collis and L J Cruwys requested that their votes against the decision be recorded
- Cllr Ian Campbell spoke on behalf of Halberton Parish Council
- Cllr R F Radford spoke as Ward Member
- The following late information was received:

Officers consider that it is necessary to clearly define the recommendation for approval to ensure that the proposed silage clamp is used for agricultural purposes only. Additional condition no.6 is therefore proposed:

The building hereby approved shall be used only for agricultural purposes as defined in Section 336(1) of the Town and Country Planning Act 1990 and if at any time the building ceases to be used or required for such purpose it shall be removed and the site re-instated in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the building is used for agricultural purposes only since it lies within a countryside location where restrictive planning policies apply.

***e) Application 22/00706/MFUL - Construction of vehicular access onto Tiverton Road and construction of spine road and associated infrastructure to facilitate the North West Cullompton urban extension at Land North West of Cullompton, Tiverton Road, Cullompton.***

The Area Planning Officer (Major Projects Cullompton) outlined the application by way of a presentation highlighting aerial photographs, a site location plan, phase 1

applications, indicative plans, road sections, Pegasus crossings, culvert access, construction traffic routes and photographs of views to and from the site.

Consideration was given to:

- The construction traffic could not be brought through the new spine road on other developers sites next to the application site as it had not been built out yet and that the other developers would not grant permission for their construction sites to be used
- Relevant policies in the Cullompton Neighbourhood plan had been fully taken into account and addressed in the officer report
- The views of the agent who stated that they had consulted with the Town Council on the proposals. The application was approved in outline but needed to be resubmitted as there were changes required outside of the original application site
- The views of the Town Council who welcomed the proposal in principle but felt that the construction plan was flawed and that the priority should be changed at the junction with the spine road
- The views of the Ward Members who requested a deed of variation should be entered into to restrict occupation of 50 dwellings until this section of the spine road was completed, concerns for wildlife crossing through the culvert under the road and a request that existing footpaths and bridleways remain open during the build. That there were concerns from the community about the length of time the spine road would take to construct that and that it did not comply with the Neighbourhood Plan
- Members concerns that a crossing should be provided on Tiverton road was not supported by the Highways Officer present who confirmed that a safety audit had concluded that this was not a requirement
- The construction traffic going through the town would not affect the Heritage Action Zone Grants
- A road crossing could not be conditioned for this application but that it could be considered in phase 2 of the development

It was therefore **RESOLVED** that planning permission be granted subject to conditions as recommended by the Development Management Manager subject condition 7 be replaced with the following condition:

‘The development shall proceed in accordance with the Written Schemes of Investigation prepared by Cotswold Archaeology (CA project refs: CR0641 & CR0905 Revision C, dated 6th May 2022) and submitted in support of this planning application. The development shall be carried out at all times in accordance with the approved schemes. The development shall not be brought into its intended use until (i) the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation and (ii) that the provision made for analysis, publication and dissemination of results, and archive deposition, has been confirmed in writing to, and approved by, the Local Planning Authority.

Reason: To ensure, in accordance with Policy DM25 of the Mid Devon Local Plan 2013-2033 and paragraph 205 of the National Planning Policy Framework (2021), that an appropriate record is made of archaeological evidence that may be affected by the development, and to comply with Paragraph 205 of the NPPF, which requires

the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.'

(Proposed by the Chairman)

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

Notes:

- Cllr E J Berry made a declaration in accordance with protocol of Good Practice for Councillors dealing with planning matters as the property was in his County Ward and he knew residents in the area
- Cllr S J Clist made a declaration in accordance with protocol of Good Practice for Councillors dealing with planning matters as he had received correspondence
- Cllr S J Clist requested that his vote against the decision be recorded
- The Agent David Matthews spoke
- Cllr Martin Smith spoke on behalf of Cullompton Town Council
- Cllr N Woollatt spoke as Ward Member
- Cllr J Buczkowski spoke as Ward Member
- The Development Management Manager left the meeting at 18.07pm
- The following late information was received:

28/09/22

Paragraph 6.12 of the report recommends a condition requiring a Written Scheme of Investigation in respect of archaeology to be submitted and approved by the Local Planning Authority and this is recommended to be secured by condition 7. The Written Scheme of Investigation has now been approved by Devon County Council's Historic Environment team and it is therefore recommended that condition 7 be replaced with the following condition:

'The development shall proceed in accordance with the Written Schemes of Investigation prepared by Cotswold Archaeology (CA project refs: CR0641 & CR0905 Revision C, dated 6th May 2022) and submitted in support of this planning application. The development shall be carried out at all times in accordance with the approved schemes. The development shall not be brought into its intended use until (i) the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation and (ii) that the provision made for analysis, publication and dissemination of results, and archive deposition, has been confirmed in writing to, and approved by, the Local Planning Authority.

Reason: To ensure, in accordance with Policy DM25 of the Mid Devon Local Plan 2013-2033 and paragraph 205 of the National Planning Policy Framework (2021), that an appropriate record is made of archaeological evidence that may be affected by the development, and to comply with Paragraph 205 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.'

***f) Application 22/01255/MFUL - Erection of 70 affordable dwellings including associated roads, footpaths, landscaping and amenity area at Land at NGR 298768 113600, Upplowman Road, Tiverton.***

Area Planning Officer (Tiverton Eastern Urban Extension) outlined the application by way of a presentation highlighting site constraint plans, illustrative framework plan, proposed block plan, proposed aerial views, selection of housing types and photographs of the site.

Consideration was given to:

- Passivhaus Standards had been applied; a high performance building standard to ensure low energy demand and low energy bills
- The site was an allocated site in the Local Plan
- The development had outline permission without the need for the linking road between the new A361 road junction and Blundell's Road to be completed.
- The views of the applicant who stated that occupants of the development would be from the Council's housing needs list currently at circa 300 applicants. The existing contours of the site had been considered and that open spaces had been connected with pathways. Public Consultation on the plans had been completed
- The Design Review Panel supported the principles of development

It was therefore **RESOLVED** that planning permission be granted subject to conditions as recommended by the Director of Place.

(Proposed by Cllr J M Downes and seconded by Cllr D J Knowles

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

Notes:

- Cllrs P J Heal, E J Berry, S J Clist, C Collis, L J Cruwys, C P Daw, B Holdman, D J Knowles, J M Downes, R F Radford and B G J Warren all made a declarations in accordance with protocol of Good Practice for Councillors dealing with planning matters as it was an MDDC application
- Cllr S J Clist made a declaration in accordance with protocol of Good Practice for Councillors dealing with planning matters as he was a Cabinet Member when the application was first discussed
- Cllr D J Knowles made a declaration in accordance with protocol of Good Practice for Councillors dealing with planning matters as he was Ward Member and had received objections
- The following late information was received:

29/09/22

Since the officer report was finalised confirmation has been received from Royal Devon University Healthcare Foundation Trust (23 September 2022) that their contribution request has been withdrawn; this on the understanding that the development is 100% affordable housing.

### 73 MAJOR APPLICATIONS WITH NO DECISION (4.22.39)

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

The Committee agreed that:

1. Application 22/01688/MOUT – Higher Town Sampford Peverell to be determined by Committee but no site visit required
2. 22/01562/MOUT – Growen Farm, Cullompton - to be determined by Committee and a full Committee site visit take place

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

### 74 APPEAL DECISIONS (4.32.29)

The Committee had before it, and **NOTED**, a \*list of appeal decisions.

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

(The meeting ended at 7.08 pm)

**CHAIRMAN**

## PLANNING COMMITTEE AGENDA - 2nd November 2022

### Applications of a non-delegated nature

<u>Item No.</u>	<u>Description</u>
01.	<p>22/01377/CLU - Certificate of Lawfulness for the existing use or development for the occupation of the dwelling by anyone without restriction at Higher Coombelands, Knowle, Cullompton.</p> <p><b>RECOMMENDATION</b> Grant.</p>
02.	<p>22/01718/MFUL - Variation of condition 2 of planning permission 17/01509/MFUL (Erection of 39 dwellings following demolition of existing garages and adjacent substructure, together with bike storage, underground car parking, landscaping and associated works) to allow substitute plans relating to external materials and colours and basement car park screens at Land and Buildings at NGR 295350 112455 (Rear of Town Hall), Angel Hill, Tiverton.</p> <p><b>RECOMMENDATION</b> Grant permission subject to conditions.</p>
03.	<p>21/01552/MARM - Reserved matters for the erection of 20 dwellings with details of access, appearance, landscaping, layout and scale following outline approval 18/02019/MOUT at Land at NGR 295508 103228 (Silverdale), Silverton, Devon.</p> <p><b>RECOMMENDATION</b> Approve Reserved Matters subject to conditions</p>
04.	<p>22/00969/MOUT - Removal and/or variation of Conditions 5, 6, 7, 8, 9 and 10 of Planning Permission 18/02019/MOUT Outline for the erection of 20 dwellings at Land at NGR 295508 103228 (Silverdale), Silverton, Devon.</p> <p><b>RECOMMENDATION</b> Grant subject to conditions</p>
05.	<p>22/01554/MFUL - Erection of external heat pump systems and solar car port, installation of photovoltaic panels to existing roofs and erection of shelter over skate park at Lords Meadow Leisure Centre, Commercial Road, Lords Meadow Industrial Estate.</p> <p><b>RECOMMENDATION</b> Grant permission subject to conditions.</p>



Application No. 22/01377/CLU

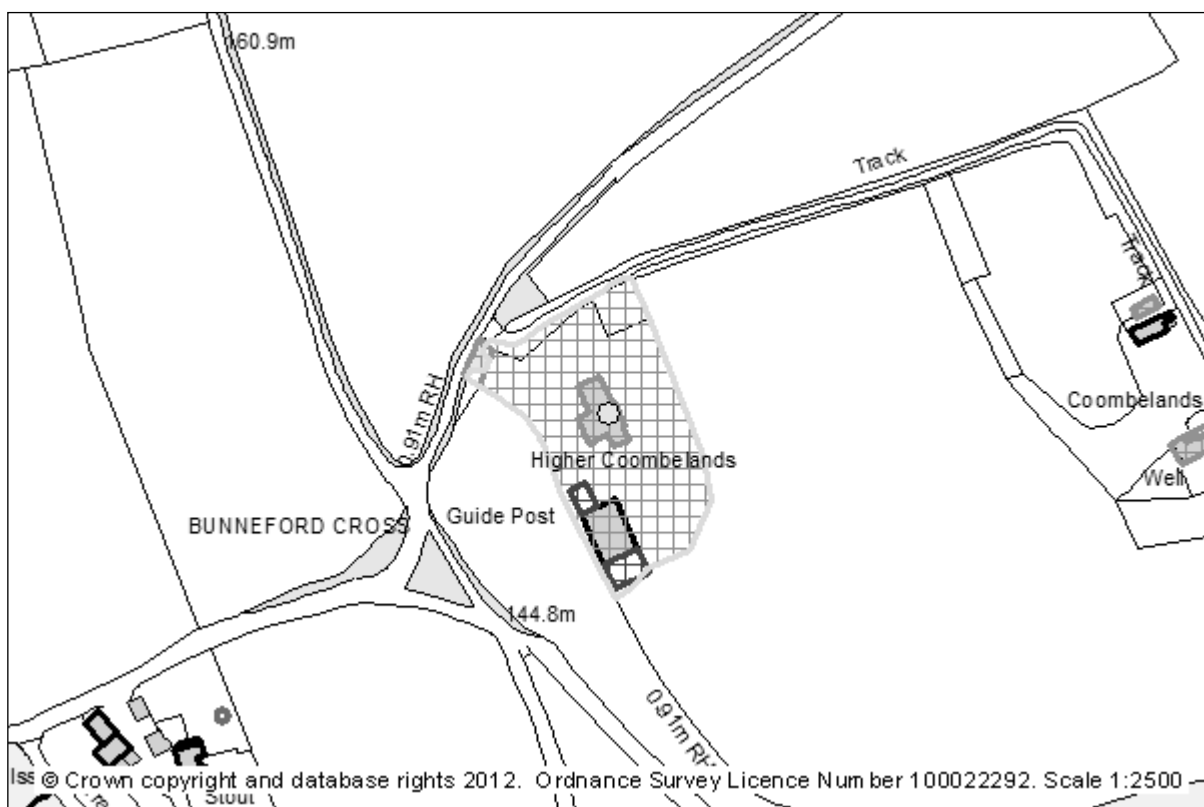
Grid Ref: 298851 : 106470

Applicant: Miss Kirsten Berry

Location: Higher Coombelands  
Knowle  
Cullompton  
Devon

Proposal: Certificate of Lawfulness for the existing use or development for the occupation of the dwelling by anyone without restriction

Date Valid: 21st July 2022



**APPLICATION NO: 22/01377/CLU**

**Site Visit: No**

**Decision Delayed Reason: To allow to go before committee**

### **COMMITTEE CALL-IN REASON**

The applicant is before committee as Cllr John Berry is the applicant.

Whilst Cllr Berry's daughter is listed on file as the applicant and agent, the application relates to Cllr Berry's property and is for all intents and purposes the applicant. The planning department have taken advice from the Council's Legal Team who have confirmed that the proposal should be determined by Planning Committee in accordance with the scheme of delegation and in the interests of transparency and openness.

### **RECOMMENDATION**

Issue Certificate of Lawfulness.

### **PROPOSED DEVELOPMENT**

Certificate of Lawfulness for the existing use or development for the occupation of the dwelling by anyone without restriction at Higher Coombelands, Knowle, Cullompton.

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

Planning statement, supporting statement, statements from NFU Mutual and statement from Haggett Butchers.

### **RELEVANT PLANNING HISTORY**

86/00418/FULL - PERMIT date 30th May 1986 Construction of vehicular access

78/00630/FULL - PERMIT date 24th July 1978 Detailed drawings for the erection of an agricultural dwelling

75/00494/OUT AKA 4/21/75/494 – PERMIT – Outline application for erection of agricultural dwelling and cattle-rearing building

### **CONSULTATIONS**

#### **Highway Authority:**

No comments received.

#### **Cullompton Town Council:**

No comments received.

