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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, 30 November 2022 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 4 January 2023 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

STEPHEN WALFORD

Chief Executive

22 November 2022

Councillors: P J Heal (Chairman), S J Clist, Mrs C Collis, Mrs F J Colthorpe, L J Cruwys, Mrs C P Daw, B Holdman, D J Knowles, F W Letch, B A Moore 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 2nd November 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To report any items withdrawn from the agenda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 - 138*)
To consider the planning applications contained in the list.
- 8 **MAJOR APPLICATIONS WITH NO DECISION** (*Pages 139 - 140*)
To receive a list of major applications and potential site visits.
- 9 **APPEAL DECISIONS** (*Pages 141 - 142*)
To receive a list of recent appeal decisions
- 10 **PLANNING COMMITTEE PROCEDURE** (*Pages 143 - 150*)
Members to consider adopting changes to the Planning Committee Procedure

Meeting Information

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

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

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

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

Tel: 01884 234209

Fax:

E-Mail: coliphant@middevon.gov.uk

Public Wi-Fi is available in all meeting rooms.

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MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 2 November 2022 at 2.15 pm

Present

Councillors

P J Heal (Chairman)
J Cairney, Mrs C Collis, Mrs F J Colthorpe,
L J Cruwys, Mrs C P Daw, B Holdman,
D J Knowles, F W Letch, R F Radford and
B G J Warren

Apologies

Councillor(s)

E J Berry and S J Clist

Also Present

Councillor(s)

J Buczkowski and J Wright

Present

Officers:

Maria De Leburne (District Solicitor and Monitoring Officer), Richard Marsh (Director of Place), Angharad Williams (Development Management Manager), Adrian Devereaux (Area Team Leader), John Millar (Area Team Leader), Jake Choules (Planning Officer), Andrew Seaman (Member Services Manager) and Carole Oliphant (Member Services Officer)

75 **APOLOGIES AND SUBSTITUTE MEMBERS**

Apologies were received from Cllrs S J Clist and E J Berry who were substituted by Cllrs J Cairney and Mrs F J Colthorpe respectively.

76 **PUBLIC QUESTION TIME (0.04.14)**

Mrs Campbell, a local resident, referring to No 3 & 4 on the Plans List stated:

Mr Chairman and councillors, I wish to object to the removal and all variations of the conditions put forward. Why would we agree with the proposed design of these 20 houses which are more in keeping with the suburb of a town and not a village in the countryside?

Policies DM1 of Mid Devon plans states that the designs of countryside should have a clear understanding of the characteristics of the site, its wider context and surroundings. This is clearly not the case. The site design is over-developed, which is shown on the plan because of the footpath only being on one side of the road – a danger to pedestrians. Tree planting is on private property and can be removed at a

later date, not on roadside, and not complying with national planning 2021 paragraph 131.

There is no allocated parking for visitors and no green spaces. These large houses built on a hill overlooking bungalows obviously intrude on their privacy. Mid Devon policy S1 states we should have a sustainable form of transport system for the new build – we haven't.

At the meeting on the 22nd of October our bus services have been cut considerably, thus making it necessary for people to use their cars even more. The last bus to Silverton is 5.55. Conditions 5, 6, 7 and 8 deal with drainage and ground water monitoring, also surface water drainage. These have not only been fully carried out. Ruddlesden geotechnical carried out one test only of three, and said in their report it was because of time constraints – surely not acceptable. I'm sure you're all aware of very recent concerns in the press and the television of phosphates going into our rivers, and polluting them causing great harm. With the added volume of water disposed of, as tested by the developer of combining sewage water and runoff water in larger pipes. This could cause our sewage system harm as the added volume of water after heavy rain and surges disturbs and cancels out separation causing sewage to flow into the river.

As was said on a television programme last week, more systems that are being added to are already outdated and overused systems that cannot cope with the extra volume. Should we ask the environment agency to do a nutrient neutrality test to make sure Silverton's sewage plant is not letting phosphates into the river, and adding to the problem with this proposed build? This is all the more reason for the long term infiltration test should not be removed. These matters need more investigation. These are the reasons why conditions 5, 6, 7 and 8 should not be removed. With regards to the apex turning to the construction site being removed, and as you stated before the 6 foot 6 width restriction then proposed that they should come from the Tiverton A396. This is a very dangerous junction. It is a site set for several accidents and buses stopped turning there years ago probably because of the dangers. It's hard to see how construction traffic can get to site from both approaches are not viable. This is the reason condition number 9 should not be removed. Also assuming the construction site has separate planning as it's not within the site. To conclude, wrong houses, no proof of local need, wrong place, and wrong drainage. Also this development does not comply with Mid Devon policies DM1, S1, 2, 8, 9, 13 and 14. Why would you ignore your own policies? Thank you for your time.

Paul Elstone, a local resident, referring to No 1 on the plan list stated:

I commend the MDDC Planning Officers and Solicitors for ensuring that this application comes before this committee. This for reasons of much needed openness and transparency.

QUESTION 1

Are this Committee fully aware that there are legal precedents set? This including those decided at the Supreme Court. Precedents which overturn the rights of Lawfulness of Existing Use. This if concealment or deception is involved.

One such case

Welwyn Case

This case identifies four features that take a case outside the 10 year protection of section 171B(2) of the relevant act.

– this now constitutes the four-part test generally used to establish concealment.

1. Positive deception took place in matters integral to the planning process.
2. The deception was directly intended to undermine the planning process.
3. The deception did undermine that process.
4. The wrong-doer would profit directly from the deception if the normal limitation period were to enable them to resist enforcement ('profit' / benefit includes the avoidance of enforcement action).

Time limits prevent me from providing more comprehensive detail.

QUESTION 2

I believe there may have been a series of concealments and deceptions. This to conceal the fact that planning conditions have been grossly violated and in order to prevent enforcement action being taken during and soon after the house and not the bungalow was first built.

Are this committee aware that:

1. French windows installed in a bedroom constructed in what should have been the garage space have been concealed by garage doors. Garage doors which are visible from the road. Photographs available.
2. French windows installed in an office constructed in what should have been the garage space also concealed by garage doors
3. It appears that Building Control Certificates application may have been purposely delayed and misleading. That certificates may not applied for until 2021. This if the MDDC application numbering system is correctly understood.
i.e.

Application 21/78/0630/BR

Erection of bungalow and garage and installation of septic tank.

Please note the application is for a bungalow and not a house in any event. Therefore, it's validity I believe requires challenge.

Note:

If these building control certificates were issued when the property was first built this leads to questions about the District Councils role and lack of enforcement at the time. Including reasons why.

4. That a MDDC Council Tax banding check shows the property has been banded as C effective 13th April 2001 i.e. This is when the house and not bungalow was first occupied.

Band C would seem appropriate for a 3-bedroom agricultural bungalow but not for a 6-bedroom 5-bathroom house that has been built and with various reception rooms. Band G being the true banding I would suggest. Saving the occupants nearly £2000 per year in Council Tax over the last 21 years.

All adding further I believe to the opinion that there was an attempt at concealment. This in order to evade any planning enforcement within the prescribed timelines

QUESTION 3

With this information will this committee give full consideration to deferring a decision in respect of this application? This to permit a comprehensive investigation to be carried out. This in order to confirm or otherwise if deception for the purposes of concealment has in fact occurred.

Mr Campbell, a local resident, referring to No 3 & 4 on the plans list stated:

Mr Chairman and planning committee, this is to do with the Silverdale site. As previously mentioned at a planning meeting, a committee member mentioned that there are a lot of people not happy about this site. I think it was with reason. It seems that the rules can be changed in favour of the developers but no notice is taken to the objections made by many residents. It is outside the planning area for the village and then it is adopted all of a sudden. No soil test or drainage test fully completed as requested by the planning inspector. The roads there not adopted as highway. The added amount of traffic coming through any of the approach roads is going to add a great deal of problems.

A proposal that surface water is allowed into local sewers by using larger pipes and combined volume should be too much for the pumping station and the sewage works. It does not look like conditions 6, 7, 8, 9 and 10 have been completed as satisfactory as requested by the planning inspector. Therefore, these should not be removed. On a proposed site, only a footpath on one side of the road, not wide enough for a wheelchair, no mention of drop curbs for wheelchair access. There are many excellent and valid objections submitted, but no notice taken. In fact, 66 letters have been submitted. Mr Chairman and committee, please consider the objections of the local people, not remove the conditions and not consider full planning permission. Thankyou.

The Chairman then advised that on advice from the District Solicitor and Monitoring Officer questions submitted by a Hannah Kearns had been rejected as they were found to be:

- ii) Is in his/her opinion scurrilous, improper, capricious, irrelevant or otherwise objectionable (Council procedure rule 11.2 (f) (ii)).

The Chairman advised that questions would be addressed when the applications were heard.

77 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (0.17.34)

Members were reminded of the need to make declarations where appropriate

78 MINUTES OF THE PREVIOUS MEETING (0.18.09)

The minutes of the meeting held on 5th October 2022 were agreed as a true record and duly **SIGNED** by the Chairman.

79 CHAIRMAN'S ANNOUNCEMENTS (0.18.49)

The Chairman reminded Members of the informal planning committee on 9th November 2022 and the training day on 23rd November 2022. He also confirmed that there would be a need to hold a special Planning Committee in January, date to be confirmed.

80 **WITHDRAWALS FROM THE AGENDA (0.19.59)**

There were no withdrawals from the agenda.

81 **THE PLANS LIST (0.20.05)**

The Committee considered the applications in the *Plans List.

Note: *List previously circulated and attached to the minutes

a) Application 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.

The Planning Officer outlined the application by way of a presentation which highlighted block plan, the original condition J, the approved plans, first floor elevations, south elevations, west elevations and photographs of the site.

The Officer explained that the Committee would need to determine if the breach of planning control was in excess of 10 years and if so enforcement was not legally an option.

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

In response to public questions the Officer did not think there was deception and there had been no objections raised during the period of public consultation.

Consideration was given to:

- The Planning Officer had carried out a site visit
- There had been no previous enforcement cases within the 10 year time limit
- Officers did not see the application as a concealment as the property was openly on view and not being hidden
- A Certificate of Lawfulness was different to Planning Policy and any enforcement period had passed
- The views of the Applicant who stated it was a detailed application which was not to be assessed against Planning Policy and that the matters set out were true. It would be unreasonable not to grant the Certificate of Lawfulness

It was therefore **RESOLVED** that the Certificate of Lawfulness be granted as recommended by the Development Management Manager.

(Proposed by Cllr B G J Warren and seconded by Cllr D J Knowles)

Reason for the decision: As set out in the report

Notes:

- Cllrs P J Heal, Mrs F J Colthorpe, J Cairney, 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 all made declarations in accordance with protocol of Good Practice for Councillors dealing with planning matters as they knew Cllr E J Berry
- Cllr B G J Warren made a declaration in accordance with protocol of Good Practice for Councillors dealing with planning matters as he had received correspondence from members of the public
- Ms K Berry spoke as the Applicant
- Cllrs B Holdman, F W Letch and L J Cruwys requested that their abstention from voting be recorded

b) Application 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.

The Area Team Leader outlined the application by way of a presentation which highlighted an aerial image, approved site location plan, approved site plan, block e south elevation, west and east elevations.

The Officer explained the reason for the variation was that there had been issues of the supply of red bricks and matching them to existing materials on site. The change in materials now mimicked an already approved block on site for colours and materials. The variation also proposed to replace the approved hit and miss brickwork ventilated screens in the car park with grey-brown coloured powered coated aluminium louvers.

Consideration was given to:

- If the applicant was not 3 Rivers Developments Ltd the application would have been delegated and not brought before committee
- The render and brickwork variation was retrospective but the louvre panels were not
- The views of the Town Council who stated that the variation was retrospective and had taken over 18 months to come before committee and that the louvre doors distracted from the original design and would see an increase in vehicle emissions
- There had been no objections from Public Health on the impact of vehicle emissions due to louvre doors being installed
- The louvre doors had been designed so that mechanical ventilation would not be required in the underground car park and would benefit both residents of the development and adjoining properties

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

(Proposed by the Chairman)

Reason for the decision: As set out in the report

Notes:

- Cllrs Mrs C P Daw and L J Cruwys made declarations in accordance with protocol of Good Practice for Councillors dealing with planning matters as they were Members of Tiverton Town Council and were both Ward Members
- Cllr D J Knowles made a declaration in accordance with protocol of Good Practice for Councillors dealing with planning matters as he was a Member of Tiverton Town Council and knew some of the objectors
- Cllr B G J Warren made a declaration in accordance with protocol of Good Practice for Councillors dealing with planning matters as he had been contacted by objectors
- Cllr B Holdman made a declaration in accordance with protocol of Good Practice for Councillors dealing with planning matters as he was a Member of Tiverton Town Council and had been contacted by objectors
- Cllr P Elstone spoke on behalf of Tiverton Town Council
- Cllr B Holdman requested that his vote against the decision be recorded
- Cllrs L J Cruwys and J Cairney requested that their abstention from voting be recorded

c) Application 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.

In response to questions asked by the public the Area Team Leader stated that:

- The design of trees and footways would be for Members to discuss
- Condition 6 currently required 6 – 12 months of percolation testing if the surface water drainage was going to be dealt with on site. As it had now been established that the surface water drainage would be dealt with offsite the requirement to test was no longer valid.
- Members would discuss Construction Traffic
- The Application was compliant to Policy
- The pavements were 2 metres wide and dropped kerbs were included

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

The Officer explained that the reserved matters contained details of access, appearance, landscaping, layout and scale following outline approval. He acknowledged that there was a lot of local objection but the application submitted was satisfactory and the principal of development had been established through the outline application.

Consideration was given to:

- The final materials used, including slate roofs would be dealt with by Condition 2
- Police concerns had been addressed by a Condition that ensures suitable boundary treatments were put in place
- The views of the objector who stated that the height of the houses overlooking the existing bungalows had not been considered, there were width restrictions on the roads leading to the construction access point, local concerns with access to and from Tiverton Road and that the oldest village in the district should be protected
- The views of the agent who stated that the principal of development had been established and that the developer had worked hard to address the concerns of local residents. 7 affordable houses would form part of the application.
- The views of the Ward Member who had called in the application so that the local public could have their say, did the application demonstrate best design practices, the lack of specification in materials to be used and the impact on traffic in the local area
- Some Members concerns with regard to lack of proposed parking and the impact of surface water drainage
- Confirmation that the application proposed in excess of minimum car parking requirements and was policy compliant
- The surface water would be now dealt with via attenuation ponds which would disperse into the main drains in a controlled manner and were approved by the Flood Authority

It was therefore **RESOLVED** that the reserved matters be approved subject to conditions as recommended by the Development Management Manager.

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

Reason for the decision: As set out in the report

Note:

- Cllrs D J Knowles, P J Heal, Mrs C P Daw, Mrs 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 received correspondence
- Cllr B G J Warren made a declaration in accordance with protocol of Good Practice for Councillors dealing with planning matters as he had represented the Authority at appeal
- Cllr F W Letch left the room at 3.50pm and took no part in the discussion or vote
- Mr Grimes spoke as the objector
- Mr Lethbridge spoke as the agent
- Cllr J Wright spoke as the Ward Member
- Cllrs L J Cruwys, B Holdman and J Cairney requested that their abstention from voting be recorded

d) Application 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.

The Area Team Leader explained that a S106 Agreement had been agreed at outline planning stage but this would now require a deed of variation.

Conditions 5, 6, 7, & 8 were regarding drainage and the need for tests to be carried out if the surface water drainage was to be dealt with on site. It had now been established that the surface water drainage could not be dealt with on site so these tests were no longer required. The applicant had provided details of the new surface water arrangements and the Flood Authority had been consulted.

Conditions 9 & 10 required the provision of a Construction Management Plan which had now been provided by the applicant.

The Area Team Leader outlined the application by way of a presentation which highlighted an aerial image, contractor's compound and parking area, construction phase drainage, foul and surface water drainage, drainage layout plan and photograph's of the site.

The Officer explained that although there were 3 possible routes into the site only 1 was suitable for construction traffic and there had been no concerns from the Highways Authority.

Consideration was given to:

- The Developer had an agreement with the land owner for the compound and parking area
- The access into the site had been approved at outline and was for residential use and not construction traffic
- The use of Banksmen had been conditioned for safety
- The issue of mud on roads had been dealt with in the Construction Management Plan
- The Agent who stated that the change of conditions was to catch up with the reserved matters already approved. The construction was due to start in spring 2023 and take about 12 months and that the roads and drainage would be built out first

It was therefore **RESOLVED** that removal and/or variation of Conditions 5, 6, 7, 8, 9 and 10 of Planning Permission 18/02019/MOUT be granted subject to conditions as recommended by the Development Management Manager and:

- A Deed of Variation for the S106 Agreement be signed
- An amendment to the Construction Management Plan that the construction access, compound and car park area be reinstated back to original and a timescale added for doing so

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

Reason for the decision: As set out in the report

Notes:

- Cllrs D J Knowles, P J Heal, Mrs C P Daw, Mrs 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 received correspondence
- Cllr B G J Warren made a declaration in accordance with protocol of Good Practice for Councillors dealing with planning matters as he had represented the Authority at appeal
- Mr Lethbridge spoke as the Agent
- Cllrs B Holdman and L J Cruwys requested that their abstention from voting be recorded

e) Application 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.

The Area Team Leader outlined the application by way of a presentation which highlighted an aerial image, a site location plan, proposed block plan, parking roof module plans, external biomass store, site roof plan, site views and photographs of the site.

The Officer explained that the Flood Authority had raised no objections but requested that the surface water drainage be considered which had been completed. Public Health had noted that the heat pumps were at ground level but were not near any residential properties and had no objections.

Consideration was given to:

- The heights of vehicles using the parking spaces and that there were alternative spaces available for larger vehicles
- The overall support from Members who welcomed the proposals

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

(Proposed by Cllr J Cairney and seconded by Cllr F W Letch)

Reason for the decision: As set out in the report

- Cllr F W Letch returned to the meeting at 4.58pm and before the item was presented and was able to take part in the discussion and vote
- Cllr J Cairney made a declaration in accordance with protocol of Good Practice for Councillors dealing with planning matters as he was a member of the leisure centre and was Ward Member
- Cllr D J Knowles made a declaration in accordance with protocol of Good Practice for Councillors dealing with planning matters as he was the Cabinet Member for Community Wellbeing and the Leisure Centres were in his portfolio

- Cllr R F Radford made a declaration in accordance with protocol of Good Practice for Councillors dealing with planning matters as he was a registered carer who had free access to the Leisure Centres

82 **MAJOR APPLICATIONS WITH NO DECISION (3.01.57)**

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

The Committee agreed that:

- 22/01910/MOUT – Remain delegated
- 22/01671/MFUL – Be determined by Committee if officer was minded to approve and that a full Committee site visit take place
- 22/00915/MFUL - Be determined by Committee if officer was minded to approve and that a full Committee site visit take place

Note: *list previously circulated and attached to the minutes

(The meeting ended at 5.37 pm)

CHAIRMAN

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PLANNING COMMITTEE AGENDA - 30th November 2022

Applications of a non-delegated nature

<u>Item No.</u>	<u>Description</u>
01.	22/00735/MARM - Reserved matters for the erection of 200 dwellings following outline approval 17/01346/MOUT at Land at NGR 301738 107814, Tiverton Road/, Goblin Lane. RECOMMENDATION Approve Reserved Matters subject to conditions
02.	22/01234/FULL - Erection of a replacement dwelling with garage/workshop and landscaping following demolition of existing at Gilberts Lodge, Morebath, Tiverton. RECOMMENDATION Refuse permission.
03.	22/01556/MFUL - Erection of new external heat pump systems, installation of solar car ports to parking areas and installation of photovoltaic panels to existing roofs at Exe Valley Leisure Centre, Bolham Road, Tiverton. RECOMMENDATION Grant permission subject to conditions.
04.	22/01835/TPO - Application to fell 1 Chestnut tree protected by Tree Preservation Order 94/00009/TPO at Land at NGR 303328 110201, Harpitt Close, Willand. RECOMMENDATION Grant consent.
05.	22/01688/MOUT - Variation of conditions 7, 9, 10 and 11 of planning permission 17/01359/MOUT to amend the requirement for access and highway works from pre-commencement of development to occupation of development (Outline for the erection of 60 dwellings and construction of new vehicular access onto highway to the West of the site) at Land and Buildings at NGR 302469 114078, Higher Town, Sampford Peverell. RECOMMENDATION Grant permission subject to conditions and the signing of a S106 agreement to secure.
06.	22/00868/MFUL - Removal of condition 13 of planning permission 17/01142/FULL - further noise assessments at Land at NGR 299621 112764 (Red Linhay), Crown Hill, Halberton. RECOMMENDATION Grant permission subject to conditions.
07.	22/01437/FULL - Conversion of redundant agricultural building to a dwelling at Barn at NGR 287821 106397 (Orchard Hayes Farm), Cheriton Fitzpaine, Devon. RECOMMENDATION Refuse permission.

Application No. 22/00735/MARM

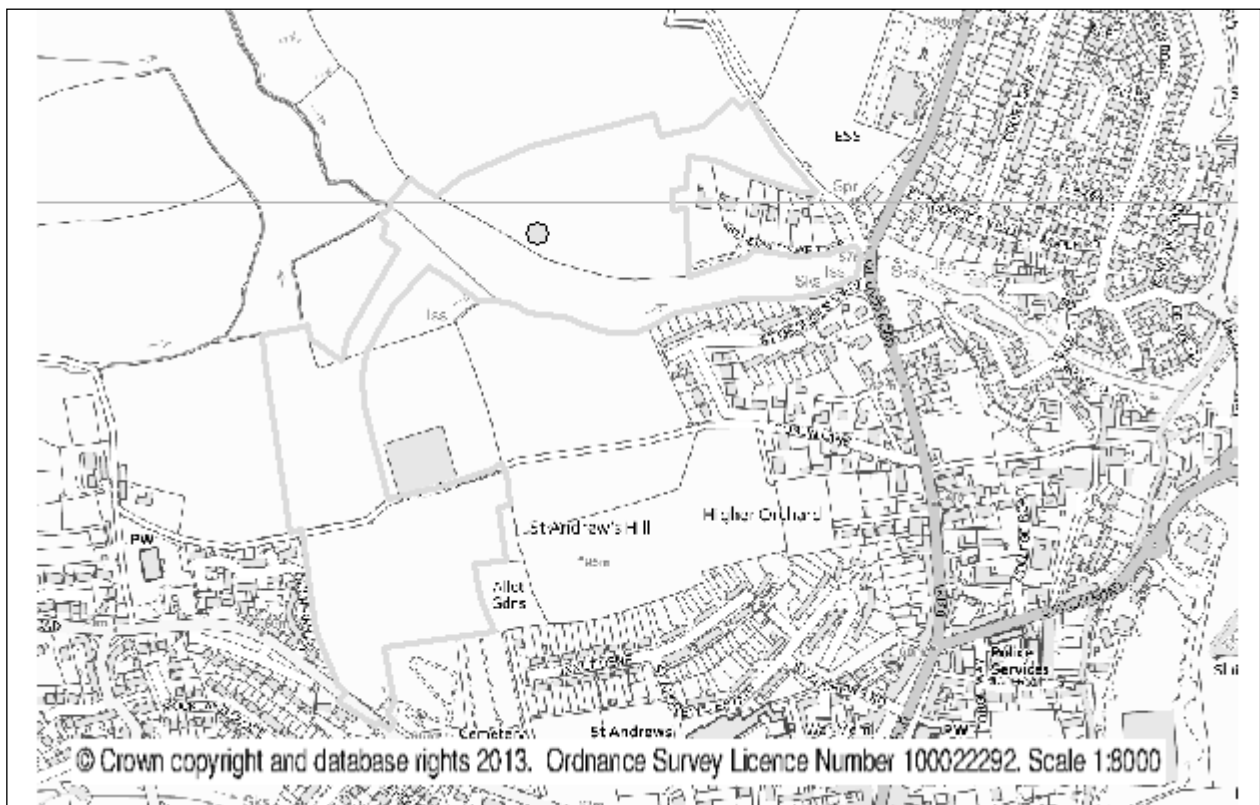
Grid Ref: 301738 : 107814

Applicant: Barratt David Wilson

Location: Land at NGR 301738 107814
Tiverton Road/
Goblin Lane
Cullompton

Proposal: Reserved matters for the erection of 200 dwellings following outline approval
17/01346/MOUT

Date Valid: 12th April 2022



APPLICATION NO: 22/00735/MARM

RECOMMENDATION

Approve reserved matters subject to conditions

PROPOSED DEVELOPMENT

The application is for reserved matters for the erection of 200 dwellings together with associated infrastructure following outline approval 17/0346/MOUT.

A 'hybrid' (part outline/part full) outline planning permission 17/01346/MOUT was granted in 2021 for 200 dwellings including a linking spine road, with all matters reserved. A 100 metre section of the road where it adjoins the Persimmon parcel and the northern 'Pegasus' crossing were granted full planning permission through this hybrid application. In addition, the outline planning permission secured the principle of the remainder of the road within the application site.

Reserved matters approval is now sought in respect of the access, scale, appearance, layout and landscaping of the development previously granted outline planning permission.

The site comprises two main areas of housing: to the north of St George's Well, and to the north of Tiverton Road and west of St Andrews Scheduled Monument, the two parts linked by the proposed new link road which extends to the boundary of the Persimmon Homes parcel to the north (17/01178/MFUL). The land is currently laid to pasture and slopes up from Tiverton Road, before dropping into the valley of St George's Well, and back up towards Rull Hill.

There is an existing residential development to at Olympian Way to the south west of the site and residential properties at St George's Well and St George's View lie to the east. There is agricultural land to the west and the Persimmon development site to the north.

The site is allocated and shown as suitable for residential development within the adopted NW Cullompton Masterplan SPD. The proposal is for 200 dwellings (with 20 affordable), the southern section of the spine road, attenuation ponds and areas of public open space and ecology enhancements.

Separate planning permission was granted for the section of the spine road within the applicant's ownership on 13 October 2022 (reference 22/00706/MFUL). This is the same section of spine road that passes through the site the subject of this reserved matters application. Therefore the section of the spine road included within this reserved matters application already has planning permission.

APPLICANT'S SUPPORTING INFORMATION

Acoustic assessment
Air quality survey
Carbon reduction statement
Planning statement
Statement of community involvement
Transport assessment
Waste management plan
Landscape and visual appraisal
Surface water drainage strategy
Archaeological written scheme of investigation
Arboricultural method statement

Arboricultural impact assessment
Highway capacity assessment
Junction options
Geo-environmental and geo-technical site investigation
Biodiversity net gain assessment
Ecological appraisal
Heritage statement

RELEVANT PLANNING HISTORY

17/01346/MOUT - PERCON date 26th November 2021

Outline hybrid planning application for the erection of 200 dwellings together with associated infrastructure and public open space and Full permission for portion of Link Road (land comprising southern portion of Phase 1 of North West Cullompton Urban Extension)

22/00706/MFUL - PERCON date 13th October 2022

Construction of vehicular access onto Tiverton Road and construction of spine road and associated infrastructure to facilitate the North West Cullompton urban extension

OTHER HISTORY

21/02348/PREAPP - PCO date

PROTECT - Northwest Cullompton Phase 1 and Phase 2 development

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013 – 2033

S1 Sustainable development priorities

S9 Environment

CU1 North West Cullompton

CU2 North West Cullompton transport provision

CU3 North West Cullompton environmental protection and green infrastructure

CU5 North West Cullompton carbon reduction and air quality

DM1 High quality design

DM2 Renewable and low carbon energy

DM5 Parking

DM25 Development affecting heritage assets

DM26 Green infrastructure in major development

Cullompton Neighbourhood Plan

SD02 Links to the town centre

SD03 Flood attenuation

SD04 Solar design in housing schemes

SD05 Connectivity

HT04 Improving footpaths

HS01 Housing mix

HS02 Social and affordable housing

HS04 Parking on housing schemes

EN01 Protecting and enhancing the natural environment

TC02 Character of the built environment

WL03 Usable public open space

WL08 Dementia friendly town

CONSULTATIONS

Cullompton Town Council – 2 November 2022

RESOLVED that planning application 22/00735/MFUL is not supported for the following reasons:

1. There is housing that appears to open directly onto the spine road which is not acceptable.
2. How are SWW going to deal with the provision of fresh water and the removal of waste water from another 200 houses particularly considering that the water treatment plant is at capacity? Grey water recycling should be considered.
3. Access to the allotments and cemetery was requested at the outline stage but there is none in the plans.
4. There should be no further development at this site until the spine road is open for traffic and/or the Eastern Relief Road is delivered.
5. The car parking provided does not meet with the Neighbourhood Plan Policy HS04.
6. There is concern that there is a significant lack of additional sporting facilities in this development.

Highway Authority – 11 May 2022

The details submitted under planning application number 22/00735/MFUL have been assessed in conjunction with Devon County Council's Highway Design Guidance and Manual for Streets 1 & 2.

General Arrangement Plan 1 PLA-100 Rev A. Rear of Plot 187 and 184 and 185 looks like it should be a private drive.

All the Long Section Plans show the gradients and K values are acceptable.

The General Arrangements plan for the signalled junction is being assessed under Application Number 22/00706/MFUL.

The parking proposed looks to meet the Mid Devon Local Plan Policy DM5

The Highway Authority has no objection to the proposed layout, 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.

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

Rights of Way Officer – 21 April 2022

The proposal as submitted directly effects two bridleways. The plans show that Bridleway No.8 is to be diverted and a Pegasus crossing installed to allow safe passage for public users when crossing the road. The diversion will need to be completed prior to the commencement of any work. This needs to be undertaken by the planning Authority under S275 of the Town and Country Planning Act,

Bridleway No.9 is also to be bisected by the same spine road, however it appears that no provision has been given to the safe crossing this new road. The bridleway is a well-used pre-existing highway and must have as a minimum requirement a Pegasus crossing as detailed on Bridleway 8.

I also need to raise the question of who will be maintaining the hedgerows that abound the two bridleways in the future. As I'm sure you are aware hedges are not part of the bridleway (highway) and are normally maintained by the landowner. What provision is being made for the seasonal cutting of these so they do not become overgrown and obstruct the highway?

More generally, should planning permission be granted the applicant must ensure that the path is kept open and available for the public to use during site preparation and construction. If a temporary closure is required the applicant would need to apply to the County Council for a Temporary Traffic Regulation Order. It should be noted a temporary closure cannot be seen as an alternative to adequate safety measures to mitigate risk to public users, and furthermore, the suitability of other routes would also be a consideration.

Please note that the grant of planning permission does not grant the right to close, alter or build over a right of way or road in any way, even temporarily, this includes, for example, a change in the surface, width or location. Nothing should be done to divert or stop up a public right of way or road without following the due legal process including confirmation of any order and the provision of any new path. In order to avoid delays this should be considered at an early opportunity.

Flood and Coastal Risk Management Team – 15 November 2022

I will withdraw our objection. Avocet Civils confirmed the maintenance responsibilities to me in an email on 20th October:

IWNL will be taking ownership of adoptable drainage element. MDCC Highways for gullies & raingardens & a private management company will be maintaining everything else such as basins, St Georges well stream diversion etc. please let me know if you need something a little more formal than this.

I will form a response now.

Previous response – 20 October 2022

I could be content to withdraw our objection. However, the applicant has not submitted to you all of the details which they submitted to myself. I don't believe that I have seen any correspondence from South West Water confirming that they will accept a connection from the site into their system (within Tiverton Road). I have asked the applicant to submit the details to yourselves.

Previous response – 4 May 2022

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

The applicant has proposed to manage surface water within basins before discharging to the Ordinary Watercourses. The applicant has also proposed to manage surface water within an attenuation tank before discharging into South West Water's surface water sewer.

Greenfield runoff rates should be calculated for impermeable areas only. This area should not include allowances for urban creep nor climate change. Allowances for urban creep and climate

change should only be included within storage calculations. MicroDrainage model outputs are required to demonstrate that the system and flow control are sized appropriately.

The applicant has proposed to drain part of the site into South West Water's surface water drainage system. The applicant must submit correspondence from South West Water to confirm that they will accept these flows into their system.

Attenuation ponds were previously proposed for these catchments. The applicant should clarify whether permanent water levels are proposed within the basins. The Local Planning Authority should confirm whether they would prefer the basins to contain permanent water levels. The applicant has referred to low flow channels within the basins.

Infiltration tests are referred to within the Surface Water Drainage Strategy (Ref. AVO21085-220223-R-SWDS; Rev. A01; dated March 2022). However, the results of these tests do not appear to have been submitted for this planning application. The Surface Water Drainage Strategy refers to 2 separate Ground Investigation reports, one of these reports has been submitted for 22/00729/MFUL. The Ground Investigation report (Ref. E05588-CLK-XX-XX-RP-GT-0002) submitted for 22/00729/MFUL encountered groundwater. The applicant should ensure that groundwater will not affect the surface water drainage system.

The applicant should confirm whether the fields either side of the proposed spine road have been accounted for within Catchment 5:

Factors should not be applied to the Pollution Hazard Indices within the Simple Index Approach. Whilst we appreciate that the applicant has proposed features to treat surface water throughout the site, the applicant should reassess the Simple Index Approach. The applicant should include all surface water drainage features on the Drainage Layout Sheets.

The applicant has submitted maintenance details for the proposed surface water drainage system. The applicant must also confirm who shall be responsible for maintaining the entire surface water drainage system.

The applicant must demonstrate how exceedance flows shall be managed.

The proposed culvert will require Land Drainage Consent from Devon County Council's Flood and Coastal Risk Management Team. For a Land Drainage Consent application, we would require calculations to demonstrate the sizing of the culvert. We would also question the necessity for the proposed grill. The culvert should not impact on the functionality of the watercourse. A clear span bridge would allow the existing channel (banks and bed) to remain in-situ. An applicant would need to clarify how the culvert would be accessed for maintenance.

The applicant should include flood zones on a plan to demonstrate that the basins/ponds are located outside of flood zones 2 and 3. The applicant should also include the outfalls for all basins/ponds.

Environment Agency – 3 May 2022

We have no objections to this proposal provided that conditions are included within any permission granted to safeguard the floodplain of the St Georges Well stream and secure a Construction Environment Management Plan (CEMP).

The suggested wording for these conditions and related advice is set out below.