### **REPRESENTATIONS**

*This planning application has been advertised by means of a site notice erected by the case officer 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).*

*No letters of representation have been received at the time of writing this report.*

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

- 1. Policy and procedure**
- 2. Assessment**
- 3. Conclusion**

### **1. Policy and procedure**

- 1.1. Applications for Certificate of Lawful Use or Development are not assessed against planning policy but on the weight of the evidence submitted in accordance with s191 of the Town and Country Planning Act 1990, amended in particular by The Planning and Compensation Act 1991. The onus of proof is on the applicant to provide sufficient clear and unambiguous evidence to support their claim and in the absence of any counter evidence the Planning Practice Guidance states:

*"In the case of applications for existing use, if a local planning authority has no evidence itself, nor from any others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability."*

- 1.2. Section 17B of the Town and Country Planning Act 1990 (as amended) stipulates that where there has been a breach of planning control consisting in the change of use of land no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

### **2. Assessment**

- 2.1. The application seeks to demonstrate that the dwelling known as Higher Coombelands at Knowle, Cullompton is lawful. It attempts to demonstrate this in two ways. Firstly, it sets out that the dwelling was not built in accordance with the approved plans and was therefore unlawful but the application makes the case that this has become lawful due to a breach of planning control for in excess of 10 years. Secondly, the application seeks to establish that the dwelling has been occupied in breach of condition J of planning permission 4/21/75/494 which states:

*"The dwelling hereby permitted shall be occupied only by persons employed or last employed full time locally in agricultural or forestry work, as defined in Section 290 of the Town and Country Planning Act 1971, and the dependants of such a person aforesaid."*

- 2.2 A supporting statement by Mrs Rosemary Berry, one of the owners of the property, and a

planning statement have been submitted to support the application. They set out that the dwelling was not built in accordance with the approved plans, with the key planning differences being the introduction of a first floor, a 37.5 degree roof pitch as opposed to an approved 30 degree roof pitch and alternative locations and designs of windows and doors. This is backed up by plans and photographs within the application submission, as well as historic aerial photography. It is also the case that there is no evidence of conditions associated with the original consents being discharged.

2.3 It should be noted that the signed statement by Mrs Berry is not a formal statutory declaration. However, it does provide significant amounts of information that are backed up by evidence. The statement sets out that Mr John Berry retired from large scale farming in 1996, although did breed a small flock of sheep until they were sold in 2000 with the applicants keeping only "a few" sheep. The statement goes on to state that Mr Berry was paid as an elected member for DCC from 1999 and MDDC from 2001 and has remained a member ever since. It states that from 2001 until present, Mr Berry was employed by NFU as an adviser on agricultural related insurance claims and this is backed up by a letter from Mr Andy Craig, the Chains Supply Manager from NFU Mutual.

2.4 In addition, Mrs Berry's statement sets out that Mr Berry worked for a butcher and focused on the family's recreational carp pond businesses. An email has been received from Mr Haggett from the butchers which corroborates this element. Finally, Mrs Berry's statement says that she has never been fully employed in agriculture, setting out a number of roles.

2.5 The Town Council have been consulted on this application and it has been advertised by means of a site notice and in the local press. This consultation period has brought about no counter-evidence to dispute the claims made in the supporting statements, along with their supplementary evidence.

### **3. Conclusion**

3.1 In summary, the application seeks to demonstrate that the dwelling at Higher Coomblelands has been occupied in breach of planning control for in excess of 10 years. The evidence includes a planning statement with detail plans and photographs, a signed statement from Mrs Berry and supplementary evidence from NFU Mutual and Haggett's Butchers. Whilst the statements are not statutory declarations, there has been no counter-evidence submitted throughout the assessment and consultation on this application. Therefore, on the balance of probability, it is concluded that the dwelling has been used in breach of the agricultural worker's condition for in excess of 10 years and was not built in accordance with the approved plans. There is therefore no good reason not to grant the certificate of lawfulness.

## **REASON FOR APPROVAL**

Certificate of Lawfulness for the existing use or development for the occupation of the dwelling by anyone without restriction at Higher Coombelands, Knowle, Cullompton. The evidence includes a planning statement with detail plans and photographs, a signed statement from Mrs Berry and supplementary evidence from NFU Mutual and Haggett's Butchers. Whilst the statements are not statutory declarations, there has been no counter-evidence submitted throughout the assessment and consultation on this application. Therefore, on the balance of probability, it is concluded that the dwelling has been used in breach of the agricultural worker's condition for in excess of 10

years and was not built in accordance with the approved plans. There is therefore no good reason not to grant the certificate of lawfulness

## **FIRST SCHEDULE**

Certificate of Lawfulness for the existing use or development for the occupation of the dwelling by anyone without restriction.

## **SECOND SCHEDULE**

Higher Coombelands, Knowle, Cullompton.

## **INFORMATIVES**

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 other information 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.

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. 22/01718/MFUL

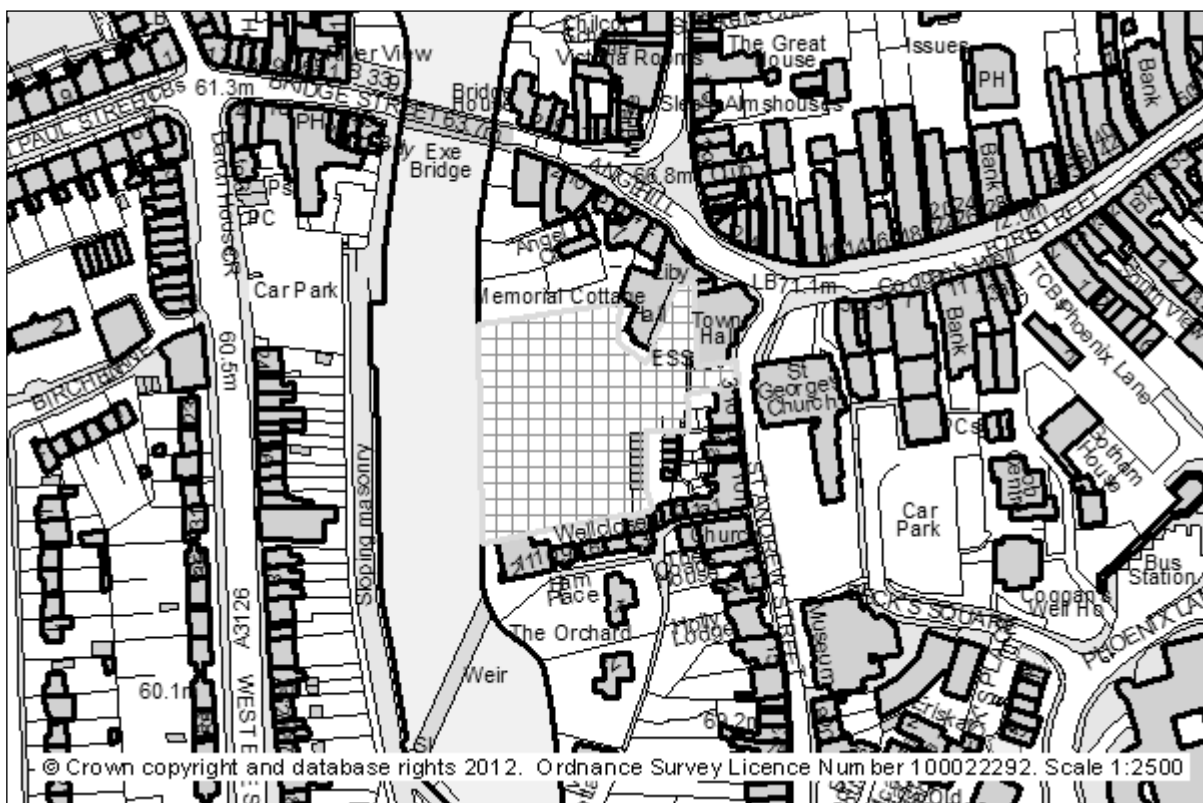
Grid Ref: 295350 : 112455

Applicant: Mr Dean Embury, 3 Rivers Developments Limited

Location: Land and Buildings at NGR 295350 112455 (Rear of Town Hall)  
Angel Hill  
Tiverton  
Devon

Proposal: Variation of condition 2 of planning permission 17/01509/MFUL (Erection of 39 dwellings following demolition of existing garages and adjacent substructure, together with bike storage, underground car parking, landscaping and associated works) to allow substitute plans relating to external materials and colours and basement car park screens

Date Valid: 31st August 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**

Variation of condition 2 of planning permission 17/01509/MFUL (Erection of 39 dwellings following demolition of existing garages and adjacent substructure, together with bike storage, underground car parking, landscaping and associated works) to allow substitute plans relating to external materials and colours and basement car park screens.

The proposal relates to the above residential development scheme for the erection of 39 dwellings, on land to the rear of the Town Hall, Tiverton. The scheme was approved under planning permission 17/01509/MFUL.

This application is made to vary condition 2 of planning permission 17/01509/MFUL, allowing the approved plans to be replaced in order to amend proposed material finishes. Specifically, it is proposed to allow a change to the material finish of block F from approved red brick and grey render finishes to grey brick and red render finish. It is also proposed to replace the approved hit and miss brickwork ventilated screens in the car parks incorporated into blocks E, F, G and H, with grey-brown coloured powder coated aluminium louvres. In the case of the brick and render finishes, the changes have been carried out as a result of supply issues in sourcing appropriate materials. The proposed alterations to the ventilated wall sections of the car park also relates to issue with brick supply, however will also significantly increase ventilation to these parts of the development.

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

Application form, proposed amended plans, louvre details

### **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 pavillion  
**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 8<sup>th</sup> 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

**22/00672/FULL** - DTD date 12th September 2022

Formation of residential parking area and landscaping works

## **DEVELOPMENT PLAN POLICIES**

Mid Devon Local Plan 2013-33

S1 - Sustainable development priorities

S2 - Amount and distribution of development

S3 - Meeting housing needs

S4 - Ensuring housing delivery

S9 - Environment

S10 - Tiverton

TIV7 - Town Hall / St Andrew Street

DM1 - High quality design

DM3 - Transport and air quality

DM4 - Pollution

DM5 - Parking

DM25 - Development affecting heritage assets

National Planning Policy Framework

National Planning Practice Guidance

## **CONSULTATIONS**

### **TIVERTON TOWN COUNCIL**

No comments received at the time of writing this report.

### **HIGHWAY AUTHORITY**

The County Highway Authority have no comments to make on this application

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

Thank you for this application, I have no objections to the proposed variation.

### **FLOOD and COASTAL RISK MANAGEMENT TEAM**

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

Observations:

The proposed changes do not appear to have an affect on the surface water drainage proposals.

## REPRESENTATIONS

This planning application has been advertised by means of a site notice 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).

No representations have been received at the time of writing this report.

## MATERIAL CONSIDERATIONS AND OBSERVATIONS

- 1.1 The proposal is made to substitute the approved elevation plans for blocks E, F, G and H of the approved scheme, allowing for a change to the approved materials. These changes are to allow the use of grey brick and red render for the external surfaces of block F, instead of the approved red brick and grey render.
- 1.2 It is also proposed to replace the approved hit and miss brickwork ventilated screens in the car parks incorporated into blocks E, F, G and H, with grey-brown coloured powder coated aluminium louvres.
- 1.3 The principle of the development as a whole has already been established so consideration needs only be given to the potential impact of the revised details. In this case, it is considered that there will be minimal impact on the overall appearance of the scheme with the proposed changes to materials, being an acceptable alteration to scheme as a whole.
- 1.4 In the case of the brick and render finishes, the changes have been carried out as a result of supply issues in sourcing appropriate materials. The applicant has advised that the red bricks that were approved and already in use on site were no longer available and would not due to be manufactured for a further six months approximately. Other available red bricks were said not to be close enough of a match. As such, it was proposed to switch the red bricks with grey, and the grey render finish with red, to accord with the materials previously approved for the construction of block G.
- 1.5 Similarly, the proposed alterations to the ventilated wall sections of the car park also relates to issues with brick supply. It was also established that the approved design did not allow for sufficient ventilation to satisfy Building Regulations for naturally ventilated car parking. The proposed aluminium louvres would allow for better ventilation, avoiding the need for mechanical ventilation to have to be added to the internal car park areas.
- 1.6 In considering the visual impact, it is considered that the changes are acceptable, respecting the character and appearance of the approved development, and not causing any increased harm to the setting or significance of nearby heritage assets, which include the local conservation area and listed buildings. As such the proposal is considered to accord with policies DM1 and DM25 of the Mid Devon Local Plan.
- 1.7 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.

- 1.8 No other changes are proposed as a result of this application other than those identified so the proposal is not considered to have any change in impact upon highway safety, residential amenity or make any changes to the risk of flooding within or beyond the site.
- 1.9 As well as varying the requested condition, it will also be necessary remove the time limit condition and to amend some of the others, as the previous permission has been commenced and a number of conditions have been discharged. The alterations to the other conditions will reflect the details already approved.
- 1.10 Overall, there are no objections to the proposed alterations to the previously approved scheme.

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

The proposed variation of condition 2 of approval of planning permission 17/01509/MFUL would result in minor and acceptable changes to the previously approved scheme. It is considered that the proposal would not result in unacceptable harm to the character of the area, the amenities of neighbours, highway safety, ecology, flood risk or heritage assets, while maintaining the approved levels of benefits previously secured in the regeneration and enhancement of this allocated site. The proposal is therefore in accordance with policies S1, S2, S3, S4, S9, S10, TIV7, DM1, DM3, DM4, DM5 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.

### **CONDITIONS**

1. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice for planning permission 17/01509/MFUL and as amended by the plans listed on the schedule on this decision notice.
2. The development shall take place in accordance with the contents of the phasing scheme approved by letter dated 26<sup>th</sup> October 2018, in relation to condition 3 of planning permission 17/01509/MFUL.
3. The materials to be used in relation to the construction of all external surfaces of the buildings hereby permitted shall accord with the details contained in External Finishes Schedule 1000(90)100 Rev B approved by letter dated 1<sup>st</sup> December 2020, in relation to condition 4 of planning permission 17/01509/MFUL, and as amended by the plans hereby approved and Typical Louvre Panel document 044792 Rev 3. Prior to their use in the development hereby permitted, details of the materials to be used for the hard landscaping shall have been submitted to and approved in writing by the Local Planning Authority. The development shall take place in accordance with the approved materials and shall be so retained.
4. Prior to their installation within the development hereby permitted details of the treatment of the boundaries (including height, design and materials) of the application site and any boundaries within the application site shall have been submitted to and approved in writing by the Local Planning Authority. Boundary treatments shall be in accordance with the agreed details and shall be so retained.

5. No external lighting shall be installed within the application site until details of proposed external lighting has been submitted to and approved in writing by the Local Planning Authority. Installation shall be in accordance with the submitted details and be so retained.
6. Notwithstanding the submitted plans, prior to the first occupation of any of the residential units hereby approved a landscaping scheme for the area of Public Open Space on the western boundary of the site (adjacent to the River Exe flood defence wall) to include details of all planting, seeding, turfing or earth reprofiling, 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 9 months of the substantial completion of the eleven, two storey dwellings toward the western side of the application site and shall be retained. Any trees or plants which, within a period of five years from the completion of the Public Open Space die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size or species.
7. The landscaping scheme hereby approved, including all planting, seeding, turfing or earth reprofiling within each phase of the development shall be carried out within 9 months of the substantial completion of each phase of the development. Any trees or plants which, within a period of five years from the completion of each phase of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size or species.
8. None of the apartments or dwellings shall be first occupied until the parking and turning facilities within the application site have been provided, laid out and are available for use in accordance with the approved plans. The approved parking shall be retained for that purpose at all times.
9. Finished floor levels shall be no lower than 62.7m AOD.
10. The permanent surface water drainage management system to serve the development, shall be implemented in accordance with the details approved by letter dated 26<sup>th</sup> October 2018, in relation to condition 11 of planning permission 17/01509/MFUL. The approved drainage scheme shall be completed and become fully operational before any of the dwellings hereby permitted are first occupied. Following its installation such approved scheme shall be permanently retained and maintained thereafter.
11. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme together with time scale for their completion must be prepared which is subject to the prior approval in writing of the Local Planning Authority. The measures shall be completed in accordance with the approved remediation scheme. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.
12. The development hereby permitted shall be carried out strictly in accordance with the details of Construction Traffic Management Plan, approved by letter dated 26<sup>th</sup> October 2018, in relation to condition 13 of planning permission 17/01509/MFUL. The Construction Traffic Management Plan shall be adhered to throughout the construction period.

13. Prior to their installation, details of crime prevention and security measures in relation to the lower ground floor parking area shall be submitted to and approved in writing by the Local Planning Authority. Such approved measures shall be installed prior to the lower ground floor parking area being first brought into use. Following their installation such approved measures shall be permanently retained and maintained thereafter.
14. The design and finish of all doors and windows shall accord with details approved by letter dated 1<sup>st</sup> December 2020, in relation to condition 15 of planning permission 17/01509/MFUL. The windows and doors shall be fitted in accordance with the agreed details and be so retained.
15. The off-site highway works on St Andrews Street shall be provided and maintained in accordance with details approved by letter dated 17<sup>th</sup> October 2022, in relation to condition 16 of planning permission 17/01509/MFUL. The timing of such provision shall be in accordance with the phasing scheme to be agreed under condition 3.
16. Prior to the first occupation of any of the residential units hereby approved, signs warning users of the potential of flooding of the lower ground floor parking spaces (below the apartments) shall be erected within this parking area in accordance with details that shall first have been submitted to and agreed in writing by the Local Planning Authority.
17. The development hereby permitted shall be carried out strictly in accordance with the Construction and Environment Management Plan (CEMP), approved by letter dated 26<sup>th</sup> October 2018, in relation to condition 18 of planning permission 17/01509/MFUL.
18. The development hereby permitted shall be carried out strictly in accordance with the site waste management plan, approved by letter dated 26<sup>th</sup> October 2018, in relation to condition 19 of planning permission 17/01509/MFUL.
19. The proposed estate road, footways, verges, junctions, street lighting, sewers, drains, service routes, surface water outfall, road maintenance/vehicle overhang margins, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.
20. The adoption and maintenance arrangements for the approved permanent surface water drainage management system shall accord with the details approved by letter dated 26<sup>th</sup> October 2018, in relation to conditions 11 and 22 of planning permission 17/01509/MFUL. Following its installation such the drainage scheme shall be permanently retained and maintained thereafter, in accordance with the approved maintenance arrangements.
21. The design and finish of the link bridges between blocks E to F and G to H, at first and second floor levels and the balustrading for the balconies within blocks E, F, G and H shall accord with details approved by letter dated 1<sup>st</sup> December 2020, in relation to condition 23 of planning permission 17/01509/MFUL. The link bridges and balconies shall be completed in accordance with the approved details and shall be so retained.
22. A temporary surface water drainage management system to serve the site during the construction phase, shall be implemented in accordance with details approved by letter dated

26<sup>th</sup> October 2018, in relation to condition 24 of planning permission 17/01509/MFUL, and shall be maintained thereafter in accordance with the approved details.

23. The development shall be carried out in accordance with the Conservation Action Statement prepared by Acorn Ecology Ltd received 29th November 2017, in relation to planning permission 17/01509/MFUL.

## **REASONS FOR CONDITIONS**

1. For the avoidance of doubt and in the interests of proper planning.
2. In the interests of safeguarding the amenities of the site and surrounding area due to the constrained nature of the site and sensitive location in accordance with Policy DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
3. To ensure the use of materials appropriate to the development in order to safeguard the visual amenities of this important riverfront location, the character and appearance of the Conservation Area and setting of nearby Listed Buildings in accordance with Policies S9, DM1 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
4. In the interests of reducing the impact of the scheme upon the privacy and amenities of the occupiers of the adjacent dwellings and to safeguard the visual amenities of this important riverfront location, the character and appearance of the Conservation Area in accordance with Policies S9, DM1 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
5. To reduce the impact of the development upon the amenities of the occupiers of nearby dwellings, to reduce the impact of the scheme upon the bat population in the area and in the interests to preventing crime and creating safe places in accordance with Policies S9 and DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
6. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with Policies S9, DM1 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
7. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with Policies S9, DM1 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
8. To ensure that adequate facilities are available for the traffic attracted to the site in accordance with Policy DM5 of the Mid Devon Local Plan 2013-2033.
9. In the interests of reducing the risk of inundation by flood waters and to ensure the safety of the occupiers of the proposed development in the event of flooding in accordance with Policies S9 and DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.



10. To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems and in the interests of ensuring that adequate drainage is provided to serve the development and to reduce the risk of pollution in accordance with Policies S9 and DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
11. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policies S9, DM1 and DM4 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
12. To minimise any disruption and inconvenience on the local highway network during the construction period in accordance with Policy DM3 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
13. In the interests to preventing crime and creating safe places in accordance with Policy DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
14. To ensure the use of details appropriate to the development in order to safeguard the visual amenities of this important riverfront location, the character and appearance of the Conservation Area and setting of nearby Listed Buildings in accordance with Policies S9 and DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
15. To provide an adequate site access in accordance with Policy DM3 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
16. To provide warning to residents and users of the car parking spaces that the area could be affected by flooding.
17. To minimise any disruption and inconvenience to the amenity of occupiers of nearby properties during the construction period in accordance with Policy DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
18. To encourage the most sustainable methods of waste management.
19. To ensure that adequate information is available for the proper consideration of the detailed proposals in accordance with Policies S9 and DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
20. To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development in accordance with Policies S9 and DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
21. To ensure the use of materials and detailing appropriate to the development in order to safeguard the visual amenities of the area and the character and appearance of the

conservation area in accordance with Policies S9, DM1 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.

22. To ensure that surface water from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area, in accordance Policies S9 and DM1 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
23. To protect the habitats of protected species in accordance with Policy S9 and DM1 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 2<sup>nd</sup> 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 to enable the grant of planning permission.

Application No. 21/01552/MARM

Grid Ref: 295447 : 103239

Applicant: Mr M Bailey

Location: Land at NGR 295508 103228 (Silverdale)  
Silverton  
Devon

Proposal: Reserved matters for the erection of 20 dwellings with details of access, appearance, landscaping, layout and scale following outline approval 18/02019/MOUT

Date Valid: 4th August 2021



## **APPLICATION NO: 21/01552/MARM**

### **REASON FOR REFERRAL TO COMMITTEE**

This application has been called in by Cllr Josh Wright, in order to consider whether the development would have an unacceptable impact on the local area through traffic movements, whether there is adequate parking and turning space available and to consider the impact on the residential amenity of neighbouring residents. This application is also required to be considered by the Planning Committee, as Members requested it be considered from the Committee Major Applications list.

### **RECOMMENDATION**

Grant permission subject to conditions.

### **PROPOSED DEVELOPMENT**

Reserved matters for the erection of 20 dwellings with details of access, appearance, landscaping, layout and scale following outline approval 18/02019/MOUT.

The site is located to the northern edge of Silverton. It comprises an open field to the east of Tiverton Road, north of Applemede, west of Silverdale and south of Exe View. The site lies outside of the defined settlement limit of Silverton, resulting in outline application 18/02019/MOUT being originally refused by the Planning Committee, however a subsequent appeal was allowed, which took into account the Council's lack of a demonstrable five year supply at the time

This application is made for approval of reserved matters following earlier outline approval 18/02019/MOUT. Access was approved at outline stage, with all other matters reserved for consideration at this stage. The proposal comprises the erection of 20 dwellings, with associated landscaping, road layout, parking and turning.

A range of dwellings are proposed from 2 bedroom to 4 bedroom homes. Three 2 bedroom houses are proposed, as are ten 3 bedroom properties and seven 4 bedroom dwellings. Of the twenty dwellings, it is proposed that seven properties will be affordable dwellings. A total of forty parking spaces are proposed, with each property proposed to be provided with an electric vehicle (EV) charging point. The already approved access is to the north of the site, into Exe View.

The dwellings incorporate a simple range of materials, comprising a mix of brick, render, fibre cement cladding and slate roofs.

A concurrent application has been made to vary conditions attached to outline planning permission 18/02019/MOUT to remove some of the requirements for long term infiltration testing on site, and to approve pre-commencement details of drainage and the Construction and Environmental Management Plan (CEMP) and location of the construction compound and parking.

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

Application form, proposed plans, wildlife report, waste management plan, ground testing report, drainage layout, drainage strategy, construction phase drainage layout, construction phase drainage strategy, impermeable areas plan, construction management plan, contractor's compound and parking.

## **RELEVANT PLANNING HISTORY**

**18/02019/MOUT** - REFUSE date 21st November 2019

Outline for the erection of up to 20 dwellings and associated access APPEAL ALLOWED - PLANNING PERMISSION GRANTED 11/06/2020

**22/00969/MOUT** - PCO

Removal and/or variation of Conditions 5, 6,7, 8, 9 and 10 of Planning Permission 18/02019/MOUT Outline for the erection of 20 dwellings

## **DEVELOPMENT PLAN POLICIES**

Mid Devon Local Plan Review 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 S13 – Villages

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 DM25 – Development Affecting Heritage Assets

Policy DM26 - Green infrastructure in major development

## **CONSULTATIONS**

### **SILVERTON PARISH COUNCIL - 07.09.2021**

I confirm at its September meeting Silverton Parish Council resolved not to support the above application.

The above decision was made after receiving strong representations from members of the local community opposing the application.

Concerns were raised that a Statutory Authority has objected to the application in relation to the run-off water and sewage. The Parish Council were also concerned of the impact the development would have on the character of the area due to the design of houses, the position of the houses given the proposed increase in levels and the impact the development would have on the remainder of the village.

Concerns were also raised with regard to highway safety issues and in particular in relation to the access for construction vehicles and the proposed access to the site itself through Exe View. The proposed compound extends the site itself considerably for a duration in excess of 18 months with the result the green space would be used for construction work for a prolonged period of time.

There is a lack of parking throughout the development and on completion. Concerns were also raised as to the affordability of the affordable housing for local residents.

05.04.2022

I can confirm at its meeting last evening Silverton Parish Council resolved not to support the above application on the following grounds:

(a) The Parish Council has grave concerns that the issues raised previously in this application still do not appear to have been satisfactorily addressed and would refer you to the points raised in its letter dated 7th September 2021:

Concerns were raised that a Statutory Authority has objected to the application in relation to the run-off water and sewage. The Parish Council were also concerned of the impact the development would have on the character of the area due to the design of houses, the position of the houses given the proposed increase in levels and the impact the development would have on the remainder of the village.

Concerns were also raised with regard to highway safety issues and in particular in relation to the access for construction vehicles and the proposed access to the site itself through Exe View. The proposed compound extends the site itself considerably for a duration in excess of 18 months with the result the green space would be used for construction work for a prolonged period of time.

There is a lack of parking throughout the development and on completion. Concerns were also raised as to the affordability of the affordable housing for local residents.

(b) The provision for Affordable Housing appears to have been lost which the Parish Council feels must be included

#### **HIGHWAY AUTHORITY - 23.08.2021**

This application is a reserved Matters Application from the already approved Outline Application 18/02019.

The County 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

22.10.2021

I can see from the Cross Section and the Long Sections for the Road Construction all meet with DCC guidance and the gradients allow for no public water to discharge onto private land.

The comments suggest that for this road to be constructed, private land on the Southern side of the site would need to be built up using material from the North side, which would not be of concern to the Highway Authority.

Although I would add if the levels and gradients of the proposed road need to be changed to address your concerns then the County Highway Authority would like to be re-consulted.

30.03.2022

The County Highway Authority has no further comments to make.

**HISTORIC ENGLAND - 10.06.2022**

Thank you for your letter of 30 May 2022 regarding the above application for planning permission.

Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.

We suggest that you seek the views of your specialist conservation and archaeological advisers. You may also find it helpful to refer to our published advice at <https://historicengland.org.uk/advice/find/>

It is not necessary to consult us on this application again, unless there are material changes to the proposals. However, if you would like advice from us, please contact us to explain your request.

**MDDC CONSERVATION OFFICER – 09.06.2022**

I have visited the site and assessed the impact on the Grade 1 Parish Church, the grade 2\* Great Pit Farmhouse, and the conservation area the listed buildings within it.

I am of the opinion that provided appropriate colour roofing materials are used on this elevated site, that there would be no harm to the setting of the above heritage assets.

**HISTORIC ENVIRONMENT TEAM – 18.08.2022**

Devon County Historic Environment Team ref: Arch/DM/MD/33625d

Assessment of the Historic Environment Record (HER) and the details submitted by the applicant do not suggest that the scale and situation of this development will have any impact upon any known heritage assets.

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

**DEVON, CORNWALL & DORSET POLICE - 11.08.2022**

Re Reserved matters for the erection of 20 dwellings with details of access, appearance, landscaping, layout and scale following outline approval 18/02019/MOUT at Silverdale, Silverton, Devon - 11th August 2021

Thank you for this application, Police have no objections in principle, the general layout provided will provide both active frontages and good overlooking to the new internal streets. The reference to Crime & Disorder within the Design & Access Statement is noted and welcomed.



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 and the intention to define private front gardens, is supported. However, I do have concerns regarding the rear boundary treatments for those plots immediately adjacent to those existing in Applemede and Silverdale, any proposed boundary treatment must not undermine the safety and security of these exiting plots. For example, if existing hedgerow is likely to comprise new rear garden boundaries as appears will be the case, then it must be fit for purpose. They should be of sufficient height and depth to provide both 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. Perimeter security is one the basic principles of crime prevention, being the first line of defence against unwanted trespassers, as such, best practice suggests all rear boundary treatments be, as a minimum requirement, 1.8m high and be solid and robust to prevent being breached, close boarded fencing or walls would be deemed

appropriate. It is accepted that on some occasions gradients of land or other permanent solid structures can have an impact on the need, choice and height of boundary treatments but these should be assessed on their own merits to ensure the boundary treatment is appropriate to any potential risk of trespass.

30.03.2022

Thank you for this application, for which the revised details are noted. I have no further comments regarding crime and anti-social behaviour reduction in addition to those previously submitted, which remain valid.