Condition - Floodplain of the St Georges Well Stream

There shall be no temporary storage or depositing of material, on the floodplain of the St Georges Well Stream, except that associated with creation of the highway that crosses it. This includes the arisings from creation of the proposed channel and scrapes.

Reason: To ensure no loss of floodplain storage occurs within Flood Zones 3 and 2 as a consequence of delivering the development.

Condition - Construction Environment Management Plan (CEMP)

No development shall take place until a detailed Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. This Plan shall include details of all permits, contingency plans and mitigation measures that shall be put in place to control the risk of pollution to air, soil and controlled waters, protect biodiversity and avoid, minimise and manage the productions of wastes with particular attention being paid to the constraints and risks of the site. Thereafter the development shall be carried out in accordance with the approved details and any subsequent amendments shall be agreed in writing with the Local Planning Authority.

Reason: To ensure that adequate measures are put in place to avoid or manage the risk of pollution or waste production during the course of the development works.

Part of the application site is located within Flood Zones 2 and 3, defined as having a medium and high probability of flooding respectively. Technically, the application will therefore be subject to the flood risk Sequential Test as set out in the NPPF. However, the proposed site plan indicates that the flood zone will not be developed but will instead form part of the green infrastructure network. We welcome this and are satisfied that a sequential approach has been taken to the layout of this site.

We support the principle of reinstating the channel of the St Georges Well Stream back to its valley bottom, in particular the creation of 'scrapes', as shown on the submitted 'General Arrangement' drawings. This would deliver benefits in terms of managing local flood risk.

However, the functionality of the floodplain of the St Georges Well Stream in terms of its ability to store flood waters must not be compromised by the development. Very often areas of floodplain are used for the storage/disposal of soil during the construction process. This can have an adverse effect on flood risk and water quality. To avoid this we strongly advise that permission be subject to the above conditions.

Advice - Ordinary watercourse consent

Under the terms of the 1991 Land Drainage Act, erection of flow control structures or any culverting of any ordinary watercourse requires consent from the lead local flood authority, which in this instance is Devon County Council. In this instance, the crossing of the St Georges Well Stream will require the applicant to obtain a Flood Defence Consent from the lead local flood authority. It is best to discuss proposals for any works with them at an early stage.

Advice - Construction Environment Management Plan (CEMP)

We recommend that a CEMP is produced to pull together and manage the pollution control and waste management requirements during the construction phase. A CEMP is best prepared with the main Contractor.

Run off from exposed ground / soils can pose a significant risk of pollution to nearby watercourses, particularly through soil/sediment run off and the CEMP should address how such run-off can be minimised, controlled and treated (if necessary). The applicant should ensure that this is considered well in advance because some treatment methods can require an Environmental Permit to be obtained.

We recommend that a CEMP is drafted using the guidance from PPG6.

<https://www.gov.uk/government/publications/construction-and-demolition-sites-ppg6-prevent-pollution>. We also advise that the use or disposal of any waste should comply with the relevant waste guidance and regulations.

South West Water – 10 May 2022

Please find attached a plan showing the approximate location of a public 3 inch cast iron water main/ 90mm PE water main in the vicinity of the above proposed development. Please note that no development will be permitted within 3 metres of the water mains. The water mains must also be located within a public open space and ground cover should not be substantially altered.

Should the development encroach on the 3 metre easement, the water main(s) will need to be diverted at the expense of the applicant www.southwestwater.co.uk/developer-services/water-services-and-connections/building-near-water-mains/

Further information regarding the options to divert a public water main can be found on our website via the link below: www.southwestwater.co.uk/developer-services/water-services-and-connections/diversion-of-water-mains/

South West Water is able to provide clean potable water services from the existing public water main for the above proposal. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network. South West Water is able to provide foul sewerage services from the existing public foul or combined sewer in the vicinity of the site. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network. The applicant can apply to South West Water for clarification of the point of connection for either clean potable water services and/or foul sewerage 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 the method proposed for all catchments apart from Catchment 6 to discharge into a surface water body via SuDS is acceptable, and that method proposed to discharge Catchment 6 flows into a surface water sewerage network is acceptable and meets with the Run-off Destination Hierarchy.

MDDC Housing Enabling – 2 August 2022

In terms of tenure mix, I would advise that 25% of the affordable housing will need to be provided as First Homes (in accordance with the latest national guidance). These should be discounted by a minimum of 30% and will be subject to a number of restrictions and eligibility criteria which will need to be set out in the legal agreement (we have a template for this, as adapted from the Government's First Homes s106 template). Of the remaining 75%, I would suggest that a mix of

60% affordable rent and 40% shared ownership would be appropriate. I would suggest that an appropriate dwelling size mix would be as follows:

1BH – 41%

2BH – 24%

3BH – 25%

4BH – 9%

5BH – 1%

This can be spread across the two phases with a mix of dwelling sizes and tenures included within each. There should also be some provision for step free and wheelchair accessible accommodation provided across all dwelling sizes.

Public Health – 18 August 2022

A comprehensive Construction Environment Management Plan has been submitted by BDW dated July 2022. We have considered the proposals to manage the construction in such a way that the local environment and public amenity are protected and have no concerns.

A further geotechnical report has been submitted by Clarkebond dated May 2022. Intrusive investigations of this agricultural land have not revealed any areas where contaminants of concern might be present. We agree with the findings of this report and have no outstanding contaminated land concerns.

Licensing - No comments - 14/04/22

Food Hygiene - No comments - 14/04/22

Private Water Supplies - No comments - 14/04/22

Health and Safety - No comments - 14/04/22

Historic England – 11 November 2022

Following further consultation with the applicants we are content that the scheme has been modified in line with our recommendations and no longer object to the proposal. Your authority should determine the application in line with local and national policy and with regard to the planning balance.

I would note, however, that condition 11 has yet to be satisfactorily agreed, which will be required in advance of implementation.

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

We consider that the application meets the requirements of the NPPF, in particular paragraph numbers 199 and 200.

Previous response - 8 August 2022

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

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

The introduction of new development into the setting of the monument has the potential to impact upon both the rural nature and the outlook, and the strategic importance of the site. In this instance we believe that any impact will be of a 'less than substantial' nature and as such advise that it will be for your authority to determine the application having duly considered the planning balance. We do, however, believe that the proposed layout makes no contribution to the conservation of nationally important designed views from the monument. We recommend that the current request be deferred pending the production of a visually permeable layout, allowing open view corridors of visibility from the monument through the development that Historic England would be happy to advise on.

Under the NPPF it is a core planning principle to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. No other planning concern is given a greater sense of importance in the NPPF. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. The onus is therefore on you to rigorously test the necessity of any harmful works.

Your authority should also aim to achieve sustainable development, seeking economic, social and environmental gains jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions. Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment. Your authority should therefore also seek to improve proposals so that they avoid or minimise harm to the significance of designated heritage assets. We do not believe this proposal meets these requirements.

Your authority should look for opportunities for new development within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

If a proposal cannot be amended to avoid all harm, then if the proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use

We are also pleased to note that the application includes potential proposals to enhance public understanding and enjoyment of the monument through a package of increased access and the provision of interpretation. We would suggest that the interpretation boards be supplemented by a short monograph intended for general audiences. We would also note that the Scheduled Monument is currently inscribed on the Heritage at Risk register as being 'at risk'. This is primarily as a result of continued cultivation that is believed to be destroying the interior features identified by geophysical survey and aerial photography.

Recommendation: Historic England has concerns regarding the application on heritage grounds. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 199 and 200 of the NPPF. Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice.

DCC Historic Environment Team – 29 September 2022

The Historic Environment Team has no additional comments to make to those already made, namely:

The consent granted for application 17/01346/MOUT is conditional upon a programme of archaeological work being undertaken - Condition 26.

While the required written scheme of investigation setting out the scope of the archaeological works required has been submitted and approved by the Planning Authority these works are yet to be undertaken. As such, I would advise that the applicant is made aware of this outstanding requirement.

MDDC Conservation Officer – 7 November 2022

Given the previous planning history on this site, I have no objections to the proposals. I do however consider that the colour palette of the materials needs to be kept to muted and recessive colours and that the landscaping and lighting need careful consideration.

DCC Ecology – 11 October 2022

Many thanks for forwarding the further information and revised Landscape & Ecology Mitigation Framework (LEMF), version F, November 2022.

I consider the additional mitigation in the form of a mammal ledge within the road culvert and additional planting acceptable and addresses the outstanding issue regarding Condition 5. Therefore, I confirm that the LEMF is sufficient to discharge the condition.

I have attached a document with a set of biodiversity conditions which I hope will be useful generally. I would recommend that the NW Cullompton applications include a specific dormouse monitoring condition if possible.

Previous comments – 7 October 2022

Further to our comments submitted on 16 September, the Ecological Impact Assessment (EclA) and Biodiversity Metric 3.1 calculation have been revised. Further information has been provided that explains that the loss of hedgerow and dormice habitat will not be wholly addressed by replacement hedgerow planting but will rather be mitigated by a mix of habitat types – hedgerows, native scrub and woodland. The EclA recognises that this is not expected to deliver immediate mitigation for dormice from the loss of habitat as these habitats will take time to mature. The EclA also states that connectivity of dormice habitat will be achieved across the site west-east-west in areas of Public Open Space (POS). However, Figure 5 BNG Assessment Indicative Proposals for the Spine Road and Phase 1 indicates that these areas will be dissected by the Spine Road and the development bordering it.

It will be key therefore, to see ecological mitigation for this species aimed at both maintaining populations in isolation within the segregated POS areas and providing connectivity between POS in the west and POS in the east, across the spine road in strategic locations with arboreal canopy and more innovative approaches such as Animex bridge(s) (as tested in association with People's Trust for Endangered Species), deployed. The level of detail: habitat provision in terms of quantity, locations, connectivity, and species composition (including defensive planting), will need to be set out in a Landscape & Ecological Management Plan, secured by condition, and provided to the authority for approval prior to works commencing.

All other mitigation measures and enhancement features in the revised EclA, can be secured by condition as previously advised (DCC, 30.05.22):

1. Construction Environmental Management Plan (CEMP) submitted for written approval by the planning authority prior to any works commencing. The CEMP should include a species mitigation strategy and accord with the structure and content detailed in the BS42020: 2013 Biodiversity: Code of Practice for Planning and Development.
2. Lighting Strategy for agreement with the authority that minimises impacts from lighting associated with pre-construction, construction and operational activities, and demonstrate how the current best practice (BCT/ILP, 2018) guidance and Devon guidance 'Maintaining dark corridors through the landscape for bats' (Jan 2022) has been implemented to ensure the site continues to support commuting and foraging bats within the site and the wider landscape.
3. Landscape and Ecological Management Plan (LEMP) submitted to, and be approved in writing by, the local planning authority prior first occupation of the development. The content of the LEMP accord with the 2 structure and content detailed in the BS42020: 2013 Biodiversity: Code of Practice for Planning and Development.

Biodiversity Metric 3.1 calculation

The calculation combines 22/0075/MARM Phase 1 and 22/00706/MFUL Spine Road applications. It appears to show a small net gain in habitats across the two applications. Given the complexities in bringing together an assessment that takes in all three PMAM applications and the potential for the delay in creating/enhancing habitats, it is recommended, that a condition requiring a final losses and gains assessment that demonstrates no net loss / delivery of off-site compensation and biodiversity net gain credit, is secured by condition.

Natural England – 15 August 2022

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

RSPB – 29 September 2022

We are disappointed that despite our previous response to the above dated 03/05/2022 the Recommendations in the Ecological Appraisal remains:

In addition to BNG, the following enhancements will be incorporated into the scheme design to help improve the biodiversity value of the Site post-development:

Bird boxes to be incorporated into new dwellings at a rate of 1 per 2 dwellings.

Bat boxes to be incorporated into new dwellings at a rate of 1 per 2 dwellings.

One bee brick to be incorporated into each dwelling.

Construction of four reptile/amphibian hibernacula.

Hedgehog holes (13x13cm) will be created in all boundary fences where levels allow.

We referred to BS42021 Integral nest boxes. Selection and installation for new developments, published in March and would like to draw your attention to Section 8.4.1. Residential buildings: To provide new and enhanced opportunities for nesting, the number of integral nest boxes on new residential developments shall at least equal the number of dwellings, i.e. the ratio of integral nest boxes to dwellings is 1:1.

In practice this means that some dwellings could receive more than one box while others might contain none as some locations on a development are much more suitable than others, i.e. closer to green infrastructure. This might mean for a development of 30 houses, some might have more than one box and others none.

Some schemes could include a combination of internal and external nest boxes. The installation of external nest boxes is out of scope of this British Standard, however, where external nest boxes

are included as part of the development plan they should also be included on the installation plan. Examples of species that might breed in external nest boxes in a built environment include the little owl, tawny owl, barn owl, kestrel, peregrine, starling, stock dove, jackdaw, black redstart, pied wagtail, spotted flycatcher, robin, wren, tree sparrow, swallow and house martin. External nest boxes are additional to the installation of integral nest boxes on new developments and should not be included as part of the 1:1 ratio.

We have found where the above criteria have been applied approx. fifty percent of the boxes monitored have shown signs of occupation in the first five years which we feel fully justifies applying the Standard's criteria in this and similar projects currently underway in Mid Devon.

MDDC Tree Officer – 29 September 2022

The revised Arboriculture Method Statement shows adequate protection fencing to trees/hedging being retained. In reviewing the plans it's felt there will be low likelihood of conflict between retained trees and the current proposal. No significant construction works is highlighted within the retained trees. Landscaping within the root protection areas have been addressed by hand dig only.

Previous response - 4 August 2022

The revised landscape strategy plan (25 July 2022) appears limited in terms of tree information. The plan indicates trees species to be utilised and stock size. However, there appears to be no indication tree planting species location, tree species quantity of individual trees or planting design.

The proposed tree planting will need to be afforded suitable aftercare to ensure successful establishment following tree planting that should be carried out in accordance with best practice.

Each specimen and orchard tree should be provided with a hydration bag. For a period of three years all young trees should be watered, filling of hydration bags where fitted, by applying a minimum of 60 litres of water per visit with 14 visits per season during the spring and summer. Stake and ties should be reviewed at every second visit and adjusted appropriately and combined weeding carried out. After three years, where a tree has been staked and tied, these should be removed. Any trees that are found to be dead, dying, severely damaged or diseased within five years of the completion of the building works or five years of the carrying out of the landscaping scheme (whichever is later), shall be replaced in the next planting season by specimens of similar size and species in the first suitable planting season. Prior to the expiry of 5 years where dead, dying, severely damaged or diseased trees are to be replaced a review of the tree stock should be carried out by the council with a view to a Tree Preservation Order being placed to ensure long-term protection.

Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 to safeguard and enhance the amenity of the area, to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality.

The following British Standards should be referred to:

- a. BS: 3882:2015 Specification for topsoil
- b. BS: 3998:2010 Tree work - Recommendations
- c. BS: 3936-1:1992 Nursery Stock - Part 1: Specification for trees and shrubs
- d. BS: 4428:1989 Code of practice for general landscaping operations (excluding hard surfaces)
- e. BS: 4043:1989 Recommendations for transplanting root-balled trees
- f. BS: 5837 (2012) Trees in relation to demolition, design and construction - Recommendations
- g. BS: 7370-4:1993 Grounds maintenance part 4. Recommendations for maintenance of soft landscape (other than amenity turf).

- h. BS: 8545:2014 Trees: from nursery to independence in the landscape - Recommendations
- i. BS: 8601:2013 Specification for subsoil and requirements for use

Previous response - 28 July 2022

The site contains a number of significant oak trees that contribute greatly to the landscape. Collectively all trees present provide moderate amenity value the local landscape.

A historic tree preservation ref: 66/00004/TPO protects 6 elms trees on site and 8 oak trees. Due the age of the TPO it anticipated that the elms may not be present or there are regrowth from the previous elms trees present.

The Revised Arboricultural Impact Assessment report dated July 2022 informs that there will be loss of three trees within G66 and G67, both category 'A' groups of trees. G66 removal is required to facilitate the northern Pegasus crossing and G67 require removal to facilitate the construction of the bridleway link between the existing bridleway to the north and proposed Pegasus crossing to the south. Also, lower category trees in group G64 and section of G63 requires removal to facilitate northern Pegasus crossing.

The removal of trees highlighted within the revised Arboricultural Impact Assessment will have an impact on the amenity value of the site and immediately areas. The report notes the loss of these trees can be largely mitigated by the retention of the majority of trees in the area and the implementation of a tree replacement strategy during the soft landscape phase. As the trees highlighted for removal are mature significant component in the landscape. Mitigation planting should be in the form of Advanced Heavy Standard (AHS) or Semi-mature size.

The revised Arboricultural Impact Assessment notes there will be encroachment within the root protection area of G24 to facilitate access for construction of the attenuation banks and outfalls. This impact is viewed as minor and will not have a long-term consequence.

Excavation is also highlighted in the root protection areas of G65 and the retained tree of G67. However, it's unlikely that roots from these trees will extend into the required excavation area due to the bridleway that forms a significant cut from the surrounding ground levels. Despite this there must be protection measure in place before commencing excavation in this area.

At the time of the revised Arboricultural Impact Assessment the routing of the services and utilities is unknown. However, installation of services should seek to avoid root protection areas. Where this is not possible the council should receive a detailed method statement.

In summary, the majority of trees are to be retained. A number of significant and moderate trees require removal to facilitate the proposal. This will result in a loss and amenity value. Some of which is mitigated by the retention of remaining trees and can be further mitigated through appropriate tree replacement planting in the long-term.

Devon, Cornwall & Dorset Police – 30 September 2022

Having reviewed the relevant information, I have no additional comments from a designing out crime and ASB perspective.

Previous comments – 19 April 2022

I have no objections in principle to the scheme, the layout proposed will provide both active frontages and good overlooking to the new internal streets and areas of open space. I welcome the details within section 4.7 of the Design Statement outlining how safety and security have been considered and incorporated into the layout. The intention to clearly define all front and enhance side boundaries where is appropriate, as detailed in the Landscape Strategy Plan, along with the

predominant use of back to back gardens is noted and supported. With this in mind, any ground floor immediately adjacent to public footpaths, for example, plots 161-162 & 179-180, are potentially vulnerable to anti-social and nuisance behaviour such as banging on windows to annoy occupants, greatly exacerbated if the effected resident gets annoyed and rebukes offenders, (then becomes a source of entertainment for offenders). Therefore, I strongly recommend the inclusion of defensible planting in front of these windows to negate this activity.

Confirmation is sought as to whether the indicated maintenance strips are gated to prevent access, as uncontrolled, leaves adjacent dwellings such as 62-63 & 194-195 vulnerable to crime and anti-social behaviour.

Perimeter security is one the basic principles of crime prevention, being the first line of defence against unwanted trespassers, as such the proposed rear, side and inter-plot definition treatments including gates, are noted and supported. However, I have concerns with the areas such as playgrounds, toddler play areas, seating facilities can have the potential to generate crime, the fear of crime and anti-social behaviour. If they are to be included throughout the scheme, it is recommended as a minimum requirement, fencing to a height of 1200mm be included to discourage casual entry, provide a safe clean play area and reduce damage to the equipment. Consideration should be given to a single dedicated entry and exit point to ease parental/guardian control and supervision.

Any planting in or around a play area must not reduce surveillance opportunities, both in and out or provide hiding places.

Consideration must be given to their security of the proposed community allotments with for example, the inclusion of robust perimeter security fencing and gates. Without suitable perimeter fencing, crime, anti-social behaviour and community conflict are highly likely to occur.

The proposed parking arrangements would appear satisfactory, From a designing out crime and disorder perspective it is vital that the parking provision for the proposed development is both enough when balanced against the schedule of accommodation, as even a one-bedroom dwelling could attract 2 vehicles, and designed that it is convenient and practical to use, for example, side by side parking as oppose to tandem style parking, as this will encourage its use and reduce the level of unplanned parking elsewhere. It is the 'elsewhere parking' that can introduce a source of conflict and rancour amongst residents, generally due to inconsiderate or obstructive parking and chaotic and vehicle dominated streets.

If, as proposed Goblin Lane is to be retained and used as a main pedestrian/cycle link with the town, it should be lit in accordance with BS 5489-1:2020 and provided with appropriate signage to support wayfinding.

REPRESENTATIONS

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

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

In relation to the principle of development established at outline application stage

1. Grave concerns about the increase in population and traffic as Cullompton already has issues with traffic through the town and several serious accidents have occurred in the last 12 months.
2. There should be no more housing should be built in Cullompton until the infrastructure is improved i.e. link road built taking through traffic away from the town centre and new school built. A contribution is being made to St Andrews School to increase its size. How is the increase proposed in an already cramped school with dangerous parking and traffic issues at school times?
3. It had been assumed that the Cullompton Ring Road would be built, but according to press reports this will not now happen due to financial problems. This calls into question any further developments in the town beyond very limited infill. The infrastructure is already overloaded and traffic pollution is a serious issue.
4. The developers, should be made to develop the spine road first, using Willand Road as a start point. Construction activities will increase the amount of heavy traffic delivering materials to site on roads that are already congested and narrow. Grave concern on reading the proposal to use Tiverton Road for the main construction traffic access for the proposed 200 dwellings. The Tiverton Road access should be the last part of the development that construction traffic may use. Access should be from the northern end.
5. The application only deals with an access road from Tiverton Road. The original development plan showed a spine road from Tiverton Road to Willand Road. Completion of the full spine road is essential to avoid further problems with Tiverton Road. The junction with High Street is already overloaded, leading to traffic queues and difficulties for buses.

In relation to this reserved matters application

6. The planned development and re-modelling of the marshy/wetland field will destroy its current bio-diversity, natural habitat and ecology.
7. How will the re-routing of the stream affect wildlife visiting and security to adjacent properties?
8. The pedestrian route runs close to the rear boundaries of a number of houses in St Georges View reducing privacy and increasing noise and light pollution. Can residents be offered fencing or can this proposed route be sited away from the boundaries?
9. There should be no temporary access from St George's View.
10. Parking spaces are situated close to the proposed permanent entrance in Tiverton Road. We would urge that owners of these parking spaces are ensured a good line of sight.
11. There is Japanese Knotweed close to Olympian Way.

One objection relates to application 22/00729/MFUL rather than this reserved matters application, and will be reported in relation to that application.

In addition, two objections have been received from Ward Members, as follows:

1. I object to the new junction with Tiverton Road being traffic light controlled. This will not be practical in this location, will be detrimental to traffic flow along the route traffic is to be encouraged down. It will cause difficulties for no.39 getting in/out of their driveway when traffic stopped at traffic lights. Likewise cemetery extension entrance. A roundabout may be a better solution.
2. I object to the diversion of a section of Goblin Lane. Goblin Lane is an historic route with well-established character and boundaries which should be retained as far as possible. I accept that there will need to be crossing points, but I do not see why it has been necessary to reroute part of the lane, other than to accommodate housing configuration. The housing layout should be designed to fit around the existing lane, not the other way around. The rerouted section will destroy the character of that part of the route along with the long established boundaries in that section which are important habitat for wildlife (including an established

feeding route for bats) and biodiversity. The route and its boundaries must be preserved as much as possible.

3. Also regarding Goblin Lane, concerned to hear that the bridle way is being used by unauthorised vehicular traffic. Measures to prevent this need to be considered.
4. Responsibility for the maintenance of Goblin Lane and its hedgerows will need to be established when it is no longer the responsibility of the adjacent landowner(s).
5. Surface water run off which ultimately discharges into water courses must be cleaned of pollutants and silt ... water courses downstream already suffer from excessive silting carried by surface water run-off.
6. Public open space in flood plain area of St George's Well. I am concerned that the character and biodiversity of this area will be harmed rather than enhanced. Most of the area is marked on the plans to become meadow grassland. Much of this area is currently marshy wetland, and should be left as such and any additional planting should be to enhance the marshy wetland environment, not change it. The ecological appraisal acknowledges the biodiversity value of the marshy grassland, yet later states that the loss of marshy grassland will be compensated by the creation of meadow grassland. The biodiversity value and habitat provided by marshy grassland is different to meadow grassland so do not think replacing existing the marshy grassland with anything else is any compensation at all. I have not been able to ascertain what materials the pedestrian footpath through this area is proposed to be constructed of. Given the area is a flood plain and marshy grassland a boardwalk style path would be a practical solution rather than a tarmac or other hard standing ground level surface. It would also be more attractive and give a less 'urban' look which tarmac paths would bring to the area. The area should be left unlit so as not to interfere with the wildlife (bats etc) which use this area.
7. I thought NPPF now said that new streets should be tree lined? I don't see too many of those in the plans and would prefer to see more.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

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

1. Principle of development

- 1.1. The site is part of a wider site allocated for mixed development by policies CU1-CU6 of the Mid Devon Local Plan 2013-2033 and is part of the NW Cullompton Urban Extension.
- 1.2. The NW Cullompton Urban Extension Masterplan SPD which adds detail to the Local Plan policies shows the site for residential development.
- 1.3. Outline planning permission was granted on 20 September 2019 for the erection of up to 200 dwellings and the southern section of a linking spine road, with full planning permission granted for a 100 metre section of the road where it links to the neighbouring land parcel.

All matters were reserved for consideration through later reserved matters application/s. The outline planning permission established the principle of residential development on this site. Only the detail submitted as part of this reserved matters application can now be considered.

- 1.4. In addition, separate planning permission was granted in October 2022 for the southern section of the spine road connecting Tiverton Road with the northern half of the spine road. The separate application was submitted as land required for drainage etc needed to be outside the original outline planning permission red line boundary and could not be covered only by reserved matters. The full spine road now has planning permission in two halves.
- 1.5. This application is for approval of reserved matters in respect of the access, scale, appearance, layout and landscaping of the development. However, as mentioned above, the access into the development and the remainder of the spine road has already been approved through the grant of the linked spine road planning permission 22/00706/MFUL.
- 1.6. Objections were raised about the principle of development on this site leading to an increased population, traffic congestion, pollution and lack of capacity at schools. As the principle of development has already been established through the Local Plan allocation as well as the outline planning permission, this is not for further consideration. In addition, the delivery of infrastructure required to make the development acceptable in accordance with planning policy was also dealt with at outline planning permission stage. Provision of sporting facilities was also considered at outline planning application stage, with the neighbouring developments providing one sports pitch and the school pitch. There is no requirement within this reserved matters application to provide additional sports facilities.

2. Access arrangements and spine road

- 2.1. Policy CU1 of the Mid Devon Local Plan 2013-2033 allocates a site of 100 hectares to the North West of Cullompton for mixed use development to include provision of a road linking Tiverton Road to Willand Road, and transport provision to ensure appropriate accessibility for all modes. Policy CU2 sets out transport provision policy for NW Cullompton including a requirement for the provision of a network of streets linking up with the existing highway network; and, including a through route linking Tiverton Road to Willand Road suitable for buses and all agricultural vehicles. Policy CU2 requires provision of pedestrian and cycle routes at appropriate locations throughout the development, creating an attractive, permeable network for non-car modes travelling within, into and out of the area including cycle and pedestrian links to and from the town centre and within the urban extension. Policy CU3 requires the protection and enhancement where possible of all existing Public Rights of Way.
- 2.2. Policy EN02 of the Cullompton Neighbourhood Plan supports measures to improve and extend the existing network of public rights of way and bridleways so long as their value as biodiversity corridors is recognised, protected and efforts are made to enhance biodiversity wherever appropriate. Policy HT03 supports proposals that further the development of an accessible network of cycle routes in and around Cullompton. Policy HT04 requires footpaths provided by new development to be a minimum of 2000mm in width, which should link to existing networks to facilitate easy and safe pedestrian access to the town centre and public facilities and services. Policy SD01 requires proposals for major development to mitigate any negative impacts of the traffic generation on Cullompton town centre and requires road infrastructure to be in place in good time to prevent an unacceptable impact on the existing road network, and the town centre in particular. Policy

SD02 requires all major developments to include provision for accessible pedestrian and cycle routes and connections that link safely to the wider network of routes.

- 2.3. Access arrangements were not granted planning permission at the outline planning application stage, but reserved for consideration under a later reserved matters application. The access arrangements are therefore for consideration under this reserved matters application.
- 2.4. Saying that, the applicant submitted a separate application for their section of the spine road under application 22/00706/MFUL which now has planning permission, being approved at the Planning Committee meeting on 5 October 2022. The access arrangements and spine road shown in the details of this reserved matters application therefore reflect the details already approved.
- 2.5. The proposed road has a carriageway width of 6.5 metres with a 2 metre wide footway on the eastern side, and a 3 metre wide shared foot and cycle way on the western side, separated from the carriageway by a 2 metre wide grass verge with trees and rain gardens incorporated into the verge. There are build-outs along the length of the road to reduce traffic speeds. The road is designed to be a bus route and to be the main route for pedestrians and cyclists through the urban extension.
- 2.6. Concern has been raised with regard to parking spaces in Tiverton Road retaining adequate visibility, and the safety of existing accesses including the cemetery. The safety of the access for all users was considered under the spine road application that now has planning permission. The access is no longer to be traffic light controlled, but a priority system from Tiverton Road into the development.
- 2.7. The road incorporates two 'Pegasus' crossings which are designed to be suitable for pedestrians, cyclists and horse riders. A section of Bluebell Lane bridleway is to be diverted to allow gradients to be reduced on the approaches to the crossing and to improve visibility. Currently, the bridleway is a sunken lane and very muddy and the diversion and surface improvements secured at outline stage will increase usability of the public right of way.
- 2.8. Where the spine road crosses Goblin Lane, a second 'Pegasus' crossing is to be provided offering a safe route for pedestrians, cyclists and horse riders to cross the spine road. Goblin Lane will be subject to a minor diversion only in the vicinity of the crossing point.
- 2.9. Representations have been made that Goblin Lane should remain open for the duration of work, providing an essential foot link. Devon County Council's Rights of Way Officer has advised that the diversion works to the public right of way would need to be completed prior to the commencement of other work. An application would be needed to divert Goblin Lane. If a temporary closure is required, a Temporary Traffic Regulation Order would be needed, but this should not be an alternative to adequate safety measures to mitigate risk. The grant of planning permission does not grant the right to close, alter or build over a right of way or road, even temporarily.
- 2.10. Both bridleways will be subject to a diversion. These have been kept to the minimum required to ensure a safe and convenient crossing of the spine road. The northern crossing has been diverted away from its original course to allow for shallower gradients either side of the crossing, the existing bridleway being a 'sunken' lane. Goblin Lane to the south has only been diverted for a short distance on the western side to allow a straight approach to the crossing. Other than where they need to be removed the diversions, trees

and hedges will be retained. Neither bridleway will be lit. The public rights of way officer originally had concerns about the crossing proposals, but these have now been amended and have been approved under the spine road planning permission 22/00706/MFUL.

- 2.11. In addition to connecting into the two bridleways, the proposal includes pedestrian links through St George's Well and St George's View to link into existing routes into the town.

3. Design and layout, including parking

- 3.1. The NPPF (para 124) states that the creation of high quality places is fundamental to the planning process. Good design and planning should ensure that developments function well and add to the overall quality of the area, seeking to establish a strong sense of place.
- 3.2. Policy S1 of the adopted Mid Devon Local Plan requires good sustainable design that respects local character, heritage, surroundings and materials, creates safe and accessible environments, designs out crime and establishes a strong sense of place. Policy S9 seeks high quality design that reinforces the character and distinctiveness of the built environment and creates attractive places. Policy DM1 requires the design of new development to be of high quality, based upon and demonstrating a clear understanding of the characteristics of the site, its wider context and making efficient and effective use of the site. It should make visually attractive places that make a positive contribution to the character of the area. Policy DM5 requires new developments to provide an average of 1.7 parking spaces per dwelling, and sufficient secure cycle parking to meet the policy standards.
- 3.3. Policy SD02 of the Cullompton Neighbourhood Plan requires all major developments to make provision for accessible pedestrian and cycle routes that link safely to the wider network of route, and that public areas are safe and overlooked. Policy TC02 requires development to contribute positively to the character of the built environment and reinforce local distinctiveness and a strong sense of place. Policy WL08 expects development proposals to show how they incorporate the principles of dementia-friendly and fully accessible environments. Policy HS04 requires 2 and 3 bed houses to have 2 parking spaces and 4 bed houses to have 3 parking spaces (but does not specify that this is excluding garages).
- 3.4. The NW Cullompton Masterplan SPD sets out a number of guiding principles including requiring development to respect its landscape context and surroundings, create well designed streets and spaces with a network of well-defined, safe, streets and spaces and good pedestrian and cycle links. Development should reflect the character of Cullompton and take inspiration from its locality.
- 3.5. A condition on the outline planning permission required the submission of an urban design and architectural principles documents to be submitted for approval before reserved matters applications are submitted. This document sets out how the reserved matters will respond to the guiding principles in the Masterplan SPD and sets out the urban design principles that would inform the layout and design, including elements such as character, block structure, parking, house types and materials. This document has been approved and the reserved matters submission follows the principles in the approved document.
- 3.6. The development is mainly formed with perimeter blocks of housing facing onto the street and public green spaces with gardens to the rear. There are houses facing onto all but one of the public spaces so they benefit from natural surveillance. The exception to this is the allotment site where houses back onto this space. Housing is laid out in terraces, semi-detached and detached forms with a higher density of housing along the primary roads and

looser densities with larger dwellings at the green edges. Boundary treatments facing the public realm are 'instant hedges' back by timber close boarded fences, with close boarded fences dividing back gardens.