**FLOOD and COASTAL RISK MANAGEMENT TEAM – 27.08.2021**

At this stage, we object to this planning application because we do not believe it satisfactorily conforms to Policy S9/DM1 of Mid Devon District Council's Local Plan 2013 to 2033 (Adopted 2020), which requires developments to include sustainable drainage systems. The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

**Observations:**

Greenfield run off rate calculation output should be re-calculated as we do not accept amended soil figures.

The applicant must submit either the agreement in principle to adopt from SWW and DCC Highways or at this stage provide an alternative option were this not to proceed (i.e. Maintenance company will take it on). Evidence there is agreement in principle for the proposed connection into the SWW sewer which falls outside the red line boundary.

The locations of the trial pits should be provided to make clear where the soakaway testing was undertaken on site.

Underground attenuation systems cannot be considered as truly sustainable means of drainage because they do not provide the required water quality, public amenity and biodiversity benefits, which are some of the underpinning principles of SuDS.

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

The applicant should also note that in accordance with the SuDS Management Train, surface water should be managed at source in the first instance. The applicant will therefore be required to explore the use of a variety of above-ground source control components across the whole site to avoid managing all of the surface water from the proposed development at one concentrated point (e.g. a single attenuation pond). Examples of these source control components could include permeable paving (which could be under drained), formalised tree pits or other bio retention features such as rain gardens, as well as green roofs, swales and filter drains.

Where infiltration is not used, long term storage must be provided to store the additional volume of runoff caused by any increases in impermeable area, which is in addition to the attenuation storage required to address the greenfield runoff rates. Long term storage should therefore be included within the surface water drainage management plan to ensure that each element is appropriately sized, and this should discharge at a rate not exceeding 2 litres/second/hectare.

Detailed proposals for the management of surface water and silt runoff from the site during the construction of the development should be submitted to avoid the requirement for a pre-commencement condition.

26.04.2022

At this stage, we object to this planning application because we do not believe it satisfactorily conforms to Policy S9/DM1 of Mid Devon District Council's Local Plan 2013 to 2033 (Adopted 2020), which requires developments to include sustainable drainage systems. The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

The applicant is proposing to discharge at 2.5l/s which is the Q100yr rate, even on sites such as this where greenfield runoff rates are low, the offsite discharge rate should be as close as possible to the greenfield performance, the applicant should therefore reduce the discharge rate to 1.5l/s.

The exceedance plan is showing flows entering the rear of plots 11 and 12. This could lead to surface water exceedance flows through the southern boundary as well. The applicant should consider a feature here to manage this risk and consider the re-routing of exceedance flows along the highway. A permanent swale feature similar to that proposed during the construction phase is one option that the applicant may wish to consider. The applicant is proposing the driveways to infiltrate, 12 months groundwater monitoring will therefore, be required alternatively these could be underdrained to ensure no groundwater emergence downslope.

The applicant should clarify the point of discharge and whether there is agreement to cross land outside the red line boundary to make the connection to the existing surface water network.

08.06.2022

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

Observations:

Following my previous consultation response in April 2020, the applicant's drainage consultant has provided the following information for which I am grateful:

Email from Chris Perry (Aquatech Consultancy) to Thomas Aldridge, dated 10 May 2022 at 15:29

The applicant has clarified that the discharge rate of 2.5l/s matches the greenfield runoff rate for the appropriate return periods and that the required long term storage has been designed into the proposed drainage layout (Foul and Surface Water Drainage Layout Plan, Dwg No. 01 Rev A, Dated 7 March 2022).

The applicant has provided clarification on why alternative exceedance routes are not feasible for this site, and that the existing hedge bank is fortified and along with a new boundary hedge bank this will contain exceedance flows. If the Planning Officer is to approve this planning application they should ensure that the exceedance route between plots 10 and 11 is protected.

The applicant has shown that the permeable driveways will be underdrained and excess flows will be collected by fin drains.

## **SOUTH WEST WATER - 07.09.2021**

### **Asset Protection**

Please find enclosed a plan titled Silverdale Silverton - Sewer records, showing the approximate location of a public 150mm diameter surface water sewer and a public 100mm diameter foul sewer in the vicinity. Please note that no development will be permitted within 3 metres of the sewers, and ground cover should not be substantially altered.

Should the development encroach on the 3 metre easement, the sewer will need to be diverted at the expense of the applicant.

Please click [here](#) to view the table of distances of buildings/structures from a public sewer.

Further information regarding the options to divert a public sewer can be found on our website via the link below:

[www.southwestwater.co.uk/developer-services/sewer-services-and-connections/diversion-of-public-sewers/](http://www.southwestwater.co.uk/developer-services/sewer-services-and-connections/diversion-of-public-sewers/)

### **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](http://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 system at a maximum attenuated rate of 2 l/sec has been previously agreed with South West Water, provided infiltration to ground cannot be applied to all or part of the site, and provided

this attenuated flow rate is acceptable to the LPA. Please see the previous correspondence attached for reference.

Should some of the site be determined to be suitable for infiltration to ground, the previously agreed discharge rate for surface water from the site would need to be reviewed (and reduced).

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

#### **NATURAL ENGLAND - 25.08.2021**

Natural England has no comments to make on this application.

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

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

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

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

#### **RSPB - 26.08.2021**

Thank you for inviting the RSPB to comment on the above, we were pleased to see the Ecological Scoping Assessment submitted with the application included:

New planting/landscaping should consist of native wildlife attracting species of local provenance, with appropriate aftercare and management to ensure that these areas are maintained.

This should include a new native hedge bank/hedgerow along the western extent of the development which would provide new habitat for invertebrates, amphibians, reptiles, bats and birds; o

Inbuilt bird, bat and bee provisions should be incorporated into each of the proposed dwellings, including at least one of each provision type (see Appendices 4, 5 & 6).

We agree with the inclusion of one integral bird box per dwelling and recommend that they are made a condition of the consent if granted, however our own work in the field would suggest the

exclusive use of swift/universal boxes see attached would be more effective than a mixture including "sparrow terraces".

We have been monitoring swift box locations and models for some time and would like to share our findings with the applicants ecologist's before their plans are finalised as we think some changes might be beneficial.

#### **MDDC PUBLIC HEALTH - 23.08.2021**

Contaminated Land: A contaminated land and geotechnical report dated April 2021 has been submitted by Ruddlesden geotechnical. The land on this site has been in agricultural use only, and there is no indication of any potential contaminants of made ground. Trial pits were dug over the site and no materials of concern were encountered. We agree with the recommendations of the consultant that there are no further concerns regarding potential contamination. (22.08.21).

Air Quality: No concerns. (22.08.21).

Environmental Permitting: No comments. (09.08.21).

Drainage: No concerns. (22.08.21).

Noise & other nuisances: No concerns anticipated. The construction management plan submitted includes standard construction working hours and site management to minimise potential impact on nearby existing residents. We have no concerns regarding this. (22.08.21).

Housing Standards: No comments. (09.08.21).

Licensing: No comments. (09.08.21).

Food Hygiene: Not applicable. (11.08.21).

Private Water Supplies: Not applicable. (11.08.21).

Health and Safety: Not applicable. (11.08.21).

#### **REPRESENTATIONS**

This planning application has been advertised by means of 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).

At the time of writing this report, letters of objection have been received from 41 local residents. The main concerns are summarised below:

1. The development will have an adverse impact on the residential amenity of neighbouring residents, particularly those residing in the bungalows to the south of the site, along Applemede as a result of their close proximity and siting on raised ground.
2. No detailed boundary treatments have been indicated. The developer should be responsible for providing these.

3. The full amount of infiltration testing has not taken place. This testing should be required to take place.
4. It is unacceptable that a surface water retention basin is now omitted. The reliance on oversized pipes is a sign that the site is being overdeveloped.
5. Properties to the south of the site are exposed to large amounts of surface water run-off from the site, which will be increased by the proposed development.
6. The lack of footpath and limited tree planting is also a sign of overdevelopment, with the latter point being contrary to national policy.
7. The village does not have the infrastructure to support this development.
8. The site is unsuitable for development and prone to flooding.
9. The proposal will lead to additional highway safety issues, particularly in relation to the proposed construction access and compound.
10. Where will contractors and employees park during the construction phase as parking is at a premium on the neighbouring streets?.
11. There is no longer any mention of affordable housing.
12. Local views have not been taken into account.
13. This is good agricultural land that should not be developed.
14. There have been recent power failures in the locality, is the current electricity supply sufficient to support the development.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

**The main material considerations in respect of this proposal are:**

- 1. Principle of development**
- 2. Scale, appearance, layout and landscaping**
- 3. Flooding and drainage**
- 4. Residential amenity**
- 5. Highways, parking and access**
- 6. Ecology and biodiversity**
- 7. Planning obligations**
- 8. Other matters**

### **1. Principle of Development**

- 1.1 The site is located outside of the defined settlement limit of Silverton, however the principle of development has already been established by the approval of outline planning permission 18/02109/MOUT. The outline permission granted in principle residential development of up to 20 dwellings and included approval of the access arrangements, with all other matters reserved.

### **2. Scale, Appearance, Layout and Landscaping**

- 2.1 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.

- 2.2 The development proposes a residential development laid out either side of a central access road, with the sole access of the site being taken from the north, via Silverdale and Exe View. The proposal comprises 20 dwellinghouses of two, three and four bedrooms, being a mix of detached and semi-detached. The site is constrained by the topography of the site, which slopes relatively steeply from Exe View to the north, down to Applemede to the south.
- 2.3 In originally submitting this application, it was proposed to raise ground levels to provide the dwellinghouses with the most significant rise to the south of the site. As a result, the properties would have been raised higher than the existing ground levels, with raised terraces to the rear. As noted from the objection comments received from local residents, particularly those residing to the south of the site in Applemede, the proposed development was considered to have an unacceptable impact on residential amenity, a matter that will be discussed further below, and on the visual amenities of the area. As a result, the previous case officer sought revisions to address these concerns, as well as concerns relating to the proposed surface water drainage arrangements, a matter that will also be discussed below. As a result, amended plans were submitted to reduce the impact of the proposed dwellings.
- 2.4 Due to the topography of the site, there is limited scope for altering the position of the road, or the level at which it is set. As such, the road has remained as proposed, to ensure that the gradients meet the Highway Authority's requirements, and that level access can be provided to all dwellings, directly from the highway. In order to address the site topography, whilst reducing the impact on the neighbouring properties, the dwellings on the lower part of the site have been redesigned to provide a split level design. This not only allows less of the site to be excavated but the raised terraces can be omitted and the proposed dwellings sited at existing ground level where they will have a significantly reduced impact on the neighbouring properties.
- 2.5 The resulting layout is considered to be acceptable, with well-spaced properties being provided with good-sized gardens and much of the parking between properties, thereby reducing the dominance of car parking within the street scenes. The scale and density of development is consistent with the adjoining modern residential development of Exe View, Silverdale and Applemede.
- 2.6 A detailed landscaping scheme has been provided, with some small scale tree planting within the site, along with new Devon bank to the north and south boundaries, accompanied by new native species hedge planting. Due to the size of the site, no on-site formal or informal public green space is proposed, although off-site provision is accounted for in the previously agreed planning obligations.
- 2.7 Surface water from the site is proposed to be disposed of via oversized pipes, at a controlled rate, directly into the public mains surface water sewer. As such, no landscaped attenuation is proposed in the publicly accessible parts of the site. Permeable paving is proposed throughout the site for the collection of some of the surface water.
- 2.8 Notwithstanding the split-level design of the some of the proposed houses, they are of a typical modern residential design and appearance, with a palate of material proposed, including a mix of brick, render and fibre cement cladding, with slate roofs. The form and massing of the proposed dwellings, as well as the proposed materials are considered to be acceptable and adequately respect and relate to the prevailing character of development in the immediate vicinity. In order to ensure that the final finishes are appropriate, it is



considered appropriate to impose conditions for final material finishes to be submitted for approval, alongside other details such as boundary treatments and the final planting scheme.

- 2.9 The properties are also designed to meet high levels of building fabric performance and low carbon dioxide emission targets. It is proposed that the dwellings will be fitted with air source heat pumps to provide space heating and hot water. Solar panels are not proposed, as it is advised that the houses will be built to a standard that means they will pass their energy assessments without requiring solar. It is however noted that the building orientations would accommodate solar PV for the most part. As such, the applicant intends to provide a plan showing solar panels on the south facing elevations. While it is not their intention to be built out with these, approval of such a plan would allow future occupiers to install them, if they so wish. Notwithstanding that, it is not intended to withdraw permitted development rights for the installation of solar PV, as this is not deemed necessary.
- 2.10 Policy DM1 advises that development should provide suitable external spaces for recycling and refuse. Details of storage provision has not been indicated on the submitted plans, however there is more than adequate space within the individually plots to provide storage for rubbish and recycling. A condition will be imposed for final details to be submitted for approval.
- 2.11 In terms of size, the properties comply with the minimum floor space requirements specified in the Technically Described National Space Standards, referenced in policy DM1 of the Local Plan.
- 2.12 The site is located well outside of the village conservation area, however the raised nature of the site does mean that there will be some views from the conservation area, as well as views of the conservation area and other heritage assets, such as the grade I listed St Marys Church. As such consideration will have to be given to the impact that the development will have on the significance of these heritage assets. Paragraph 197 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)”

2.13 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.

2.14 In assessing the impact of the development, against the aforementioned local and national policy requirements, the proposal is considered to be acceptable. Historic England have been consulted but have made no comment on the proposal. The Council's Conservation Officer has also assessed the proposal, raising no objections subject to the use of appropriate materials in the roofs of the development. In this case, the proposed slate is considered to be acceptable. As such, the proposed development is not considered to cause any harm to the setting and significance of local heritage assets.

2.15 On the basis of the above it is considered that the proposed reserved matters application is acceptable in respect to scale, layout, appearance and landscaping.

### **3. Flooding and Drainage**

3.1 The site is located within EA designated Flood Risk Zone 1, which is at the lowest risk of flooding from seas and rivers. Nonetheless, due to the site topography, there is potential for surface water runoff to impact upon neighbouring properties to the south, as indicated in several of the letters of objection. As a result it is important to ensure that surface water is appropriately dealt with on site to avoid the risk of flooding of the proposed properties, and neighbouring properties. The development of this site will clearly lead to the creation of additional impermeable surfaces, however it also provides an opportunity to manage surface water runoff within the site, which would otherwise be uncontrolled, with potential to impact on neighbouring properties.

3.2 In considering the outline planning application 18/02019/MOUT, it was suggested that foul drainage would be disposed of via the existing public foul drainage sewer passing through the site, and surface water drainage would be disposed of by on-site infiltration, which is the preferred method of disposal for both foul and surface water. In support of this application,

the applicant has submitted a geotechnical report detailing the ground testing carried out, with the results of the testing concluding that the soil of site had low and variable permeability making it unsuitable for infiltration drainage. The Lead Local Flood Authority (LLFA - Devon County Council Flood and Coastal Management Team) have confirmed that the testing carried out is sufficient to prove that infiltration is not feasible on site.