- 3.7. The Devon & Cornwall Police have commented that the layout proposed will provide both active frontages and good overlooking to the new internal streets and areas of open space. Safety and security have been considered and incorporated into the layout. Maintenance strips are to be gated and allotments will have perimeter fencing.
- 3.8. Cullompton Town Council has commented that direct access onto the spine road is not acceptable. The majority of the houses will have vehicular and pedestrian access from side roads. However, there are a number of houses facing the spine road that have pedestrian and vehicle access directly from the road. These houses all have front gardens. On the eastern side there is a 2m footway in front of the houses, and on the western side there is a shared cycle and pedestrian way as well as a grass verge. Houses fronting the spine road do not front directly onto the road itself so that people are not walking directly out of their front doors onto the road or a shared space road. In planning policy terms, your officers consider the layout with some houses accessed from the spine road to be acceptable, providing active frontages along the road for better place-making outcomes, whilst ensuring that the road is sufficient width with verges and footways to allow for a flow of traffic, walking and cycling.
- 3.9. The Town Council has also requested access from the development into the allotments and cemetery. The applicant is able to provide a pedestrian path up to the boundary of the neighbouring allotment site (a footpath is currently shown skirting the northern boundary of the allotment site) but the allotment site itself is not within the control of the applicant. A section of a substantial hedge within the allotment site boundary would need to be removed. The new pedestrian route along the spine road links directly into the entrance to the cemetery.
- 3.10. Each house has at least 2 off-road parking spaces well-related to the housing, except for the 1 bed flats that have one space each. Larger houses, including all 4 bed houses, also have a garage. There are also 9 additional visitor spaces within the development. The parking provision exceeds the parking standards set out in policy DM5 of the Mid Devon Local Plan. Although Cullompton Town Council has commented that it does not meet policy HS04 of the Cullompton Neighbourhood Plan that requires 4 bed houses to have 3 parking spaces, policy HS04 does not specifically exclude garages from the number of parking spaces required, as is the case with policy DM5 of the Mid Devon Local Plan that specifically excludes garages. Taking this into account, the proposal is considered to comply with both policies.
- 3.11. The layout plan shows that some private drives are to be included within the layout. Where there are private drives, there are bin collection points shown. All houses have suitable space for storage of waste and recycling.
- 3.12. Whilst the development is characteristic of a modern housing development, the layout and design of housing picks up on some of the characteristics of Cullompton such as the use of materials and design details. The scheme has been designed to make use of existing landscape features such as trees and hedges. There is a variation of house types and materials through the development and clearly defined public open spaces. The Conservation Officer has recommended that colours are kept muted with colours that allow the development to recede into the landscape. This is particularly important on the sloping ground opposite the Scheduled Monument. All roof tiles are to be grey, and all elevations

on the hillside facing the Scheduled Monument will be red brick. However, a condition is recommended that where there is render, render colours are submitted for approval so that coloured rendered houses could be used to aid legibility through the site and make the site more dementia friendly.

- 3.13. All parts of the development are on sloping ground, with steeper gradients towards the north as the site rises up towards Rull Hill. The applicant has provided further information to demonstrate how the development would sit within the sloping topography. Plans have been reviewed to minimise the impact of retaining walls on the amenities of future residents and the visual quality of street scenes. Retaining walls have been moved away from the boundaries of the site to minimise impacts on neighbouring properties.
- 3.14. Overall, the layout and design of the development is considered to be acceptable and to meet the relevant policies.

4. Housing

- 4.1. Policy S1 of the adopted Mid Devon Local Plan seeks to deliver a wide choice of high quality homes through a diverse housing mix including the provision of accessible housing. The policy also requires energy efficiency measures and an increase in the supply of renewable energy. Policy DM1 requires housing to demonstrate adequate levels of daylight, sunlight and privacy to private amenity spaces and principal windows; suitably sized rooms and overall floor space as set out in the Nationally Described Space Standard with external spaces for recycling, refuse and cycle storage; and on sites of 10 houses or more the provision of 20% of dwellings built to Level 2 of Building Regulations Part M 'access to and use of dwellings'. It should be noted that in response to consultation on raising accessibility standards for new housing schemes, the Department for Levelling up, Housing and Communities said it was moving ahead with the regulatory changes in an attempt to help older disabled people. We await further update on this, but this will be a building control matter. Policy DM5 requires one electric car charging point per 10 dwellings. Policy CU5 requires renewable and low carbon energy to provide a proportion of the site's energy use.
- 4.2. Policy HS01 of the Cullompton Neighbourhood Plan Development requires major developments to contain an appropriate mix of house types and sizes and show how they contribute to meeting current local housing needs. Policy HS02 requires that affordable housing is visually indistinguishable from other housing and not located separately. Policy SD04 supports the use of passive solar design and renewable energy technologies in new housing, whilst ensuring acceptable standards of privacy and amenity. Policy HS04 requires appropriate provision of electric car charging points, and Policy SD05 requires developments to endeavour to include high speed broadband.
- 4.3. The proposal is for 200 dwellings, 10% of which are required to be affordable as agreed in the outline planning permission already granted. As such, this is not a matter for the reserved matters to consider and this cannot be altered at this time. The proposal is for a mix of 1 bed flats and 2, 3 and 4 bed houses. Market housing consists of 44 x 4 beds, 129 x 3 beds and 7 x 2 beds. Affordable housing consists of 4 x 1 bed flats, 7 x 2 bed, 7 x 3 bed and 2 x 4 beds, 50% being shared equity and 50% affordable rent. This does not correspond with the current comments from the Housing Enabling Officer as the proportion and tenure of affordable housing was set out outline planning permission stage, but is consistent with policy requirements.

- 4.4. Housing is to be provided in a mix of detached, semi-detached and terraced houses and flats. The affordable housing is indistinguishable from the market housing in that the house type designs look the same and the same materials will be used, except for the flats as there are no market flats. The affordable housing is spread through the site, interspersed with market housing. The proposal is considered to provide an appropriate mix of dwellings for the site.
- 4.5. There are 24 different house types proposed, with a consistent character across all house types. Most are two storeys with 12 x 2.5 storey houses along the spine road. All house types meet the Nationally Described Space Standard and have adequately sized private gardens.
- 4.6. Materials reflect the character of Cullompton being red brick and render with grey roof tiles. Windows are white UPVC and although a number of house type plans show white front doors, they will actually be a mix of colours and it is recommended that this is conditioned to add interest to the street scene. The house types are fairly traditional in design with pitched roofs and some gable fronts.
- 4.7. A fabric first approach has been taken to house design with improvements in energy efficiency above Building Regulations requirements. No renewable energy is being provided on this phase, with heating being provided by energy efficient gas boilers. One in 10 houses will have an electric car charging point which meets the policy requirements set out in DM5. High speed fibre broadband will be provided to every house.
- 4.8. All houses, including affordable housing, will be Part M compliant, and 194 will have level access. The remaining 6 houses will be a stepped access, and these are mostly on corner plots.
- 4.9. Detached garages to be provided on site meet the minimum size requirements set out in the adopted Mid Devon parking provision in new development SPD. One house type (15 houses total) has an integral garage which does not meet the minimum size standard, but 2 parking spaces are also provided for this house type making the number of parking space acceptable with or without the use of the garage. Secure cycle parking will be provided in garages or where no garages, within private gardens.
- 4.10. Overall, the housing provision is considered to be of an acceptable design with materials and detailing to reflect the character of Cullompton. Whilst not exceeding policy requirements in respect of renewable energy and electric car charging, the proposal does meet current policy requirements.

5. Flood risk and drainage

- 5.1. Policy S9 seeks to guide development to areas of lower risk of flooding and requires the provision of measures to reduce the risk of flooding, including the provision of sustainable drainage systems. Policy CU3 of the Mid Devon Local Plan requires appropriate provision for sewerage systems and provision of a sustainable urban drainage scheme to deal with all surface water from the development. Policy DM1 requires appropriate drainage including a sustainable drainage system and connection of foul drainage to a mains sewer where available.
- 5.2. Policy SD03 of the Cullompton Neighbourhood Plan requires that flood attenuation on major developments should make use of off or on site water features in suitable and safe locations, to contribute to the visual amenity and biodiversity of the area.

- 5.3. The areas of the site that are to be developed are in Flood Zone 1, the lowest flood risk category according to Environment Agency flood maps. A wide central area of the site is within Flood Zones 2 and 3 and this area will be retained as marshy grassland with additional flood mitigation measures such as the realignment of the stream to follow a more meandering course and the addition of scrapes to each side of the realigned watercourse to store flood water in flood events.
- 5.4. The site lies within the Environment Agency's critical drainage area for Cullompton which requires a higher level of scrutiny of drainage proposals to ensure that surface water run-off is managed appropriately and does not increase flood risk elsewhere.
- 5.5. A sustainable urban drainage system will be provided to include 3 attenuation ponds store surface water from the scheme. These will be planted with a seasonally wet meadow mix. In addition, rain gardens will be planted along the spine road to store and treat surface water run-off from the road. A small area at the access onto Tiverton Road will drain into the South West Water system (approval from SWW now confirmed).
- 5.6. The development will connect into the main sewer system. South West Water have confirmed that they are able to supply mains water to the development and cater for foul drainage from the development.
- 5.7. Following initial objections from the Lead Local Flood Authority, more information has been provided by the applicants directly to the LLFA. The LLFA have informally confirmed that they could be content with the drainage proposals shown on the revised documents once those documents have been formally submitted to the Council. These documents have now been received and added to the application, including confirmation from South West Water that a small section of the site can drain into their surface water drain. The Lead Local Flood Authority has confirmed by email that their objections are withdrawn that the proposals are now acceptable. A formal written response from them is awaited and Members will be updated once received. The drainage proposals are considered to comply with the relevant policies.

6. Heritage

- 6.1. Policy S1 of the Mid Devon Local Plan seeks to conserve and enhance the historic environment through protection of heritage assets and assessing the impact of new development on historic character. Policy S9 requires the protection of listed buildings, conservation areas, scheduled monuments and local heritage assets. Policy CU3 requires archaeological investigation and measures to record, and where necessary, protect the archaeological interest of the site seeks design solutions which respect the settings of listed buildings. Policy DM25 requires proposals likely to affect the significance of heritage assets to consider their significance, character and setting use. Policy CU3 sets out the requirement for archaeological investigation, protection and mitigation, and design that respects listed buildings within and adjoining the site.
- 6.2. Policy TC01 of the Cullompton Neighbourhood Plan requires development proposals affecting designated and non-designated heritage assets to comply with national policy and the development plan.
- 6.3. The National Planning Policy Framework affords great weight to the conservation of heritage assets and requires that any harm requires clear justification. Where a development proposal will lead to less than substantial harm to the significance of a

designated heritage asset, this harm should be weighed against the public benefits of the proposal.

- 6.4. The development site lies immediately to the west, and approximately 300 metres to the north of the St Andrew's Hill Scheduled Monument (SM) and, although allocated, development on the site has some potential to affect the setting and understanding of the SM. The development already has outline planning permission so the assessment of the scheme's effect on heritage assets is in relation to its design.
- 6.5. Historic England initially raised objections to the proposal in terms of the lack of permeability through the northern part of the scheme to allow appreciation of the SM. The scheme has been designed with a terraced green viewing area at the north of the site with a viewing corridor down across the hillside and St George's Well stream open space area to the SM on the southern side of the development. Historic England has now confirmed by email that their objection is withdrawn.
- 6.6. Historic England are generally content with the findings of the heritage assessment and have recommended that a package of interpretation in relation to the SM is delivered. This was conditioned at outline stage to be submitted as part of the reserved matters application. The applicant has submitted details of a package of interpretation which will consist of the provision of 3 x interpretation boards: two to be installed within the development, and one to be provided to St Andrews School. The exact location, size, materials and content of the boards will be conditioned for later approval, as this will include liaison with Historic England and tie in with the Cullompton Roman Town project. Historic England have also recommended that the SM is taken out of cultivation and access to it is increased. However, the SM is outside of the NW Cullompton allocation, in different ownership, and not in the control of the applicant to secure.
- 6.7. A requirement to carry out archaeological investigation was secured by condition through the outline planning permission. An archaeological written scheme of investigation to discharge the condition has been submitted and approved, although the archaeological works still need to be carried out.
- 6.8. There are two Grade 2 listed chapels within the cemetery to the south of the development/east of the spine road. The Conservation Officer has confirmed that given the previous planning history on the site, there are no objections to the proposals in terms of impacts on heritage assets.
- 6.9. Overall, the proposal is considered to effect nearby heritage assets and in particular the Scheduled Monument. Historic England has identified less than substantial harm would occur to the Scheduled Monument which would need to be weighed against the public benefit. The site is already allocated and has outline planning permission. The layout has been amended to minimise the harm on the heritage asset and to increase its understanding. The scheme would deliver 200 houses (including 20 affordable houses) and the southern half of the spine road, as well as new areas of accessible public open space and allotments. In the opinion of your officers, the public benefits of the proposal would outweigh the less than substantial harm identified. The development is therefore considered to be in accordance with the relevant policies in respect of heritage.

7. Open space, landscape, trees and ecology

- 7.1. Policy DM26 of the Mid Devon Local Plan requires major development proposals to demonstrate that green infrastructure will be incorporated within the site to include as biodiversity mitigation, resulting in a net gain in biodiversity; flood and water resource management; green corridors to link the site to the wider GI network and avoid habitat fragmentation. Policy S1 seeks to minimise impacts on biodiversity and provide a net gain in biodiversity. Policy S9 requires that on both designated and undesignated sites, development will support opportunities for protecting and enhancing species populations and linking habitats. Policy CU3 sets out the green infrastructure and open space requirements for the whole of the NW Cullompton Urban Extension.
- 7.2. Policy EN01 of the Cullompton Neighbourhood Plan seeks to protect important ecological sites and wildlife corridors and to incorporate enhancements into development wherever possible. Policy WL03 requires public open space on major new developments to be located and designed so that it is usable by residents and other members of the public for a range of leisure and recreation activities.
- 7.3. The majority of trees are to be retained. However, a number of significant and moderate trees require removal to facilitate the spine road and crossings with the bridleways. This will result in a loss and amenity value, some of which is mitigated by the retention of remaining trees and further mitigated through replacement tree planting. Where trees and hedges are required to be removed for the bridleway diversions, there will be replacement planting to retain character, amenity and wildlife value. The landscaping plan has also been revised to include street trees wherever possible, including along the spine road, which will also feature planted rain gardens.
- 7.4. MDDC's Tree Officer has confirmed that the revised Arboriculture Method Statement shows adequate protection fencing to trees/hedging being retained. There will be low likelihood of conflict between retained trees and the current proposal. No significant construction works is highlighted within the retained trees and landscaping within the root protection areas has been addressed by hand dig only. Details of planting and long term maintenance of new trees should be set out as part of a Landscape & Ecological Management Plan to be submitted for approval.
- 7.5. This reserved matters application is making a contribution towards the overall provision of open space and green infrastructure at NW Cullompton including an area of public open space referred to as the St George's Well stream area. The open space will retain its marshy grassland character, but the stream will be realigned to the valley floor and to be more meandering in nature. This area will be opened up for public access with the inclusion of a tarmac footpath on the northern side of the stream and a bridge across the stream to facilitate pedestrian movement between north and south. Tarmac has been chosen so that the path is accessible to all and for long term maintenance reasons. The footpath has been moved from the southern side of the open space to the northern side to take it away from the backs of existing properties. Existing ditches along the southern boundary will be retained. Existing marshy grassland will be retained and protected during works to realign the stream and create the scrapes. Where earth has been exposed to realign the stream and create the scrapes, these areas will be reseeded.
- 7.6. Smaller areas of green space including a terraced viewpoint and landscaped areas around attenuation ponds are also incorporated into the development.

- 7.7. The applicant has confirmed that one bird box will be provided per dwelling, in accordance with the request from the RSPB.
- 7.8. The landscape and ecology impacts of the development were initially assessed at the outline application stage. One of the conditions on the outline planning permission is that a Landscape and Ecological Mitigation Framework (LEMF) needs to be submitted for approval. This document demonstrates how a biodiversity net gain can be achieved on site and has been assessed by Devon County Council's ecologist and has been approved.
- 7.9. Devon County Council's ecologist has confirmed that subject to mitigation, the proposal is acceptable in terms of its impact on wildlife and habitats. The level of detail in relation to habitat provision in terms of quantity, locations, connectivity, and species composition (including defensive planting), and all mitigation measures and enhancement features set out in the revised Ecological Impact Assessment will need to be set out in a Landscape & Ecological Management Plan, Construction Environmental Management Plan and Sensitive Lighting Strategy, secured by condition, and provided to the Local Planning Authority for approval prior to works commencing.
- 7.10. The ecology report submitted for this application also covers the spine road and phase 2 applications. Natural England Licences will be needed to close one outlier Badger Sett and to remove hedgerows that are suitable for Dormice. The Licences will require comprehensive method statements to be agreed with Natural England, with their terms and conditions subsequently being closely followed.
- 7.11. To gain an EPS Licence from Natural England, the proposed development must satisfy three criteria:
 1. The development must be for reasons of overriding public interest;
 2. There is no satisfactory alternative; and,
 3. The favourable conservation status of the species concerned will be maintained and/or enhanced i.e. through appropriate mitigation.
- 7.12. The conclusion of the report is that subject to mitigation, connectivity will be maintained for Dormice across the site. Mitigation in the form of new connective hedge planting, a mammal ledge through the culvert and the provision of nest boxes will be provided and this has been approved by the Devon County Council's ecologist as providing suitable mitigation. This mitigation has been secured in the Landscape & Ecological Management Framework that has been approved to discharge the relevant condition on the outline planning application. In addition, conditions in respect of the submission of a detailed Landscape & Ecological Management Plan for approval, and a programme of dormouse mitigation monitoring are recommended.
- 7.13. The provision of the new road and housing on a site that is already allocated for development and has outline planning permission is considered to be for reasons of overriding public interest, with no alternative that would have less impact on protected species. The above criteria are considered to be met.
- 7.14. In addition, the ecology report indicates that the development as a whole (phases 1 and 2) can provide an overall biodiversity net gain as part of green infrastructure provision for the southern land parcels in the control of the applicant.
- 7.15. Japanese Knotweed has been identified in the Ecology Impact Assessment which confirmed this will be subject to an eradication programme which has already started.

- 7.16. Subject to the conditions as set out in the conditions section of this report, it is considered that the proposal meets the policy requirements set out in this section of the report with regard to ecology, landscaping and trees.

8. Construction management

- 8.1. There is a condition on the outline application requiring submission of a Construction Environmental Management Plan (CEMP) for approval. This details how the development will be constructed, including storage compounds, parking, traffic routing and noise and other pollution mitigation, and the developers will need to comply with the agreed CEMP. Whilst not for consideration in this reserved matters application, the condition will need to be discharged before the development starts.
- 8.2. It is normal practice to condition that a Construction Management Plan be submitted for approval before work starts. However, due to the sensitivity of this issue and the potential impacts on the town centre and Tiverton Road, a draft of the document has been submitted with the application. The CEMP covers construction management in respect of this reserved matters application and the spine road application which now has planning permission.
- 8.3. The submitted Construction Environment Management Plan (CEMP) excludes construction traffic from using the Tiverton Road/High Street junction and proposes four different routes for construction vehicles: from the M5 via the town centre, the lower part of Swallow Way and Langlands Road; from Willand following the same route; from Exeter on the B3181, Meadow Lane, Swallow Way and Langlands Road, and from Tiverton along Tiverton Road.
- 8.4. With regard to construction traffic all coming from the Willand Road end of the new spine road, this is not a policy requirement. The northern section of the spine road is in different ownership to the southern section. There is no obligation on the developer of the northern section to allow construction traffic for a different developer to have access through its construction site. The route originally envisaged for construction traffic for the southern land parcel was through St George's View. This is no longer being proposed, particularly as it would require the removal of a valued tree covered by a Tree Preservation Order.
- 8.5. Environmental Health and the Highway Authority are content with the CEMP. However, your officers will continue to liaise with Cullompton Town Council in relation to approval of the CEMP.

9. Planning balance

- 9.1. This reserved matters application is considered to be acceptable in terms of the access (which already has separate planning permission), layout, appearance and design of the development, in terms of highway design and pedestrian and cycle permeability, the design of housing, green infrastructure and public open space. The development will provide mitigation in respect of any negative impacts on landscape and ecology, including additional tree and habitat planting. A sustainable urban drainage system is being provided to deal with surface water run-off from the site, including attenuation basins which also secure biodiversity benefits.
- 9.2. Harm to the setting of heritage assets is considered to be less than substantial in nature, and to be outweighed by the public benefit of providing 200 new homes including 19

affordable, the southern section of the new spine road and new accessible public open space.

CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on this decision notice.
2. Before landscaping commences, a detailed tree planting plan showing locations of specimen trees to be planted as indicated as 'Proposed Tree Planting' on the approved Landscape Strategy Plan 10640-FPCR-ZZ-XX-DR-L-0003 Rev PO8, together with planting/tree pit details shall be submitted to and approved in writing by the Local Planning Authority. The landscaping shall otherwise be carried in accordance with the approved Landscape Strategy Plan. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out within 9 months of the substantial completion of the development (or phase thereof) whichever is the sooner, and any trees or plants which within a period of 10 years from the implementation of the scheme (or phase thereof), die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with other of a similar size and species. Each specimen and orchard tree should be provided with a hydration bag when planted. For a period of three years from planting, all young trees should be watered, filling of hydration bags where fitted, by applying a minimum of 60 litres of water per visit with 14 visits per season during the spring and summer. Stake and ties should be reviewed at every second visit and adjusted appropriately and combined weeding carried out. After three years, where a tree has been staked and tied, these should be removed.
3. No development shall take place until tree and hedge protection measures/fencing have been provided on site to protect all retained trees and hedges, in accordance with the submitted Arboricultural Method Statement by GE Consulting dated September 2022. These approved measures/fencing shall be kept in place for the duration of the construction period and the development shall proceed only in accordance with the approved details.
4. A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior first occupation of the development. The content of the LEMP shall include the following:
 - a) Final biodiversity net gain calculation;
 - b) Description and evaluation of features to be managed;
 - b) Ecological trends and constraints on site that might influence management;
 - c) Aims and objectives of management;
 - d) Appropriate management options for achieving aims and objectives;
 - e) Prescriptions for management actions;
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
 - g) Details of the body or organisation responsible for implementation of the plan.
 - h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not

being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

5. Development shall only take place in accordance with a Sensitive Lighting Strategy that shall have been submitted to and approved in writing by the Local Planning Authority before construction begin. The Sensitive Lighting Strategy shall minimise impacts from lighting associated with pre-construction, construction and operational activities, and demonstrates how the current best practice (BCT/ILP, 2018) guidance and Devon guidance 'Maintaining dark corridors through the landscape for bats' (Jan 2022) has been implemented to ensure the site continues to support commuting and foraging bats within the site and the wider landscape.
6. Prior to first occupation of the development hereby approved, a Dormice Monitoring Programme shall be submitted to and approved in writing by the Local Planning Authority to include:
 - a) survey programme of the on-site habitats including survey design, area and frequency;
 - b) programme of monitoring and maintenance of mitigation measures, this shall include dormouse mitigation planting/ habitats, dormouse boxes (min. of nine), dormice hop-overs and underground culvert ledge (as shown on drawing number AVO21085 PLA-380 A02) and their frequency;
 - c) details of who will be responsible for commissioning and undertaking survey and monitoring;
 - d) frequency of and framework for reporting to the local planning authority, and;
 - e) framework for agreeing changes to management and mitigation delivery if these are required.

Once the Dormouse Monitoring Programme is approved, the Programme shall be implemented in accordance with the approved details.

7. There shall be no temporary or permanent storage or depositing of material on the floodplain of the St Georges Well Stream/the area shown hatched in green as retained grassland on Landscape Strategy Plan 10640-FPCR-ZZ-XX-DR-L-0003 Rev PO8, except that associated with creation of the highway that crosses it. This includes the arisings from creation of the proposed channel and scrapes. All retained grassland within this area where earthworks are not being carried out in relation to the realignment of the stream, creation of the scrapes, provision of the footpath or bridge, or construction of the highway that crosses it, shall be fenced off and protected during the entire period the construction works take place.
8. No dwelling shall be occupied until details of the location, size, materials, type and content of 2 x interpretation boards to be installed within the development and 1 x interpretation board to be installed at St Andrews School, together with a timetable for implementation, have been submitted to and approved in writing by the Local Planning Authority. The interpretation boards shall be installed in accordance with the approved details.
9. Notwithstanding the details shown on the approved house type plans, front doors shall be a mix of colours, details of which shall be approved by the Local Planning Authority before they are installed on the development.

10. Notwithstanding the details shown on the approved plans, details of the colours of the render (RAL colours) shall be submitted to and approved in writing by the Local Planning Authority before its use of any dwelling.
11. No meter, utilities or services boxes shall be installed on the front elevation of any dwelling, unless as otherwise agreed in writing by the Local Planning Authority.

REASONS FOR CONDITIONS

1. In order to ensure compliance with the approved drawings.
2. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with Policies S1, DM26 and CU3 of the Mid Devon Local Plan 2013-2033.
3. To protect all retained trees and hedges on the site to ensure that the development makes a positive contribution to the character and amenity of the area in accordance with Policies S1, DM26 and CU3 of the Mid Devon Local Plan 2013-2033.
4. In the interests of ecology in accordance with Policies S1, S9, DM26 and CU3 of the Mid Devon Local Plan 2013-2033 and EN01 of the Cullompton Neighbourhood Plan.
5. In the interests of ecology in accordance with Policies S1, S9, DM26 and CU3 of the Mid Devon Local Plan 2013-2033 and EN01 of the Cullompton Neighbourhood Plan.
6. In the interests of protected species in accordance with Policies S1, S9, DM26 and CU3 of the Mid Devon Local Plan 2013-2033 and EN01 of the Cullompton Neighbourhood Plan.
7. To ensure no loss of floodplain storage occurs within Flood Zones 3 and 2 as a consequence of delivering the development and in the interests of ecology in accordance with Policies S1, S9, DM26 and CU3 of the Mid Devon Local Plan 2013-2033 and EN01 of the Cullompton Neighbourhood Plan.
8. In the interests of mitigating the impact of the development on the St Andrews Hill Scheduled Monument in terms of aiding the better understanding of its heritage value in accordance with Policies S1 and DM25 of the Mid Devon Local Plan 2013-2033.
9. To ensure the development makes a positive contribution to the character of the area in accordance with Policy S1 of the Mid Devon Local Plan 2013-2033.
10. To ensure the development makes a positive contribution to the character of the area and to the legibility of the development in accordance with Policy S1 of the Mid Devon Local Plan 2013-2033 and WL08 of the Cullompton Neighbourhood Plan.
11. To ensure the development makes a positive contribution to the character of the area in accordance with Policy S1 of the Mid Devon Local Plan 2013-2033.

INFORMATIVE NOTES

1. In respect of tree planting, the following British Standards should be referred to:
 - a. BS: 3882:2015 Specification for topsoil

- b. BS: 3998:2010 Tree work - Recommendations
- c. BS: 3936-1:1992 Nursery Stock - Part 1: Specification for trees and shrubs
- d. BS: 4428:1989 Code of practice for general landscaping operations (excluding hard surfaces)
- e. BS: 4043:1989 Recommendations for transplanting root-balled trees
- f. BS: 5837 (2012) Trees in relation to demolition, design and construction - Recommendations
- g. BS: 7370-4:1993 Grounds maintenance part 4. Recommendations for maintenance of soft landscape (other than amenity turf).
- h. BS: 8545:2014 Trees: from nursery to independence in the landscape - Recommendations
- i. BS: 8601:2013 Specification for subsoil and requirements for use

REASON FOR APPROVAL

The principle of development of 200 dwellings on site is already established by the granting of outline planning permission 17/01346/MOUT. Consideration has been given to the access, design, scale and layout of the proposal (although access has already been established through planning permission 22/00706/MFUL. The scheme proposes well-integrated landscaping, green infrastructure and public open space with appropriate ecology mitigation. The design and layout including house types and materials are acceptable and comply with Nationally Described Space Standards and the application proposes adequate parking and accessibility in terms of walking and cycling. Subject to conditions, the development is not considered to have an unacceptable impact on highway safety, heritage assets, the environment including landscape, flood risk and drainage or protected species. The proposal is therefore in accordance with Policies S1, S9, CU1, CU2, CU3, CU5, DM1, DM5, DM25 and DM26 of the Mid Devon Local Plan 2013-2033 and Policies SD02, SD03, SD04, SD05, HT04, HS01, HS02, HS04, EN01, TC02, WL03 and WL08 of the Cullompton Neighbourhood Plan as well as the National Planning Policy Framework and the design principles set out in the NW Cullompton Urban Extension Masterplan Supplementary Planning Document.

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

Application No. 22/01234/FULL

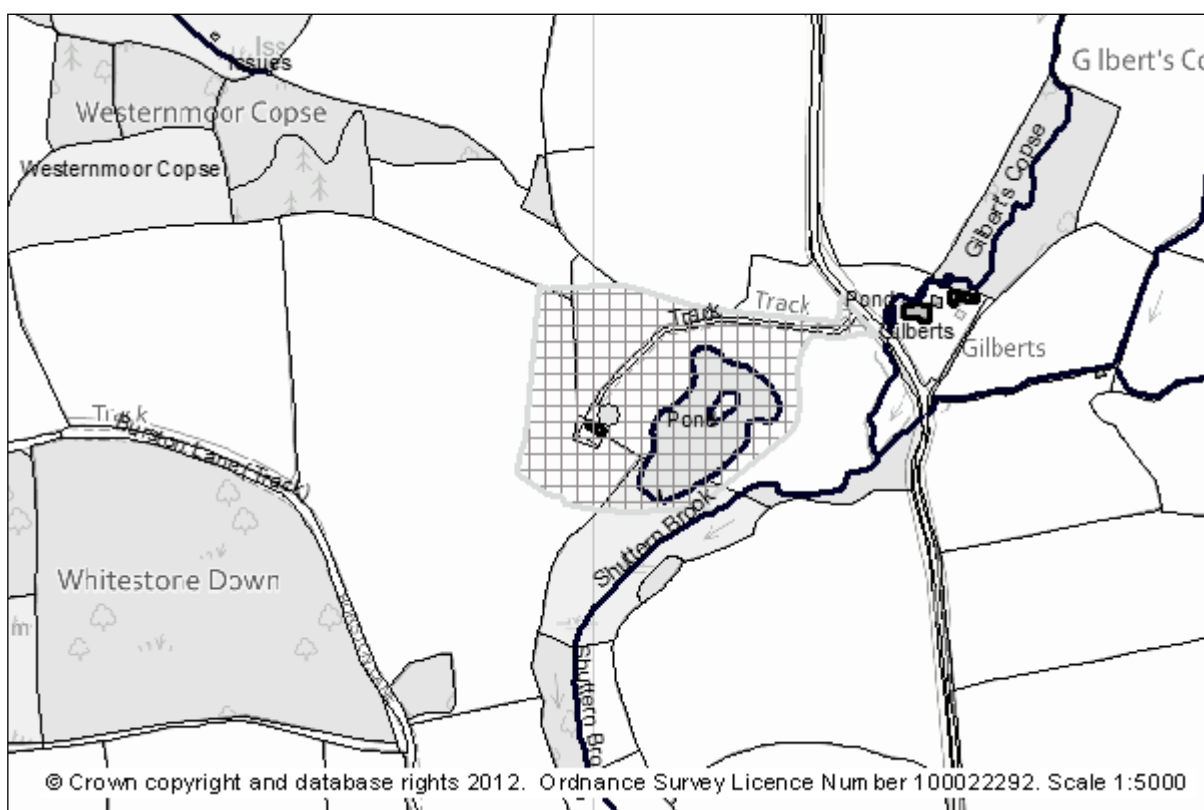
Grid Ref: 295002 : 125471

Applicant: Mr Andrew Moore

Location: Gilberts Lodge
Morebath
Tiverton
Devon

Proposal: Erection of a replacement dwelling with garage/workshop and landscaping following demolition of existing

Date Valid: 5th July 2022



APPLICATION NO: 22/01234/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 a District Councillor.

RECOMMENDATION

Refuse permission

PROPOSED DEVELOPMENT

Erection of a replacement dwelling with garage/workshop and landscaping following demolition of existing.

The application relates to an existing dwellinghouse located in open countryside to the north of Morebath. The dwelling comprises a two storey converted traditional building, constructed from natural local stone with a slate roof. In addition to the dwelling, the site consist of a large area of land with a large pond located centrally.

The property was originally granted planning permission for conversion to holiday-let accommodation, however has since been subject to successful applications for the removal of restrictive conditions, in which case it is now able to be occupied for unrestricted residential purposes. In granting planning permission, permitted development rights were removed for the further extension and alteration of the dwelling, and for the provision of outbuildings within its curtilage. Those restrictions have been carried over into later consents.

Since submission of the application, but prior to its consideration at Planning Committee, as required by the Council's adopted Scheme of Delegation, the Council have been notified that the applicant has submitted an appeal to the Planning Inspectorate for non-determination. As such, the Local Planning Authority are no longer able to formally determine this application. Members are therefore invited to consider this committee report and come to a resolution as to how they would have determined this application. This will give your Officers clear parameters for defending the appeal, unless of course it is resolved that the permission would have been granted.

APPLICANT'S SUPPORTING INFORMATION

Existing and proposed plans, design and access statement, tree schedule, ecological impact assessment, foul drainage statement, drainage strategy.

RELEVANT PLANNING HISTORY

90/01198/FULL - PERMIT date 5th March 1991

Formation of one acre lake and conversion of redundant agricultural building to angling and wildlife lodge and construction of vehicular access

95/01840/FULL - REFUSE date 9th February 1996

Conversion of redundant agricultural building to dwelling and construction of vehicular access

96/00252/FULL - PERMIT date 26th March 1996

Renewal of p.p. 4/36/90/1198 - formation of one acre lake and conversion of redundant agricultural building to angling and wildlife lodge and construction of vehicular access

00/01534/FULL - PERMIT date 7th December 2000

Renewal of planning permission reference number 4/36/96/252/R, for the formation of a one acre lake and conversion of redundant agricultural building to angling and wildlife lodge and construction of vehicular access

03/05398/FULL - PERMIT date 19th February 2004

Formation of vehicular access to serve proposed fishing lake and lodge (revised location)

16/01007/FULL - PERMIT date 8th September 2016

Variation of condition (7) of planning permission 00/01534/FULL to allow the holiday lodge to be used as a dwelling from September to April inclusive and remain as a holiday let at all other times

20/00111/FULL - PERMIT date 23rd June 2020

Variation of condition (2) of planning permission 16/01007/FULL to allow the holiday lodge to be used as a permanent dwelling

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013-2033

Policy S1 - Sustainable development priorities

Policy S9 - Environment

Policy S14 – Countryside

Policy DM1 - High quality design

Policy DM3 - Transport and air quality

Policy DM4 - Pollution

Policy DM5 - Parking

Policy DM9 - Conversion of rural buildings

Policy DM10 – Replacement dwellings in rural areas

Policy DM11 – Residential extensions and ancillary development

National Planning Policy Framework

National Planning Practice Guidance

CONSULTATIONS

MOREBATH PARISH COUNCIL

Morebath Parish Council wishes to recommend approval of this application.

HIGHWAY AUTHORITY

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

NATURAL ENGLAND

NO OBJECTION - Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

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.