- 3.3 Following the carrying out of the necessary testing, which concluded that infiltration drainage would be unsuitable, it is proposed to connect the surface water drainage into an existing South West Water surface water drainage sewer that passes through the site, a solution that has been confirmed as acceptable during the applicant's consultation with South West Water.
- 3.4 A drainage scheme is submitted in the form of a Foul and Surface Drainage Report Addendum, and a detailed drainage strategy plan. This includes the use of oversized pipes to store surplus surface water runoff and allow controlled disposal into the surface water sewer at the same rate as calculated pre-development greenfield runoff rates. Additional sustainable urban drainage (SuDS) features are proposed in the form of permeable paving infiltrating into sub-soil before it is collected by drains directing the water onto the oversized pipes. Additionally, individual properties will be supplied with water butts to give the option of further surface water collection. Details of exceedance flows are also provided to the satisfaction of the LLFA, with upgraded Devon banks directing any excess water to a contained area in the south west of the site in extreme conditions.
- 3.5 The LLFA have assessed the drainage proposals and consider these to be acceptable. These details will therefore be approved as a separate discharge of conditions relating to 18/02019/MOUT or under the concurrent application 22/00969/MOUT, if approved.
- 3.6 Details of the temporary drainage scheme to be put in place during construction works has also been submitted and considered by the LLFA. They consider the measures proposed, which include the provision of silt barriers, boundary ditch, temporary bunding and a surface water retention area, to be acceptable.

#### **4. Residential Amenity**

- 4.1 Policy DM1 e) states that new development should be create *"visually attractive places that are well integrated with surrounding buildings, streets and landscapes, and do not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses..."*
- 4.2 In this case, there have been several objections to the proposal with concerns raised about the impact that the properties will have on neighbouring residents' amenity due to unacceptable overlooking and potential overbearing impact.
- 4.3 As discussed earlier in this report, the scheme has evolved during the course of its consideration, with amended plans provided which have resulted in the properties in the southern part of the site being of a split-level design with finished floor levels at or close to existing ground levels, rather than being raised higher, with accompanying raised rear terraces. This has led to the properties being set between 1.3 to 1.4 metres lower than

initially proposed, leading to a significant reduction in potential overlooking and overbearing impact.

- 4.4 Concerns are still raised about the resulting larger roof slopes, however the pitch of these are quite shallow with lower eaves to the properties. The pitched roofs on the lower section of the properties in question will therefore have a reduced impact, which is not considered to cause any harm through overbearing impact.
- 4.5 In respect to the proximity of the proposed dwellings to neighbouring properties, especially the bungalows in Applemede, it is noted that these are sited approximately 21 metres away, which is an acceptable distance to be considered to not cause unacceptable harm through overlooking. The proposed arrangements are also consistent with the relationships between other existing properties in the vicinity, many of which have closer relationships.
- 4.6 In order to further protect neighbouring amenity however, it is considered appropriate to withdraw permitted development rights for the erection of extensions on the east elevation of plots 1 to 6, and the south elevations of plots 6 to 12.
- 4.7 Overall, it is considered that the proposed development is appropriately scaled and sited to avoid unacceptable harm to residential amenity, in accordance with Local Plan policy DM1.

## **5. Highways, parking and access**

- 5.1 Policy DM1 of the Local Plan states that new development should be safe and accessible and policy DM3 of the Local Plan requires development to ensure safe access to the transport network. Policy DM5 states that sufficient vehicle parking and bicycle storage must be provided.
- 5.2 The access point into the site has already been approved at outline stage. The new road through the site has been designed to an adoptable standard with a 4.8 metre wide carriageway, 2 metre wide footpath and 0.6 metre service strip. A turning head is provided, which is designed to allow a large refuse vehicle to turn within the site. Similarly a swept analysis for such a larger vehicle has been provided to confirm that the site is accessible for such a vehicle. The Highway Authority have considered the application and raised no objections.
- 5.3 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. The proposed development accords with the requirements for parking provision with 2 spaces available for each property. In addition some of the properties have access to a private garage, although it is noted that the guidelines established in the Provision of Parking in New Development SPD, June 2013, discount garaging from making up part of the parking provision of a development. Despite this, the parking levels accord with the Local Plan requirements.
- 5.4 Otherwise, all properties comply with Building Regulations M4 Part 1, with pedestrian access from parking areas and drives level with gradients of less than 1:20, and all dwellings having a level threshold.

- 5.5 Local Plan policy DM1 also requires that 20% of the dwellings are built to comply with Building Regulations M4 Part 2. It is noted that all the dwellings have access to a drives that are 3.3 metres wide.
- 5.6 The proposal also exceeds the requirement of 1 electric vehicle charging point per 10 dwellings, with 1 charging point provided per dwelling.
- 5.7 The applicant has submitted a Construction and Environmental Management Plan (CEMP), the details of which are considered to be acceptable. These have also been considered by the Council's Public Health Team, and the County Highway Authority, who have raised no objections.
- 5.8 It is noted that there have been objections raised in respect to the impact on highway safety at the proposed construction site entrance off Tiverton Road, and in respect to the narrow nature of Tiverton Road particularly close to the junction with Upexe Lane to the south. As well as highway safety there are concerns about potential impact on roadside properties and parked cars.
- 5.9 These objections are noted, however access to the site is constrained due to the location of the site at the village edge. The only feasible routes are from Upexe Lane to the south, and Tiverton Road to the north. In the case of vehicles accessing the site via Upexe Lane, there is a width restriction of 6'6", highlighted by a sign at this junction. If vehicles larger than this need to access the site, they will have to come from the north, however any complying vehicles should be able to safely access the site using this route. There is no reason to expect there to be any damage to neighbouring property as a result of these movements, however the developer would be expected to put right any damage if it were to occur. This is however a civil matter. In terms of other concerns about access to the construction compound and parking area, at the point where it joins Tiverton Road, this is considered to be the safest and least disruptive place to provide this access. The only other realistic options would be to provide access to the south of the site, through in between a private residential garage block in Applemede, to through the approved development access in Silverdale and Exe View. Both of these alternative options would lead to construction traffic accessing much further into the residential areas of Silverton, with greater impact in terms of highway safety and disturbance of residential amenity. As such, the proposed option is considered to be acceptable. These details will therefore be approved as a separate discharge of conditions relating to 18/02019/MOUT or under the concurrent application 22/00969/MOUT, if approved.
- 5.10 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. It also complies with the accessibility requirements of policy DM1.

## **6. Ecology and biodiversity**

- 6.1 The submitted ecological scoping assessment did not identify the any ecological constraints to development within the site.
- 6.2 The site is currently semi-improved grassland, with field boundaries containing Devon bank, hedgerows, scrub and fencing. No evidence of protected species was identified within the site margins, however the site habitats are suitable for supporting amphibians, badgers, bats, birds, reptiles and invertebrates. As such, a number of recommendations are made to

ensure that a precautionary approach is taken to the removal of vegetation, use of lighting and construction practices during the building phase, should permission be granted for the scheme.

- 6.3 In order to secure biodiversity net-gains, a range of biodiversity enhancements are proposed with the inclusion inbuilt bat, bird and bee boxes, and proposed native species hedge banks. It is noted that the RSPB have commented in relation to the biodiversity enhancements, particularly those relating to the provision of bird boxes. In their comments, they recommend the use of swallow/universal boxes, as their research shows that these are more effective than a mixture of boxes, including sparrow terraces. A condition will be imposed to ensure that the recommended precautionary measures, details of mitigation and biodiversity enhancement measures comply with the recommendations of the report. It is also suggested that this includes a requirement for final details of the proposed bird boxes be submitted for final approval, in accordance with the RSPB recommendations.
- 6.4 As such, there is no identified harm to local ecology and the scheme appropriately accords with policies S9 and DM1 of the Local Plan.

## **7. Planning obligations**

- 7.1 In granting the outline planning permission, planning obligations were secured by a S106 Agreement and are as follows:
- 7.2 County Education - A financial contribution of £3,288.15 per dwelling towards secondary school infrastructure at Clyst Vale Community College, £381.90 per dwelling for transport to secondary school due to the development being further than 2.25 miles from Clyst Vale Community College, and an early years contribution of £250 per dwelling.
- 7.3 Public Open Space - A financial contribution of £937.30 per dwelling towards off-site public open space within the parish of Silverton.
- 7.4 Affordable Housing - 35% affordable housing in accordance with a scheme to be agreed by the Local Planning Authority.
- 7.5 In respect to affordable housing, some objections have been received with concerns that affordable housing is no longer included within the proposal. At the time of submission, a specific affordable housing schedule was not provided. However, it is confirmed that the applicant fully intends to comply with the requirements of the outline planning permission. As such, it is confirmed that 7 of the properties will be affordable, which comprises 35% of the 20 dwellings proposed. It has since been confirmed that plots 1 to 5, 17 and 18 are proposed to be allocated as affordable housing. This would provide three 2 bedroom homes, and four 3 bedroom homes. The requirement is secured within the S106 agreement, which requires an affordable housing scheme to be submitted to and approved by the Local Planning Authority prior to commencement of the development. As such, the affordable housing remains part of the proposal and can be formally allocated by agreement prior to works commencing. The applicant will provide an updated site layout with the aforementioned units highlighted for clarity.

## **8. Other matters**

- 8.1 Questions have been asked as to whether the current electricity supply is sufficient to support the development. While this concern is noted, ultimately this is not a planning matter.

The developer will have to agree the appropriate connections with the local electricity provider. Similarly, the electricity provider will have certain statutory obligations in respect to local power supply, in which case they will need to ensure that supply is maintained in line with their own obligations.

- 8.2 The County Historic Environment Team have assessed the information submitted in support of the application and do not anticipate any impact on known heritage assets. As such, there are no objections on archaeological grounds.

9. Conclusion

- 9.1 The principle of developing this site was agreed by approval of outline planning permission. This reserved matters application is considered to be acceptable, and will have no adverse impact on local flood risk, ecology, archaeology, surrounding character, residential amenity and highway safety.

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

Notwithstanding the local concerns, the proposed development of 20 houses proposed in this sustainable location is considered to be acceptable by reason that it respects the character and appearance of the area and would not be harmful to the setting of local heritage assets, general visual amenity, residential amenity, ecology, archaeology or highway safety, without compromising the provision of services and facilities in the settlement, and provides for appropriate drainage mitigation. As such the proposal complies with policies S1, S2, S3, S4, S5, S8, S9, S13, S14, DM1, DM3, DM4, DM5 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.

## **CONDITIONS**

1. The development hereby permitted shall be carried out in complete accordance with the approved plans listed in the schedule on the decision notice.
2. Details of the following shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of each element of the proposal respectively;
  - a) details of materials, colour and finish (including the provision of samples) to be used for the external walls and roofs, including details of roof verge finishes;
  - b) details of the recessing, materials and finish (including the provision of samples where appropriate) to be used for all new windows (including any roof lights) and doors;
  - c) details of position and colour finish of meter cupboards, gas boxes, rainwater goods, soil and waste pipes (soil and waste pipes are expected to be run internally).

Once approved such details shall be fully implemented and thereafter shall not be altered without the prior written consent of the Local Planning Authority.

3. Prior to their installation within the development hereby permitted details of the treatment of the boundaries (including height, design and materials) of the application site, including details of making good of existing boundaries, and any boundaries within the application site shall have been submitted to and approved in writing by the Local Planning Authority. Such approved

boundary treatments shall be provided in accordance with the agreed details, prior to any of the dwellings hereby permitted being first occupied and shall be so retained thereafter.

4. Notwithstanding the details contained with the submitted Landscape and Ecological Management Plan, details of the final scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority. This shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of the development, as well as details of any changes proposed in existing ground levels; all planting, seeding, turfing or earth moulding, including details of supplementary Devon bank and hedge planting to the site boundaries adjoining neighbouring properties in Applemede and Silverdale. The planting and associated works comprised in the approved details of landscaping shall be carried out in the first planting and seeding season after the development hereby permitted is first brought into use; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
5. The development hereby permitted shall be carried out in accordance with the recommendations detailed in the submitted *Ecological Scoping Assessment* (prepared by EcoLogic - dated 11<sup>th</sup> October 2018) and the submitted Landscape and Ecological Management Plan, drawing no. ACL.1269.224 Rev D, covering avoidance of harm to protected species and nesting birds, mitigation, compensation and biodiversity enhancement measures. Notwithstanding these approved documents, final details of bird boxes shall be submitted to and approved in writing by the Local Planning Authority, and thereafter installed on the dwellings hereby permitted prior to them being first occupied.
6. The development shall not be occupied until refuse bin/recycling storage areas have been provided in accordance with the details that shall have first been submitted to and approved in writing by the Local Planning Authority. The associated bin storage areas and collection points for each dwelling shall be provided prior to initial occupation of each dwelling and shall thereafter be retained and maintained.
7. The development hereby permitted shall include parking spaces and electric vehicle charging points in accordance with details indicated within the approved Electric Vehicle Charging Points plan, ACL.1269.226 Rev B, unless otherwise agreed in writing by the Local Planning Authority. The approved spaces, and electric vehicle charging points, shall be provided before each dwelling to which they relate are first occupied and shall thereafter be retained and maintained. The approved parking spaces shall not be used other than for the parking of vehicles in connection with the development hereby permitted.
8. The development hereby permitted shall be carried out strictly in accordance with the Waste Management Plan, dated 30<sup>th</sup> June 2021.
9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), there shall be no extension to the south elevations of the dwellings located on plots 6-12, or to the east elevations of the dwellings located on plots 1-6 hereby permitted without the prior express grant of planning permission.



## REASONS FOR CONDITIONS

1. For the avoidance of doubt in the interests of proper planning.
2. To safeguard the visual amenities of the area in accordance with policies S9, DM1 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
3. In the interests of reducing the impact of the scheme upon the privacy and amenities of the occupiers of adjacent dwellings and to safeguard the visual amenities of the area, in accordance with policies S9, DM1 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
4. To safeguard the visual amenities of the area and for the enhancement of biodiversity, in accordance with policies S9, DM1 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
5. For the conservation and protection of legally protected species and for the enhancement of biodiversity, in accordance with policies S9 and DM1 of the Mid Devon Local Plan 2013-2033, the provisions of the National Planning Policy Framework, and to ensure compliance with The Wildlife and Countryside Act 1981 (as amended).
6. To ensure appropriate bin storage and collection provision in the interests of local amenity in accordance with policy DM1 of the Mid Devon Local Plan 2013-2033.
7. To ensure that adequate facilities are available for the traffic attracted to the site in accordance with policy DM5 of the Mid Devon Local Plan 2013-2033.
8. To encourage the most sustainable methods of waste management.
9. In the interests of reducing the impact of the scheme upon the privacy and amenities of the occupiers of adjacent dwellings and to safeguard the visual amenities of the area, in accordance with policies S9, DM1 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.