Correspondence has been received from two local residents in relation to this application. One of these letters relates to missing correspondence on the file, which has since been provided by the applicant. The other letter makes reference the presence of legal covenants placed on the land, and asks that only development is approved that does not conflict with or restrict the existing full freedoms that the covenants reserve.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

- 1. Policy and principle for development in this location**
- 2. Design and impact on the character and appearance of the surrounding area**
- 3. Parking and access**
- 4. Impact on residential amenity**
- 5. Other**

1. Policy and principle for development in this location

- 1.1 This application is made for the replacement of an existing dwellinghouse with a new larger house. At present the dwelling on site is a former agricultural building that has been converted to residential accommodation. It is a traditional stone building with slate roof, and a total floor space of 78.18 square metres. It is proposed to demolish this dwelling and replace with a new dwelling of 290 square metres.
- 1.2 The site is located in the countryside where policy S14 of the Mid Devon Local Plan 2013 - 2033 seeks to preserve and enhance the character, appearance and biodiversity of the countryside whilst promoting sustainable diversification of the rural economy. These policies only permit new residential development in certain circumstances. New residential development in this location would usually be contrary to policy S14, however the proposal seeks to replace an existing dwellinghouse, which in certain circumstances is supportable in line with Local Plan policy DM10.
- 1.3 Policy DM 10 states that *"the construction of replacement dwellings outside defined settlement limits will be permitted where the replacement dwelling's floor space will be no greater in size than the existing dwelling, taking into account any unspent permitted development rights."*
- 1.4 Supporting text under paragraph 4.39 of this policy goes on to add that *"situations can arise where a replacement dwelling is sought because the cost of repairing or altering an existing building exceeds the cost of its total replacement. As the principle of development is*

established by the existing dwelling its replacement will generally be acceptable. However, to ensure that the character and amenity of the area are not harmed, and the rural dwelling stock remains affordable for local residents, the size of the new dwelling should be restricted to that of the previous dwelling except where there are any unspent permitted development rights. In all circumstances, the permitted development rights for the replacement dwelling will be removed. The relocation of a building within a plot will generally be acceptable provided it is in keeping with the placement of nearby houses in their plot. Policy DM10 refers to the replacement of existing dwellings, the use of which has not been abandoned.”

- 1.5 In this case permitted development rights for extensions and alterations were removed from the building, following the original grant of planning permission, on the basis of preserving the traditional character of the converted building. It is noted that the proposed dwelling has a total floor area of 290 square metres, which would increase the floor area by approximately 211 square metres, which is equivalent to an increase in approximately 370% of original floor space. On the basis that policy DM10 restricts the increase in floor space to no greater than the existing dwelling, taking into account unspent permitted development rights, this is contrary to policy DM10, noting in particular that there are no unspent permitted development rights due to removal of such rights.
- 1.6 It is also noted that the provision of this dwellinghouse was only permitted in the open countryside location on the grounds that it related to the conversion of an existing high quality building. Permission was first granted under a previous Development Plan, however the relevant comparable Local Plan policy is DM9 (conversion of rural buildings), which permits *“the conversion of existing redundant or disused buildings of substantial and permanent construction, which positively contribute to an area’s rural character for residential, tourism or employment uses.”* Amongst the considerations for conversion are the requirements that *“the building can be converted without significant alteration, extension or rebuilding”* and that *“the design will retain the original character of the building and its surroundings.”* In such cases where a dwellinghouse has been provided only due to complying with such barn conversion policies, particularly on the basis that it has been demonstrated that the building can be converted without significant alteration, extension or rebuilding, it is usual accepted practice that these higher quality converted buildings should be retained, with their traditional character preserved. It is also for this reason that permitted development rights are usually removed to allow control over any future extension or alteration, ensuring that any future alteration continues to preserve the buildings traditional character. This being the case, there is an in-principle objection to the loss of this dwellinghouse, which was only granted in the exceptional circumstances identified above.
- 1.7 In seeking to justify the proposal, the applicant has identified the benefits of the proposal, with the replacement of the existing dwelling with an energy efficient property, built to the ultra-low energy Passivhaus Certified Standard. In order to justify the increase in size over the existing floor space, the applicant argues that there is a viable ‘fall-back position’. In doing so, they cite the High Court Judgement *Mansell v Tonbridge and Malling Borough Council [2017] EXCA Civ 1314*, which establishes the principle of a ‘fall-back’ position. In the case of *Mansell*, this established a fall-back position, in general terms, for the provision of a replacement dwelling, where a residential conversion had been gained through Class Q permitted development rights. It is suggested that a similar fall-back position would be applicable, if it could be demonstrated that there is a realistic prospect of the existing dwellinghouse being extended under policy DM11, or that an appeal may be successful against the imposition of restrictive conditions, removing permitted development rights.

- 1.8 In the case of appealing the removal of permitted development rights, the applicant claims the imposed condition was unreasonable and unnecessary, highlighting some successful appeals on similar grounds. In response, these referenced appeals are against imposition of restrictive conditions in different circumstances. In this case, it is considered to have been entirely appropriate to remove permitted development rights in order to preserve the character of the traditional building. Such conditions are commonplace and completely reasonable. As such, there is considered to be no fall-back position on this basis.
- 1.9 The removal of permitted development rights does not mean that further extension is not possible, just that it is strictly controlled, and planning permission would be required. The applicant has suggested that the building could be extended to a degree that would be consistent with the maximum allowable permitted development rights, which would allow the property to be extended to approximately 315 square metres, in which case the proposed new build dwellinghouse would not be contrary to DM10. Despite these assertions, it is not considered realistic that a level of extension would be suitable to this degree. It is important to bear in mind that any extension would have to respect the character, scale, setting and design of the existing dwelling. To extend to the extent suggested, there would be a need to provide extensions to the sides, rear and to the roof, which is highly unlikely to respect the traditional character of this modest building. The applicant has cited correspondence with the case officer, in which it was suggested that the application be withdrawn rather than recommended refusal, with negotiation undertaken to look into extension of the property. It is suggested that this gives strength to the view that there is a likelihood of a fall-back position being established. This is however not considered to be the case. While there may be the potential for some sensitive extension, this would most likely be of a small scale that would still be far off that required to allow a replacement dwellinghouse of the scale proposed. Notwithstanding the in-principle objection to the replacement of a dwellinghouse, only approved due to it relating to the conversion of a traditional stone building, it is not considered that there is any realistic prospect of a replacement dwellinghouse of a footprint so much greater than that of the existing dwellinghouse.
- 1.10 As such, a recommendation of refusal is proposed for the development hereby applied for. Should planning permission be granted, it is considered that this would set an unwanted precedent in respect to both the allowing of replacement dwelling of a size in excess of that permitted under Local Plan policy DM10, and also in allowing the replacement of high quality traditional barn conversions.

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

- 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. In this case, it is considered that the proposed alterations are acceptable, respecting and relating to the appearance of the existing building and its surroundings.
- 2.2 While it is not considered appropriate to recommend approval on the grounds discussed above, consideration is given to the proposed design in general circumstances, were the scheme to be acceptable. The proposal is for the provision of a large replacement dwellinghouse, constructed with a mix of natural stone, timber cladding and slate roof, with detached stone and timber clad garage and workshop. The proposal is designed to retain an element of agricultural appearance, while being a Passivhaus dwelling. The site is large and

together with appropriate landscaping, it is considered that the proposed dwellinghouse would appropriately respect the general rural context, and have no overall adverse impact on landscape character.

3. Parking and access

- 3.1 Policy DM3 of the Local Plan requires development to ensure safe access to the transport network. Policy DM5 requires that new development provides appropriate levels of parking, taking into account the availability of public transport, and the type, mix and use of the development.
- 3.2 The proposed development would not lead to any increase in expected levels of traffic than existing. Notwithstanding this, the proposal maintains existing access arrangements, and incorporates space for parking and turning vehicles, consistent with the requirements of Local Plan policy DM5.
- 3.3 Overall, it is not considered that there would be any adverse impact on highway safety as a result of the proposal.

4. Impact on 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 The proposed development is set well away from the nearest properties, with no concerns raised in respect to impact on residential amenity as a result of overlooking or overshadowing. There would also be no change in the use of the site, with it remaining in residential use.

5. Other

- 5.1 Policy DM1 requires appropriate drainage including sustainable drainage systems and connection of foul drainage to a mains sewer where available.
- 5.2 Foul drainage would discharge to new package treatment plant, as there is no public mains sewer in the vicinity.
- 5.3 In respect to surface water drainage, a surface water strategy report has been submitted, which advises that infiltration measures would not be feasible, however it is advised that there is likelihood of using a variety of Sustainable Urban Drainage (SuDS) measures, such as the provision of a bio retention area, green roofs, permeable paving, swales and ditches, underground storage, attenuation basins, ponds and wetlands. There is sufficient room within this large site to incorporate a range of these measures, which would allow for the storage and attenuation of surface water, before it is disposed of at a controlled rate to the adjoining watercourse, Shuttern Brook. The drainage strategy gives sufficient reassurance that such an approach would successfully deal with excess surface water. Should it be resolved that planning permission would have been approved, it would be suggested that a pre-commencement drainage condition be imposed to ensure that final details of the drainage scheme be provided for approval.

- 5.4 Overall, the suggested drainage arrangements are considered to be acceptable and in accordance with policy DM1 of the Local Plan, in this respect.
- 5.5 The submitted ecological impact assessment states that there was no evidence of bats or nesting birds found on site, with the buildings, those being the existing dwellinghouse and a small wooden shed, being of negligible potential for bats to roost. It was however suggested that there was suitable habitat available for nesting birds. While not a constraint to the proposed development, it is advised that the site contains suitable habitat for badgers, otters and other small mammals to forage.
- 5.6 The recommendations within the ecological impact assessment include precautionary measures during construction to avoid harm to protected species, if found on site, as well as the inclusion of biodiversity enhancements in the form of bat and bird boxes. These measures could be conditioned in the event of the grant of planning permissions. As such, it is considered that the development would accord policies S1 and S9 ensuring that biodiversity assets and species populations will be protected and enhanced.
- 5.7 One contributor to the application, has advised that there are some legal covenants on the land. It is not specified what these are, although it is requested that any permission does not conflict with or restrict the existing full freedoms that the covenants reserve.
- 5.8 This point is noted, however as the detail of these covenants is not identified, no comment can be made. Nonetheless, it should be noted that the grant of planning permission would not override any covenants on the land, or infer that it would be acceptable to carry out development contrary to any such covenants.

REASON FOR REFUSAL

The proposed development comprising the demolition of a traditional barn conversion used for residential purposes, and its replacement with a new dwellinghouse, is unacceptable by reason of the increase in floor space by approximately 211 square metres, which is equivalent to an increase in around 370% of original floor space. This is contrary to policy DM10 of the Mid Devon Local Plan (2013-2033), which limits the floor space of replacement dwellinghouses outside defined settlement limits to no greater in size than the existing dwelling, taking into account any unspent permitted development rights. As the existing dwellinghouse is a barn conversion, permitted development rights were removed, in order to preserve the traditional character of the former agricultural building. The existing building has a floor space of 78.18 square metres, with no permitted development rights available. As such, with no realistic fall-back position available, any replacement dwelling should not have a floor space exceeding 78.18 square metres. Furthermore, there is an in-principle objection to the replacement of a dwellinghouse that was only granted under special circumstances, those being that it related to the conversion of a traditional building of substantial and permanent construction that positively contributed to the area's rural character, and was able to be converted without significant alteration, extension or rebuilding. As such, the proposed development is considered to be contrary to the aims and objectives of the most up to date Local Plan policy relating to the conversion of rural buildings, policy DM9, as well as failing to accord with the requirements of policy DM10.

INFORMATIVES

The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. This report

has been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.

In accordance with paragraph 38 of the National Planning Policy Framework the Council works in a positive and pro-active way with Applicants and looks for solutions to enable the grant of planning permission. However in this case the proposal is not sustainable development for the reasons set out and the Council was unable to identify a way of securing a development that improves the economic, social and environmental conditions of the area.

Application No. 22/01556/MFUL

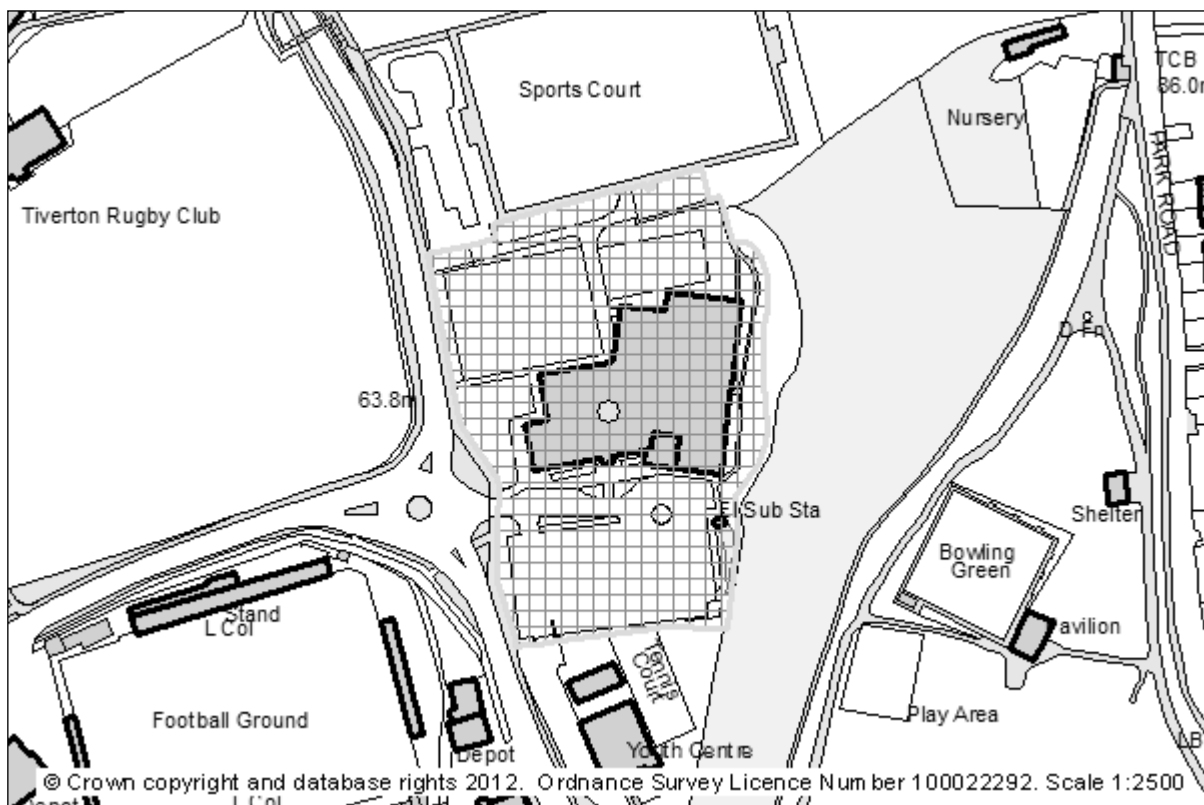
Grid Ref: 295459 : 113368

Applicant: Mr Tim Powell

Location: Exe Valley Leisure Centre
Bolham Road
Tiverton
Devon

Proposal: Erection of new external heat pump systems, installation of solar car ports to parking areas and installation of photovoltaic panels to existing roofs

Date Valid: 5th September 2022



APPLICATION NO: 22/01556/MFUL**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 Mid Devon District Council is the applicant.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

Erection of new external heat pump systems, installation of solar car ports to parking areas and installation of photovoltaic panels to existing roofs

The proposed development relates to Exe Valley Leisure Centre. It is proposed to install external air source heat pumps within a metal louvered enclosure, provide solar car ports within an area of car park to the north of the leisure centre, and provide new solar PV to the existing roof. The proposals relate to an existing project involving the replacement of existing gas boilers and the wider decarbonisation of the building. As submitted, the proposal also included the provision of solar car ports to the southern car park, however this element has since been omitted, with amended plans provided.

Exe Valley Leisure Centre is located within the settlement limits of Tiverton with car parking located to the north and south of the main leisure centre building. The site is level being located outside of any landscape designations. The Tiverton conservation area is located on raised land to the east of the site, as is The People's Park, which is a locally listed heritage asset. The site is also within Environment Agency designated Flood Risk Zone 2, which is an area where there is a medium 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

85/01271/FULL - DEMCON date 16th October 1985
DEEMED CONSENT for the construction of car park and access road

88/02680/FULL - DEMCON date 23rd December 1988
DEEMED CONSENT for the renewal of temporary permission for car park and access road

90/01622/OUT - DEMCON date 6th February 1991
DEEMED CONSENT for outline for leisure complex

92/00115/FULL - DEMCON date 31st March 1992

DEEMED CONSENT for use of land for temporary car park and access road

94/02089/OUT - PERMIT date 27th February 1995

Outline for the erection of Exe Valley Centre which will include demolishing the existing swimming pool, construction of new round-a-bout and the access road from the new round-about

95/00413/FULL - PERMIT date 17th May 1995

Renewal of planning permission 4/52/92/115 for the use of land for temporary car park and access road

97/00553/FULL - PERMIT date 11th July 1997

Renewal of planning permission 4/52/95/413/R for the use of land as temporary car park and access road

99/02796/FULL - PERMIT date 1st September 1999

Renewal of temporary planning permission no. 4/52/97/0553/R for the use of land as temporary car park and access road

00/01147/FULL - PERMIT date 3rd April 2001

Erection of new swimming pool (existing to be demolished), fitness suite and outdoor changing facilities and formation of new access off existing roundabout

00/01165/FULL - DWD date 23rd April 2002

Formation of temporary car park on tennis courts and contractors site access for use during construction of proposed new leisure facilities

01/01036/FULL - PERMIT date 19th December 2001

Erection of flood lighting

06/02280/FULL - PERMIT date 16th January 2007

Formation of additional car parking spaces

11/01718/FULL - PERMIT date 24th January 2012

Installation of 768 solar photovoltaic panels on part roof

13/01469/FULL - PERMIT date 5th December 2013

Formation of additional car parking, including the change of use of 1 tennis court, and improvements to access

16/01599/FULL - PERMIT date 6th December 2016

Erection of extension and alterations to layout of existing carpark.