## INFORMATIVES

You are advised that nothing within this approval effects or varies the conditions imposed on outline planning permission no. 18/02019/MOUT or 22/00969/MOUT, other than where specifically referred to. All other conditions are therefore still required to be discharged, where not already done so.

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 2<sup>nd</sup> 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.

Application No. 22/00969/MOUT

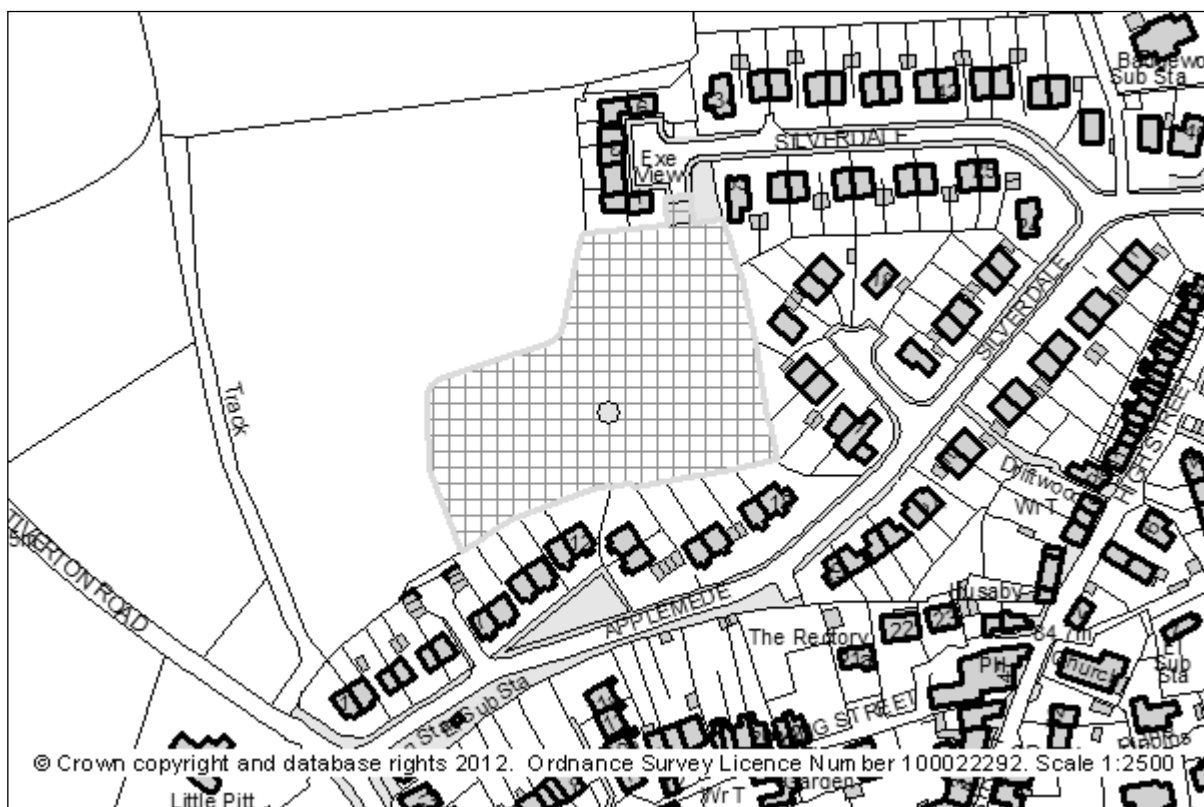
Grid Ref: 295447 : 103239

Applicant: Mr Mike Bailey

Location: Land at NGR 295508 103228 (Silverdale)  
Silverton  
Devon

Proposal: Removal and/or variation of Conditions 5, 6, 7, 8, 9 and 10 of Planning Permission  
18/02019/MOUT Outline for the erection of 20 dwellings

Date Valid: 12th May 2022



## **APPLICATION NO: 22/00969/MOUT**

### **REASON FOR REFERRAL TO COMMITTEE**

This application is required to be considered by the Planning Committee as Members requested it be considered from the Committee Major Applications list.

### **RECOMMENDATION**

Grant permission subject to conditions.

### **PROPOSED DEVELOPMENT**

Permission is sought for the removal and/or variation of Conditions 5, 6, 7, 8, 9 and 10 of Planning Permission 18/02019/MOUT Outline for the erection of 20 dwellings.

The proposal relates to outline planning permission 18/02019/MOUT, which was granted for the erection of 20 dwellings on the site, and is located at the northern edge of Silverton, to the east of Tiverton Road, north of Applemede, west of Silverdale and south of Exe View. The application was originally refused by the Planning Committee. However, a subsequent appeal was allowed. This granted outline planning permission with details of access approved and all other matters reserved. A concurrent application to this one for reserved matters is currently being considered under 21/01552/MARM.

This application is made to vary or remove conditions 5, 6, 7, 8, 9 and 10 of outline planning permission 18/02019/MOUT. These conditions relate to drainage, the provision of a Construction and Environmental Management Plan (CEMP) and highway related details.

The proposal seeks to remove conditions 5 and 7, which relate to dealing with surface water by infiltration techniques. It has been established that the ground is unsuitable for infiltration dispersal of surface water. Therefore, these conditions are no longer required.

Conditions 6 and 8 relate to the agreement of the final permanent and temporary drainage schemes. These details are submitted to effectively discharge these conditions, in which case it is proposed to vary these conditions to reference the submitted information.

Condition 9 relates to the provision of a CEMP. As with conditions 6 and 8, details have been provided and their discharge is sought, with the condition to be varied to reflect the submitted information.

Condition 10 requires a certain amount of highway construction works to take place prior to other works commencing. It also requires the submission of details of site compound and car park for approval. Those details have been submitted and again the conditions are proposed to be varied to agree these details.

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

Application form, drainage layout, drainage strategy, construction phase drainage layout, construction phase drainage strategy, impermeable areas plan, construction management plan, contractor's compound and parking.

## RELEVANT PLANNING HISTORY

**18/02019/MOUT** - REFUSE date 21st November 2019

Outline for the erection of up to 20 dwellings and associated access APPEAL ALLOWED - PLANNING PERMISSION GRANTED 11/06/2020

**21/01552/MARM** - PCO

Reserved matters for the erection of 20 dwellings with details of access, appearance, landscaping, layout and scale following outline approval 18/02019/MOUT

## DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan Review 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 S13 – Villages

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 DM25 – Development Affecting Heritage Assets

Policy DM26 - Green infrastructure in major development

National Planning Policy Framework

National Planning Practice Guidance

## CONSULTATIONS

**SILVERTON PARISH COUNCIL** - 04.07.2022

The Parish Council recommends refusal of the above application on the following grounds:

a) With regards to highway safety, the Parish Council has grave concerns regards the construction plan and the high volume of heavy vehicles accessing the site from Old Tiverton Road. This road is very narrow with on-street parking and the traffic generation during construction due to high levels of construction traffic will cause a genuine danger to pedestrians and in particular those with prams/pushchairs or the disabled using wheelchairs and

b) The Parish Council feels there is a potential hazard with the current sewers not being able to cope with additional sewage and surface water drainage. It would ask for confirmation from SWW that a detailed survey of the sewers has been undertaken and it is satisfied with the result thereof.

## **HIGHWAY AUTHORITY**

The County Highway Authority has no objection to the Construction Management Plan submitted as part of this application.

### **FLOOD and COASTAL RISK MANAGEMENT TEAM** - Recommendation:

We are pleased to recommend discharge of conditions 5, 6 and 8. The LLFA are content with the removal of condition 7 on application 18/02019/MOUT.

#### Observations:

##### Condition 5 - Percolation Tests

The applicant has provided sufficient evidence through their Ground Investigation Report by Ruddlesden Geotechnical, dated April 2021 (Reference CG/SR/21121/GICAR) to show that infiltration is not feasible for the site. The LLFA is content that condition 5 of 18/02019/MOUT has been met.

##### Condition 6 - Permanent Surface Water Drainage Management Strategy

The LLFA have no objections to the proposed permanent drainage strategy outlined in the Foul and Surface Water Drainage Strategy Report Addendum, dated 7 March 2022 (Reference AT2477), and in the Foul and Surface Water Drainage Layout Plan, Dated 7 March 2022 (Dwg no. 01 Revision A).

##### Condition 7 - Groundwater Monitoring Programme

The LLFA are content with removal of this condition as the applicant is no longer proposing surface water drainage to infiltrate.

##### Condition 8 - Temporary Surface Water Drainage Plan

The applicant has submitted a construction phase drainage plan, dated 8 March 2022 (Dwg No. 07) and the document Construction Phase Drainage, Reference AT2477, Dated 8 March 2022. The proposed design is deemed acceptable to satisfy condition 8.

Conditions 9 and 10 - Conditions 9 and 10 are not relevant to surface water drainage so the LLFA have no comments we wish to make on these.

## **PUBLIC HEALTH** - 24.06.2022

We have considered the application and I do not anticipate any environmental health concerns. The report by Ruddlesden Geotechnical has confirmed that the concerns of residents regarding ground permeability are somewhat justified and the writer has put forward a solution.

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

I have no objections from a designing out crime and ASB perspective to the proposed removal or variations.

## **REPRESENTATIONS**

This planning application has been advertised by means of a site notice 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).

At the time of writing this report, letters of objection had been received from nine local residents. The main concerns are summarised below:

1. The full amount of infiltration testing has not taken place. This testing should be required to take place.
2. It is unacceptable that a surface water retention basin is now omitted. The reliance on oversized pipes is a sign that the site is being overdeveloped.
3. The lack of footpath and limited tree planting is also a sign of overdevelopment, with the latter point being contrary to national policy.
4. The village does not have the infrastructure to support this development.
5. The site is unsuitable for development and prone to flooding.
6. The proposal will lead to additional highway safety issues.
7. Where will contractors and employees park during the construction phase as parking is at a premium on the neighbouring streets?
8. There is no longer any mention of affordable housing.
9. Local views have not been taken into account.
10. This is good agricultural land that should not be developed.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

- 1.1 The proposal is made to vary or remove conditions 5, 6, 7, 8, 9 and 10, with those conditions either deemed to be no longer relevant or as detail has been submitted to allow their discharge, in which case the relevant conditions are proposed to be varied.
- 1.2 As a starting point, the principle of the development as a whole has already been established so consideration needs only be given to the potential impact of the proposed changes to the original outline planning permission 18/02019/MOUT. Consideration of details relating to the outstanding reserved matters will be considered in assessment of the concurrent application for approval of those reserved matters, 21/01552/MARM. Consideration will be given to the variation/removal of each condition below:
- 1.3 *Condition 5: No part of the development hereby permitted shall be commenced until a programme of percolation tests has been carried out in accordance with BRE Digest 365 Soakaway Design (2016), and the results approved in writing by the Local Planning Authority, in consultation with the Lead Local Flood Authority. A representative number of tests should be conducted to provide adequate coverage of the site, with particular focus placed on the locations of the proposed infiltration devices/permeable surfaces.*
- 1.4 In considering the outline planning application 18/02019/MOUT, it was suggested that foul drainage would be disposed of via the existing public foul drainage sewer passing through the site, and surface water drainage would be disposed of by on-site infiltration, which is the preferred method of disposal for both foul and surface water. In accordance with this, condition 5 was imposed to ensure that sufficient testing was carried out to assess whether the site conditions were suitable to deal with the surface water generated by the proposed development by means of on-site infiltration. The applicant has submitted a geotechnical report detailing the ground testing carried out, with the results of the testing concluding that the site soil had low and variable permeability making it unsuitable for infiltration drainage. The Lead Local Flood Authority (LLFA - Devon County Council Flood and Coastal Management Team) have confirmed that the testing carried out is sufficient to prove that infiltration is not feasible on site. As such, they confirm that this condition may be discharged. That being the case, it is appropriate to remove this condition.

- 1.5 There have been some objections received, concerned that inadequate testing has been carried out. However, the LLFA are satisfied that sufficient testing has been carried out to meet their usual strict requirements.
- 1.6 Condition 6: *No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Preliminary Drainage Strategy 100 Rev B and Preliminary Drainage Strategy 101 Rev A and Silverdale Drainage Calculations.*
- 1.7 Following the carrying out of the necessary testing, which concluded that infiltration drainage would be unsuitable, it is proposed to connect the surface water drainage into an existing South West Water surface water drainage sewer that passes through the site, a solution that has been confirmed as acceptable during the applicant's consultation with South West Water.
- 1.8 A drainage scheme is submitted in the form of a Foul and Surface Drainage Report Addendum, and a detailed drainage strategy plan. This includes the use of oversized pipes to store surplus surface water runoff and allow controlled disposal into the surface water sewer at the same rate as calculated pre-development greenfield runoff rates. Additional sustainable urban drainage (SuDS) features are proposed in the form of permeable paving infiltrating into sub-soil before it is collected by drains directing the water onto the oversized pipes. Additionally, individual properties will be supplied with water butts to give the option of further surface water collection.
- 1.9 The LLFA have assessed the drainage proposals and consider these to be acceptable, allowing this condition to be discharged. As such, it is appropriate to amend this condition, removing the requirement to provide details of the drainage scheme prior to commencement, and instead requiring the drainage scheme to be carried out in accordance with the submitted details.
- 1.10 Condition 7: *No part of the development hereby permitted shall be commenced until the full results of a groundwater monitoring programme, undertaken over a period of 12 months, has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with the Lead Local Flood Authority. This monitoring should be conducted to provide adequate coverage of the site, with particular focus placed on the locations and depths of the proposed infiltration devices.*
- 1.11 This condition was imposed at the request of the LLFA. This is a common requirement whether infiltration drainage is proposed to ensure that the ground conditions are satisfactorily understood, and to inform the final drainage scheme. In this case it has been established that infiltration drainage is not feasible due to the ground conditions, in which case there is no need to carry out the 12 months of groundwater monitoring. The LLFA are content that this condition is no longer required as on-site infiltration is no longer proposed. As such, it is appropriate to remove this condition.
- 1.12 Condition 8: *No development shall commence until a temporary surface water drainage management plan, to demonstrate how surface water runoff generated during the*



*construction phase will be managed for the full construction period, has been submitted to and approved in writing by the Local Planning Authority. The plan must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site and must also include details of how eroded sediment will be managed to prevent it from entering the permanent surface water drainage management system and include a timetable for the implementation of the management plan. Once approved, the management plan shall be implemented in accordance with the approved details and maintained thereafter.*

1.13 Details of the temporary drainage scheme to be put in place during construction works has been submitted and considered by the LLFA. They consider the measures proposed, which include the provision of silt barriers, boundary ditch, temporary bunding and a surface water retention area, to be acceptable and agree to the discharge of this condition. Similar to condition 6, the pre-commencement element should be removed, and the condition varied to require the submitted temporary drainage scheme to be implemented fully prior to construction, and for its retention during this phase.

1.14 Condition 9: *No development shall commence on site until a Construction and Environment Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include, but shall not necessarily be limited to, details of the following:*

- a) the timetable of the works;*
- b) daily hours of construction;*
- c) any road closure;*
- d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays;*
- e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;*
- f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;*
- g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;*
- h) steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phase of the development;*
- i) measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways;*
- j) details of wheel washing facilities and obligations;*
- k) the proposed route of all construction traffic exceeding 7.5 tonnes;*
- l) details of the amount and location of construction worker and visitor parking and proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off site; and*
- m) photographic evidence of the condition of adjacent public highway prior to commencement of any work.*

*The development shall be carried out strictly in accordance with the approved Construction and Environment Management Plan.*

- 1.15 The applicant has submitted a Construction and Environmental Management Plan (CEMP), with the intention of discharging this condition. This details the measures to address the various parts of this condition, with just photographic evidence of the condition of the adjacent public highway left outstanding so that this is provided close to but prior to commencement of any approved works.
- 1.16 The details of the CEMP are considered to be acceptable. These have also been considered by the Council's Public Health Team, and the County Highway Authority, who have raised no objections.
- 1.17 It is noted that there have been objections raised in respect to this application, and the accompanying application for reserved matters, with concerns raised about the impact on highway safety at the proposed construction site entrance off Tiverton Road, and in respect to the narrow nature of Tiverton Road particularly close to the junction with Upexe Lane to the south. As well as highway safety there are concerns about potential impact on roadside properties and parked cars.
- 1.18 These objections are noted. However, access to the site is constrained due to the location of the site at the village edge. The only feasible routes are from Upexe Lane to the south, and Tiverton Road to the north. In the case of vehicles accessing the site via Upexe Lane, there is a width restriction of 6'6", highlighted by a sign at this junction. If vehicles larger than this need to access the site, they will have to come from the north. However, any complying vehicle should be able to safely access the site using this route. There is no reason to expect there to be any damage to neighbouring property as a result of these movements. However, the developer would be expected to put right any damage if it were to occur; this is however a civil matter. In terms of other concerns about access to the construction compound and parking area, at the point where it joins Tiverton Road, this is considered to be the safest and least disruptive place to provide this access. The only other realistic options would be to provide access to the south of the site, through in between a private residential garage block in Applemede, through to the approved development access in Silverdale and Exe View. Both of these alternative options would lead to construction traffic accessing much further into the residential areas of Silverton, with greater impact in terms of highway safety and disturbance of residential amenity. As such, the proposed option is considered to be acceptable. It is therefore appropriate to amend this condition to discharge the submitted CEMP details, with retention of the requirement to provide photographic evidence of the public highway.
- 1.19 Condition 10: *Other than for the works described below, no other part of the development hereby approved shall be commenced until:*
- a) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 metres back from its junction with the public highway;*
  - b) The ironwork has been set to base course level and the visibility splays required by this permission laid out;*
  - c) The footway on the public highway frontage required by this permission has been constructed up to base course level;*
  - d) A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority.*

- 1.20 Parts a), b) and c) of this condition are compliance matters that will remain as per the approved wording. d) requires the submission of details of the site compound and car park for use during the construction phase. These details are submitted in order to discharge this element of the condition. The submitted plan is to be read in conjunction with the CEMP and provides the positions of the compound and parking area. As with the details submitted in respect to condition 9, the Highway Authority have no objection to the discharge of this condition. As such, the condition will be amended to impose a requirement for the submitted details to be complied with.

## **2. Other matters**

- 2.1 Several objections have been received in respect to the principle of the development. However, it is important to note that outline planning permission has already been granted as a result of the appeal against refusal of planning application 18/02019/FULL being allowed. Similarly comments received in respect to issues addressed by the reserved matters application will need to be addressed in concurrent application 21/01552/MARM.
- 2.2 As well as varying the requested condition, it will also be necessary to amend the time limit condition to reflect the fact that works are yet to commence and that it is not possible to amend the time limit through a variation of conditions application. Otherwise conditions will be renumbered to recognise the removal of condition 5 and 7.
- 2.3 Overall, there are no objections to the proposed removal of conditions 5 and 7, or to the variation of 6, 8, 9 and 10, with the information submitted considered appropriate to allow discharge of these conditions.

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

The proposed removal and variation of conditions 5, 6, 7, 8, 9 and 10 of outline planning permission 18/02019/MOUT is considered acceptable. Condition 5 and 7 are considered to be no longer required due to changes to the proposed drainage strategy. Furthermore the details provided in relation to pre-commencement conditions 6, 8, 9 and 10 are satisfactory in respect to the proposed temporary and permanent drainage schemes, the provision of a Construction and Environmental Management Plan, and details of the location of the construction compound and parking. Subject to the consideration of the reserved matters, the proposed development of this site is considered to be in accordance with policies S1, S2, S3, S4, S5, S8, S9, S13, S14, DM1, DM3, DM4, DM5, DM25 and DM26 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.

## **CONDITIONS**

1. Before any part of the development hereby permitted is begun, detailed drawings of the layout, scale and appearance of the buildings, and the landscaping of the site (hereinafter called the Reserved Matters) shall be submitted to and be approved in writing by the Local Planning Authority.
2. Application(s) for approval of all the Reserved Matters shall be made to the local planning authority before the expiration of three years from the 11<sup>th</sup> June 2020 (being the decision date of original outline planning permission 18/02019/MOUT).

3. The development hereby permitted shall be begun either before the expiration of three years from the 11<sup>th</sup> June 2020 (being the decision date of original outline planning permission 18/02019/MOUT), or before the expiration of two years from the date of approval of the last of the Reserved Matters which have been approved, whichever is the later.
4. The development hereby permitted shall be limited to a maximum of 20 dwellings.
5. Foul and permanent surface water drainage management systems to serve the development, shall be implemented in accordance with the detailed surface water drainage scheme indicated in the submitted *Foul and Surface Water Drainage Strategy Report ADDENDUM* (prepared by AquaTech, dated 7<sup>th</sup> March 2022), the approved Foul and Surface Water Drainage Layout plan AT2477 01B S38 Highway Adoption Layout Plan AT2477.02B and Development Impermeable Area plan AT2477 05B. The approved drainage scheme shall be completed and become fully operational before any of the dwellings hereby permitted are first occupied. Following its installation such approved scheme shall be permanently retained and maintained thereafter.
6. A temporary surface water drainage management system to serve the site during the construction phase, shall be implemented in accordance with the detailed temporary surface water drainage scheme indicated in the submitted *Construction Phase Drainage* document (prepared by AquaTech, dated 8<sup>th</sup> March 2022), and the approved Construction Phase Drainage plan AT2477 07, and shall be maintained thereafter in accordance with the approved details.
7. The development hereby permitted shall be carried out strictly in accordance with the approved Construction and Environment Management Plan (CEMP), dated 30<sup>th</sup> June 2021. Photographic evidence of the condition of adjacent public highway shall be submitted to the Local Planning Authority prior to commencement of any work.
8. Other than for the works described below, no other part of the development hereby approved shall be commenced until:
  - a) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 metres back from its junction with the public highway;
  - b) The ironwork has been set to base course level and the visibility splays required by this permission laid out;
  - c) The footway on the public highway frontage required by this permission has been constructed up to base course level;
  - d) A site compound and car park has been constructed in accordance with the details indicated in the approved Contractors Compound and Parking Area plan ACL.01269.225.
9. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.
10. The occupation of any dwelling shall not take place until the following works have been carried out:

- a) The access and site roads within the development shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
  - b) The footways and footpaths which provide the dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
  - c) Both vehicular and pedestrian/cycle route visibility splays have been laid out to their final level;
  - d) The street lighting for the access, site roads and footpaths has been erected and is operational;
  - e) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;
  - f) The verge and service margin and vehicle crossing on the road frontage of this dwelling have been completed with the highway boundary properly defined; and
  - g) The street nameplates for the development have been provided and erected.
11. Prior to first occupation of any of the dwellings hereby approved, a scheme for Electric Vehicle Charging Points ("EVCP") shall have been first submitted to and approved in writing by the local planning authority, such scheme to include provision of at least a single EVCP for each dwelling comprised in the development which has a private driveway or garage within its curtilage ("Relevant Dwelling"). The installation of the EVCPs shall be completed in accordance with the approved scheme prior to first occupation of each Relevant Dwelling.
12. The detailed drawings required to be submitted by Condition 2 shall include the following information: boundary treatments, existing and proposed site levels, site section drawings, finished floor levels and materials, details of any areas of proposed public open space, and an ecological management plan for ecological mitigation and enhancement contained in the submitted Ecological Appraisal.
13. As part of the Reserved Matters submission(s) referred to in Condition 2, a Site Waste Management Plan which will detail the proposed method of dealing with waste from the site, including transportation of waste from the site where this is necessary. This will include the specific destination for each wastage type and the route that is required. Details shall also include measures to encourage the reuse or recycling of waste and shall set out how the construction and operation of the development will accord with best practice sustainable waste management principles. The development shall thereafter be carried out in accordance with the agreed Site Waste Management Plan.

## **REASONS FOR CONDITIONS**

1. The application was submitted as an outline application in accordance with the provisions of Articles 4 and 5 of The Town and Country Planning (Development Management) Order 2010.
2. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004, with the provisions of the substantive permission.
3. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004, with the provisions of the substantive permission.

4. To ensure that the level and density of development is appropriate to the location and commensurate with levels of contributions sought in accordance with policies S1, S2, S3, S4, S9, DM1 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
5. To ensure that the site is adequately drained, and to ensure that surface water can be managed suitably without increasing flood risk downstream, without negatively affecting water quality downstream or negatively impacting on surrounding areas and infrastructure, in accordance with policies S9, DM1 and DM4 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
6. To ensure that the site is adequately drained, and to ensure that surface water can be managed suitably without increasing flood risk downstream, without negatively affecting water quality downstream or negatively impacting on surrounding areas and infrastructure, in accordance with policies S9, DM1 and DM4 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
7. To safeguard local amenity and to minimise the impact of the development on the highway network, in accordance with policies S9, DM1, DM3 and DM4 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
8. To safeguard local amenity and to minimise the impact of the development on the highway network, in accordance with policies S9, DM1, DM3 and DM4 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
9. To minimise the impact of the development on the highway network, in accordance with policies DM1 and DM3 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
10. To minimise the impact of the development on the highway network, in accordance with policies DM1 and DM3 of the Mid Devon Local Plan 2013-2033 and objectives of the National Planning Policy Framework.
11. In order to comply with the requirements of policy DM5 of the Mid Devon Local Plan 2013-2033 in relation to parking.
12. To ensure that adequate information is available for the proper consideration of the detailed proposals.
13. To safeguard local amenity and to minimise the impact of the development on the highway network, in accordance with policies S9, DM1, DM3 and DM4 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 2<sup>nd</sup> 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 to enable the grant of planning permission.

Application No. 22/01554/MFUL

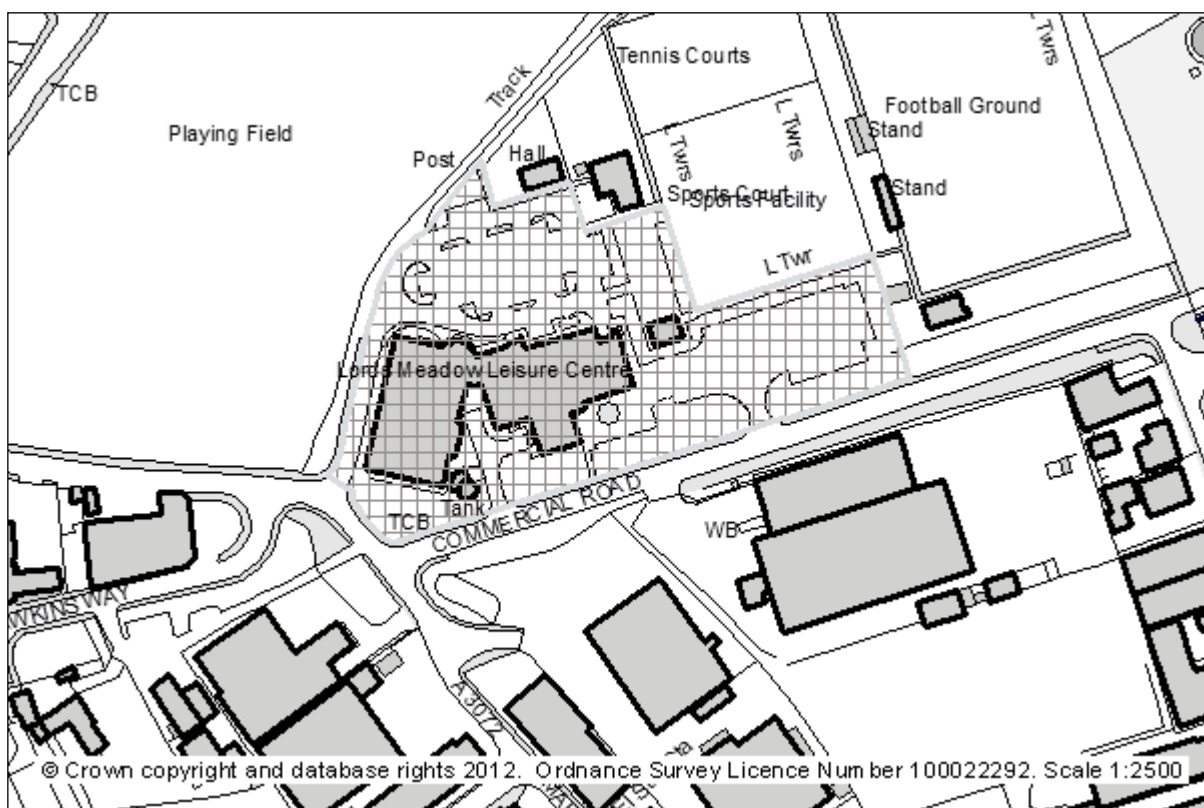
Grid Ref: 284233 : 100376

Applicant: Mr Tim Powell

Location: Lords Meadow Leisure Centre  
Commercial Road  
Lords Meadow Industrial Estate  
Creddon

Proposal: Erection of external heat pump systems and solar car port, installation of photovoltaic panels to existing roofs and erection of shelter over skate park

Date Valid: 2nd September 2022





## **APPLICATION NO: 22/01554/MFUL**

### **MEMBER CALL-IN**

Mid Devon District Council is the applicant

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

The applicant seeks planning permission for the erection of external heat pump systems and solar car port, installation of photovoltaic panels to existing roofs and erection of shelter over skate park at Lords Meadow Leisure Centre, Commercial Road, Lords Meadow Industrial Estate, Crediton.

The intent of the proposals is to replace the existing gas boilers at the Lords Meadow Leisure Centre in Crediton with heat pump technology, install solar car ports and additional photovoltaic panels to roofs with the aim to decarbonise the building.

Lords Meadow Leisure Centre is located within the settlement limits of Crediton with car parking located to the north and east of the main leisure centre building with a service yard to the south. The site is level being located outside of any landscape designations and is within flood zone 1 which is the lowest probability of flooding.

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

Completed application form, Plans, Design and Access Statement, Wildlife and Geology Trigger Table, Flood Map and Agents Comments

### **RELEVANT PLANNING HISTORY**

88/02756/FULL - DEMCON date 28th February 1989 DEEMED CONSENT for the erection of sports centre

90/00342/OUT - PERMIT date 27th April 1990 Erection of changing accommodation

94/02143/OUT - PERMIT date 17th February 1995 Outline for the erection of a six lane swimming pool with ancillary facilities and parking

95/01275/ADVERT - PERMIT date 10th October 1995 Consent to display non illuminated advertisement board

96/00605/ARM - PERMIT date 11th June 1996 Reserved matters for the erection of a four lane swimming pool with ancillary facilities and parking

00/01439/FULL - PERMIT date 16th November 2000 Removal of tiles and rendering rear elevation adjacent to inline skating area

02/02074/ADVERT - PERMIT date 31st October 2002 Advertisement Consent to display non illuminated display board and non-illuminated direction sign

11/01720/FULL - PERMIT date 20th January 2012 Installation of 291 solar photovoltaic panels on part roof

13/00133/FULL - PERMIT date 22nd March 2013 Installation of a biomass boiler to include the erection of a plant room, flue and wood chip store

13/00527/FULL - PERMIT date 30th May 2013 Construction of car park and associated works following demolition of major part of existing redundant building, retained part of building to be altered to provide training facilities, and minor alterations to main and overflow car parks to provide additional parking spaces

## **DEVELOPMENT PLAN POLICIES**

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

Policy S1 - Sustainable development priorities  
Policy S9 – Environment  
Policy S12 – Crediton  
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 DM22 – Tourism and leisure development  
Policy DM23 - Community facilities

### **National Planning Policy Framework**

### **National Planning Practice Guidance**

### **Crediton Neighbourhood Plan 2018-2033**

Policy D1 - Development Principles  
Policy D5 - Design  
Policy S1 - Renewable energy excluding wind turbines  
Policy S2 - Energy diversification

## **CONSULTATIONS**

### **Crediton Town Council** - 05.10.2022

Recommend approval.

### **Highway Authority** – 06.09.22

The County Highway Authority have no comments to make on this application

### **Public Health** – 21.09.22

We have considered the application which includes the installation of new air source heat pumps and a roof structure over the skate park, amongst other energy related improvements. The pumps

will be located at ground level in a sheltered position and there are no residences close by that could be adversely affected by residual noise from the pumps. We therefore do not anticipate any environmental health concerns.

**Flood and Coastal Risk Management Team** - 27.09.2022

**Recommendation:**

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

**Observations:**

The existing site appears to drain via channels and gullies. The applicant should assess whether the existing surface water drainage could be improved. The applicant could include gullies and downpipes with the car ports and could connect these downpipes to rain gardens across the site. Rain gardens or SuDS Planters could be implemented at the ends of the car ports. The rain gardens could be constructed as narrow linear features less than 1 metre wide. These features could have overflows into the channels and gully's. The applicant would need to assess the suitability of these features.

**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.

No letters of representation have been received.

**MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

- 1. Policy and principle of development**
- 2. Impact of the various proposals on the appearance of the leisure centre and the street scene.**
- 3. Highway safety and capacity issues**
- 4. Biodiversity Net Gain**
- 5. Surface Water Drainage**

**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. As outlined earlier on in this report, the intent of the proposals is to replace the

existing gas boilers at the Lords Meadow Leisure Centre in Crediton with heat pump technology, install solar car ports and additional photovoltaic panels to roofs with the aim to decarbonise the building. The relevant Local Plan Policies in respect to renewable energy technologies are considered to be those of policies S1, S9, DM2, DM22 and DM23.

Policy S1 (Sustainable development priorities) sets a number of strategic priorities to support the creation of sustainable communities. Criterion (J) outlines all development should meet the challenge of climate change by supporting a low carbon future, energy efficiency, increasing the use and supply of renewable and low carbon energy, managing flood risk and conserving natural resources. Policy S9 (Environment) identifies that development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets and minimise the impact of development on climate change through *(d) Renewable energy development in locations where there is an acceptable local impact, including visual, on nearby residents, landscape character and wildlife, balanced with the wider sustainability benefits of renewable energy.*

Policy DM2 (Renewable and low carbon energy) outlines the following:

*The benefits of renewable and low carbon energy development will be weighed against its impact. Proposals will be permitted where they do not have significant adverse impacts on the character, amenity and visual quality of the area, including cumulative impacts of such developments within the parish or adjoining parishes. Proposals must demonstrate that impacts are or can be made acceptable in relation to:*

- a) Landscape character and the character and setting of heritage assets;*
- b) Environmental amenity of nearby properties and the wider locality;*
- c) Quality and productivity of the best and most versatile agricultural land (grades 1, 2 and 3a); and*
- d) Biodiversity (avoiding habitat fragmentation).*

In terms of the improvements to the Leisure Centre, Policy DM22 (Tourism and leisure development) identifies leisure facilities will be supported within defined settlements, subject to respecting the character and appearance of the location. Policy DM23 (Community facilities) identifies that *the development of new community facilities providing a local community benefit or environmental enhancement will be permitted where they are easily accessible by the local community and well related to a settlement. Proposals for the redevelopment of existing community facilities that enables them to modernise, remain viable and continue to be retained for the benefit of the community will be supported.*

The Crediton Neighbourhood Plan 2018-2033 has recently gone through a referendum in September of this year with the result being that it has been adopted. Therefore there are a number of policies which would be relevant to the proposed developments. These are considered to be Policy D1 (Development Principles) which states that development that takes into account the effects of climate change will be supported and Policy D5 (Design) requires the use materials which reflect and complement the development.

Policy S1 (Renewable energy excluding wind turbines) states:

*Proposals for energy generating infrastructure using renewable or low carbon energy sources to serve individual properties or small groups of properties will be supported provided that:*

- the energy generating infrastructure is located as close as practicable and is in proportion to the scale of the existing building the proposed development is intended to serve*
- the siting, scale, design and impact on landscape, views and wildlife of the energy generating infrastructure is acceptable and does not compromise public safety and allows continued safe use of public rights of way*

- adjoining uses are not adversely impacted in terms of noise, vibration or electromagnetic interference
- where appropriate, the energy generating infrastructure and its installation complies with the micro generation certification scheme or equivalent standard.

Policy S2 Energy diversification states:

*Initiatives that would enable local businesses to develop renewable and low carbon energy will be supported where:*

- *The primary function is to support their operations*
- *they are subordinate to the primary business*
- *The siting, scale and impact of the proposed development is appropriate to its setting and position in the wider landscape.*

It is considered that the proposals to introduce renewable energy technology to address the climate emergency and to decarbonise the leisure centre facility is acceptable in principle complying to the policies referred to above, subject to the development not resulting in a detrimental impact on the appearance of site setting and wider landscape a matter. This assessment on impact on the appearance of the site and surrounding area is considered further below. The works will also help sustain the future of the Leisure Centre, which is an important facility for residents in Crediton and the aim to increase the self-sufficiency of the town.

## **2. Impact of the various proposals on the appearance of the leisure centre and the street scene.**

In terms of the proposals, it is proposed to install new external air source heat pumps within the existing service yard to the South of the Leisure centre which is accessed via Commercial Road. The heat pumps are to be enclosed within an existing compound made of steel palisade fencing and which is currently used for storage and bins. The bins are to be relocated to a new compound opposite the existing turning head as indicated on the site layouts. In addition new solar car ports are to be installed to the parking areas to the North and East to maximise PV energy generation for use within the leisure centre. These will comprise of new lightweight steel structures that are to be erected as shown on the submitted plans. Further PV panels are to be installed on the pool roofs and a shelter roof to the skate park is proposed.

Policy DM1 (High quality design) focuses on the design of new development outlining it must be of a high quality, based upon and demonstrating a clear understanding of the characteristics of the site, its wider context and the surrounding area; and the efficient and effective use of the site.

The new external heat pump systems and solar car port, installation of photovoltaic panels to existing roofs and erection of shelter over skate park would serve the existing leisure facilities within the leisure centre and are considered to be a requirement to ensure the premises provides a suitable environment for the physical activities and classes that take place within the leisure centre. The siting and design of the proposals are not considered to result in a significant detrimental impact on the surrounding area, with no nearby residential properties. The Public Health Team have raised no objections to the proposed developments on site.

A number of the works planned will be visible from the vehicular and pedestrian access into the leisure centre carparks and there would be some views, particularly the shelter cover/roof to the skate park from the public highway (Commercial Road) to the south. While the heat pumps will not enhance the external appearance of the leisure centre, they are to be located in a secure compound and accepted as being necessary to service the premises appropriately. Policy DM22

supports the provision of new or expanded leisure facilities, the proposed solar panels and air source heat pumps are required to ensure the proper functioning of this significant leisure facility, replacing the existing gas boilers. It is not considered that the works will have an unacceptably adverse impact on the appearance of the leisure centre building or on the street scene. The development is therefore considered to be in accordance with policy DM1 of the Mid Devon Local Plan 2013-2033.

### **3. Highway safety and capacity issues**

The application proposals include the construction of new solar car ports are to be installed to the parking areas to the North and East to maximise PV energy generation for use within the leisure centre. However, the supports of these structures will be along the delineations of the parking bays so not resulting in a reduction of the parking spaces provided at the leisure centre. The highway officer at Devon County Council has raised no concerns regarding the proposals.

### **4. Biodiversity Net Gain**

The proposed alteration to external plant will be within the service yard off Commercial Road. These areas comprise of hard standing and a fenced off, unroofed compound which currently is used for storage of bins. The compound which is made of palisade metal fencing will be retained unaltered. The solar car ports proposed with this application are to cover an existing skate park and car parking area. Both again comprise of continuous tarmac and paving finishes without any mature planting, trees or existing building structures. Therefore in light of this, the site is unlikely to offer habitats for protected species when assessed in accordance of Natural England's Guidance. The proposed development areas are also in constant use (bin stores, skate park, car parking for leisure centre) which is another indicator of having low roosting potential.

The Design Statement submitted outlines that whilst the pool building and car parking areas offer limited potential for the installation of bird or bat boxes due to low eaves heights and constant traffic/use, the new roof structure to the skate park and the existing sports hall to the south east would have some potential. Here bird boxes and bat boxes could be installed to provide additional wildlife habitats on site. A condition is recommended for the installation of a bat and bird box on site.

### **5. Surface Water Drainage**

Policy DM1 of the Mid Devon Local Plan identifies that appropriate drainage including sustainable drainage systems (SUDS), including arrangements for future maintenance, and connection of foul drainage to a mains sewer where available should be provided for developments. The Lead Local Flood Authority (LLFA) has no in principle objections to the proposals but has outlined that the applicant would need to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

The LLFA have observed that the existing site appears to drain via channels and gullies. The applicant should therefore assess whether the existing surface water drainage could be improved. Suggestions have been made that the applicant could include gullies and downpipes with the car ports and could connect these downpipes to rain gardens across the site but that it would be down to the applicant to assess the suitability of these features.

The proposals would not result in a detrimental to existing surface water drainage arrangements on site and therefore any proposed improvements will be a conditional requirement.

There are no other material considerations that need to be taken into account in the

determination of this application and it is recommended that planning permission is granted.

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

## **CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Prior to the construction of the solar car ports on site and the shelter over the skate park, there shall be submitted to and approved in writing by the Local Planning Authority details of the assessment carried out to consider whether the existing surface water drainage could be improved on site. Any proposed surface water drainage systems identified as being feasible to improve surface water drainage shall be implemented in accordance with the approved details prior to first use of the solar car ports hereby approved.
4. Details for the installation of a bat and bird box on site as outlined within the Design Statement submitted shall be submitted and approved by the Local Planning Authority. These biodiversity gain measures shall be provided in accordance with the approved details within 3 months of the substantial completion of the works hereby approved and retained and maintained as such in perpetuity.

## **REASONS FOR CONDITIONS**

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. To consider improvements to existing drainage systems in accordance with policy DM1 of the Mid Devon Local Plan 2013- 2033.
4. To mitigate and provide a net gain in bio diversity in accordance with policies S9 and DM1 of the Mid Devon Local Plan 2013- 2033.

## **INFORMATIVES**

1. 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 application proposal for the erection of external heat pump systems and solar car port, installation of photovoltaic panels to existing roofs and erection of shelter over skate park at the Lords Meadow Leisure centre complex is considered acceptable. The aim to decarbonise the building through the installation of renewable energy technologies is supported by policy and it is not considered that the proposals would have any significant detrimental impacts on the appearance of the leisure centre building or on the street scene. Arrangements for possible improvements to existing surface water drainage on site will be resolved as a conditional issue. The development is therefore in accordance with the requirements of policies S1, S9, S12, DM1, DM2, DM22 and DM23 of the Mid Devon Local Plan 2013-2033 and Policies D1, D5, S1 and S2 of the Crediton Neighbourhood Plan 2018-2033, and Government advice in the National Planning Policy Framework (NPPF).

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



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

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

Item No.	Weeks	TARGET DATE	REFVAL	PROPOSAL	LOCATION	NAME	Expected Decision Level	
							Delegated	Committee
1	0	10/01/2023	22/01910/MOUT	Outline for the erection of 14 dwellings to include a footpath link with all matters reserved (Revised Scheme)	Land at NGR 273411 108426 (Sandhurst) Lapford Devon	Mr Adrian Devereaux	DEL	
2	2	30/12/2022	22/01671/MFUL	Erection of extension to create new entrance facilities; erection of office building; erection of business units (Use Classes E and B8); formation of carpark, new vehicular access and associated landscaping works	Bear Town Westcott Cullompton Devon EX15 1RZ	Mr Daniel Rance	DEL	
3	3	22/12/2022	22/00915/MFUL	Change of use of agricultural land for the siting of reception and welfare cabins, 8 log cabins and 30 glamping pods for holiday purposes, formation of new vehicular access and associated works	Land at NGR 295546 122741 North of Frog Street Bampton Devon	Mr John Millar	DEL	

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