17/01161/NMA - PERMIT date 3rd August 2017

Non-Material Amendment for 16/01599/FULL (Erection of extension and alterations to layout of existing carpark) to allow changes to layout of carpark

17/01915/NMA - PERMIT date 21st December 2017

Non Material Amendment for 16/01599/FULL to allow for revised elevations

19/00225/FULL - PERMIT date 4th April 2019 Installation of air conditioning units to western elevation and revised path access

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013 – 2033

Policy S1 - Sustainable development priorities
Policy S9 – Environment
Policy S10 – Tiverton
Policy DM1 - High quality design
Policy DM2 - Renewable and low carbon energy
Policy DM3 - Transport and air quality
Policy DM4 – Pollution
Policy DM5 – Parking
Policy DM22 – Tourism and leisure development
Policy DM23 - Community facilities
Policy DM25 - Development affecting heritage assets

National Planning Policy Framework

National Planning Practice Guidance

CONSULTATIONS

Tiverton Town Council

Support.

Highway Authority

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

Public Health

We have considered the application which includes new air source heat pumps amongst other energy related improvements. The pumps will be located at ground level in a sheltered area within a secure louvered enclosure. There are no nearby residences with potential to be affected by any residual noise from these pumps and therefore we do not anticipate any environmental health related concerns.

Flood and Coastal Risk Management Team

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 at the time of writing this report.

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. **Flood risk and surface water drainage**

1. Policy and principle of development

- 1.1 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.
- 1.2 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 are part of a scheme to replace the existing gas boilers at the Exe Valley Leisure Centre 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.
- 1.3 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.
- 1.4 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.*
- 1.5 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).*

- 1.6 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. Similarly, 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.*

- 1.7 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.*

- 1.8 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.*

- 1.9 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. Assessment of the 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 Tiverton 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.

- 2.1 It is proposed to install new external air source heat pumps within a covered area to the south side of the leisure centre building, adjoining the existing plant room. The heat pumps are to be enclosed within a metal louvered structure. In addition new solar car ports are to be installed to the parking area to the North 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 Solar PV panels are to be installed on the existing roof of the leisure centre.
- 2.2 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.
- 2.3 The siting and design of the new external heat pump systems, solar car ports and photovoltaic panels are not considered to result in any unacceptable harm to the surrounding area, with no nearby residential properties. The Public Health Team have raised no objections to the proposed developments on site.
- 2.4 The development will be highly visible from public vantage points, primarily from the north, south and west of the site, however they will be viewed in the context of the existing building and other commercial and leisure development in the area. 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.
- 2.5 The site is outside of and located to the west of the Tiverton conservation area and locally listed People's Park. As such consideration will have to be given to the impact that the development will have on the significance of these heritage assets. Paragraph 192 of the NPPF advises that "in determining applications, local planning authorities should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - c) the desirability of new development making a positive contribution to local character and distinctiveness."
- 2.6 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)”

2.7 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.

2.8 In assessing the impact of the development, against the aforementioned local and national policy requirements, the proposal is considered to be acceptable. The site is set on land significantly lower than the adjoining heritage assets, recusing the impact on their setting and significance. While some of the public views of the proposed development may take in these heritage assets, as a result of distance, separation and the scale of the development, it is not considered that the proposals would result in any harm to their character, setting or significance.

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

3. Highway safety and capacity issues

3.1 The application proposals include the construction of new solar car ports are to be installed to the parking area to the North of the leisure centre. The supports for these structures will be fitted along the delineations of the parking bays so not resulting in a reduction of the parking spaces provided at the leisure centre. The Highway Authority have raised no concerns regarding the proposals.

4. Biodiversity net gain

4.1 The proposed alteration to external plant will be within an existing hard surfaced area adjoining the existing building, and the solar car ports will to cover an existing area of car parking. Both 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, which is another indicator of having low roosting potential.

- 4.2 The Design Statement submitted outlines that whilst the pool building offers potential for the installation of bird and/or bat boxes to provide additional wildlife habitats on site. A condition is recommended for the installation of a bat and bird box on site.

5. Flood risk and surface water drainage

- 5.1 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.
- 5.2 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. In response, the applicant has indicated that they have reviewed the opportunities to provide rain planters but due to the tight nature of the site, this would not be feasible with the current parking layout as this would obstruct vehicle movement and visibility across the site, as well as leading to the loss of car parking spaces.
- 5.3 The above is noted, however it is considered appropriate to review further. Notwithstanding that however, the proposals would not result in a detrimental impact on the existing surface water drainage arrangements on site, and would not lead to any increase in surface water runoff, as the area proposed to be covered are currently impermeable. Therefore any proposed improvements will be a conditional requirement.
- 5.4 It is also noted that the site is located within EA designated Flood Risk Zone 2. The Environment Agency have been consulted, although no response has been received. It is not however considered that the proposal would lead to any increased risk of flooding within the immediate area or any additional risk to life.
- 5.5 The installation of the air source heat pumps and enclosure is of a scale and size that is defined as 'minor development' by the Environment Agency. The overall use of the site furthermore falls within the 'less vulnerable' category, which is compatible with Flood Zone 2, as such there is no objection in principle. Being minor development, there is also no requirement to apply the Sequential Test or Exception Test. It is however noted that, it is also proposed to raise the finished floor levels of the enclosure to 300mm above the modelled flood level, in accordance with Environment Agency standing advice. As discussed earlier, the existing car park areas are already surfaced with impermeable materials, and the proposed solar car ports will be open-sided, simply covering existing car park space. On this basis, there are no concerns in regard to flood risk and management of surface water on site.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The application proposal for the erection of external heat pump systems, solar car ports, and the installation of photovoltaic solar panels to the existing roof at Exe Valley 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 not result in unacceptable harm to the character of the area, the amenities of neighbours, highway safety, ecology, flood risk or local heritage assets. The development is therefore in accordance with the requirements of policies S1, S9, S12, DM1, DM2, DM22, DM23 and DM25 of the Mid Devon Local Plan 2013-2033 and Policies D1, D5, S1 and S2 and the aims and objectives of the National Planning Policy Framework.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Prior to the construction of the solar car ports on site, 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 Policies S9 and DM1 of the Mid Devon Local Plan 2013- 2033.
4. To mitigate and provide a net gain in biodiversity 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).

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

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

Plans List No. 4

Application No. 22/01835/TPO

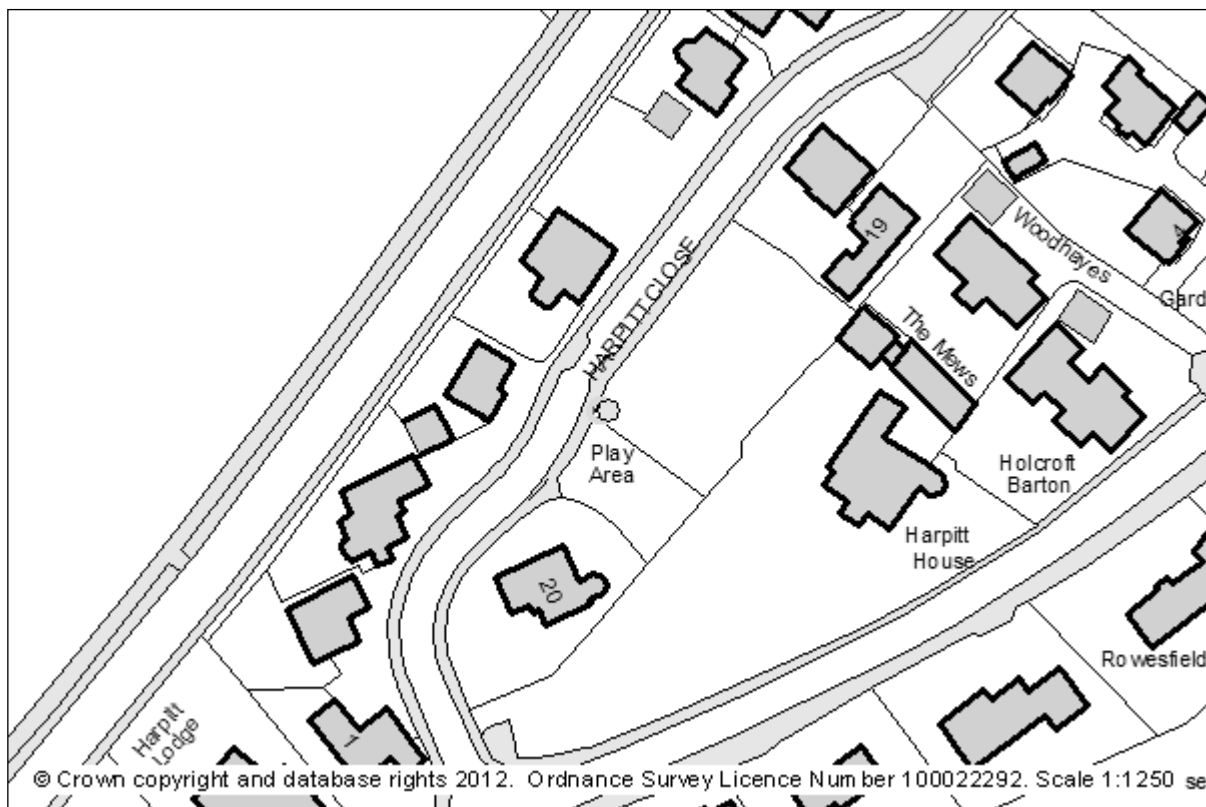
Grid Ref: 303342 : 110209

Applicant: Mr Tim Jarratt

Location: Land at NGR 303328 110201
Harpitt Close
Willand
Devon

Proposal: Application to fell 1 Chestnut tree protected by Tree Preservation Order
94/00009/TPO

Date Valid: 27th September 2022



APPLICATION NO: 22/01835/TPO

Site Visit: Yes

Date of Site Visit: 2nd November 2022

Reason decision delayed: To allow to go before committee.

REASON FOR REFERRAL TO COMMITTEE

The application has been submitted by Tim Jarratt, the Council's Tree Officer.

RECOMMENDATION

Grant consent.

PROPOSED DEVELOPMENT

Application to fell 1 Chestnut tree protected by Tree Preservation Order 94/00009/TPO at Land at NGR 303328 110201, Harpitt Close, Willand. The tree is located immediately adjacent to a Mid Devon District Council play area on Harpitt Close, Willand.

APPLICANT'S SUPPORTING INFORMATION

Site location plan, tree report and photograph.

RELEVANT PLANNING HISTORY

N/A

DEVELOPMENT PLAN POLICIES

N/A

CONSULTATIONS

Willand Parish Council, 17th October 2022:

Willand Parish Council has no objection to this application.

REPRESENTATIONS

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

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

MATERIAL CONSIDERATIONS AND OBSERVATIONS

- 1.1. The proposal is to fell 1 Chestnut tree protected by Tree Preservation Order 94/00009/TPO at Land at NGR 303328 110201, Harpitt Close, Willand. The tree immediately borders an MDDC play area with numerous branches overhanging the play area and pavement.
- 1.2. When considering an application relating to works to trees protected by a TPO, the Planning Practice Guidance outlines that the Local Planning Authority may grant consent unconditionally; grant consent subject to such conditions as it thinks fit; or refuse consent. The authority must decide the application before it, so it should not issue a decision which substantively alters the work applied for. The authority could, however, grant consent for less work than that applied for. The authority should make absolutely clear in its decision notice what is being authorised. This is particularly important where the authority grants

consent for some of the operations in an application and refuses consent for others.

- 1.3. The application is supported by a tree report which sets out that the tree has been showing signs of decline for some time. The defects include; crown dieback, upper crown leaf flaccid, wilting and reduced vigour. Following an inspection in August 2022, it was concluded that the tree is in terminal decline with 90% crown death. It is therefore proposed to remove the tree entirely.
- 1.4. In assessing the application, the amenity of the tree should also be considered. Whilst it was once an attractive feature on the street scene, the appearance has deteriorated with the tree's health. There are numerous other trees along Harpitt Close of similar and greater scale with similar and greater amenity value. The potential impact of falling branches on the play area and pavement are also considered and it is noted that the Parish Council raise no objections.
- 1.5. On balance, it is concluded that the proposal is appropriately justified and the removal of the tree is considered necessary.

REASON FOR GRANT OF CONSENT

The proposed removal of 1 Chestnut tree protected by Tree Preservation Order 94/00009/TPO at Land at NGR 303328 110201, Harpitt Close, Willand is considered to be suitably justified. The risk of harm to playground users, local residents and properties will be reduced.

CONDITIONS

1. The works hereby permitted shall be carried out within two years of the date of this consent.
2. All works shall be carried out in accordance with BS3998:2010 Tree Work Recommendations and/or European Pruning Guide (AA Guidance Note. 5) by an appropriate experienced and qualified tree surgeon.

REASONS FOR CONDITIONS

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

INFORMATIVES

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and granted consent.

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.

BREEDING BIRDS. Nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended) and if discovered must not be disturbed.

If works are to be carried out during the breeding season (from February to August, possibly later) then the tree(s) should be checked for nesting birds before work begins.

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

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

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.

Application No. 22/01688/MOUT

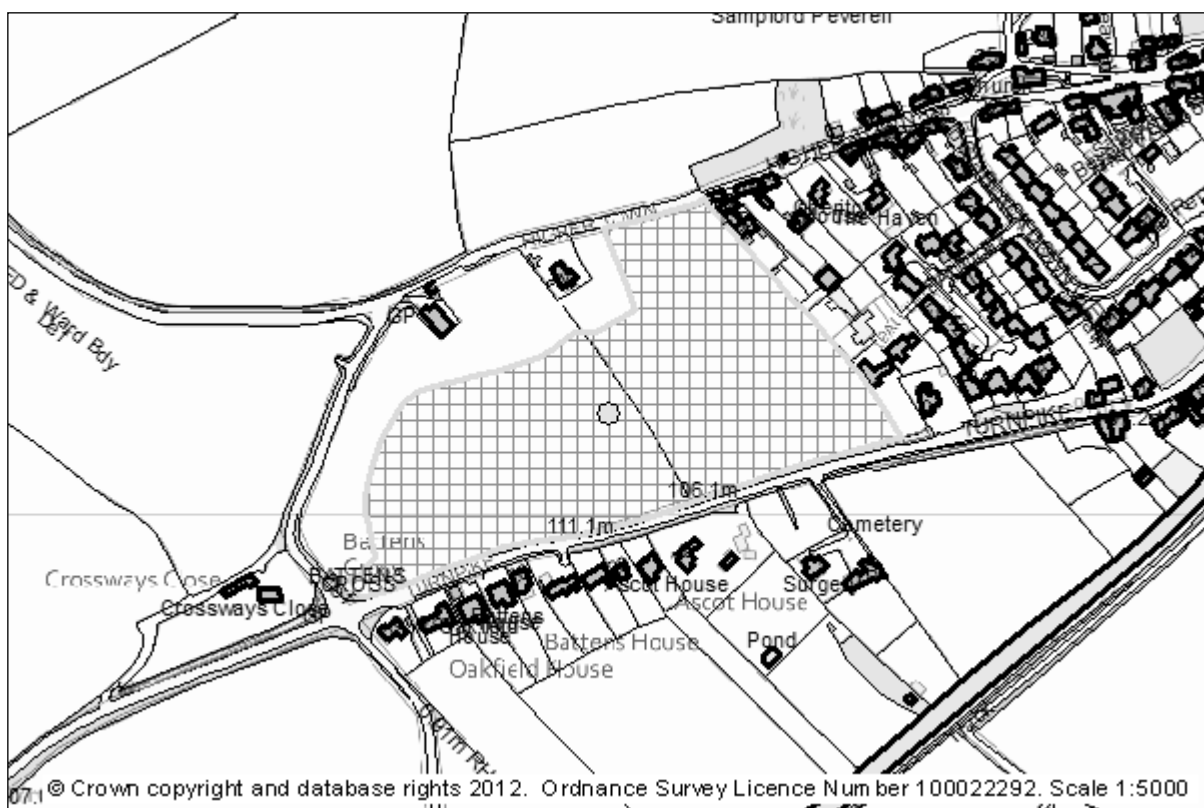
Grid Ref: 302469 : 114078

Applicant: Edenstone Homes

Location: Land and Buildings at NGR 302469 114078
Higher Town
Sampford Peverell
Devon

Proposal: Variation of conditions 7, 9, 10 and 11 of planning permission 17/01359/MOUT to amend the requirement for access and highway works from pre-commencement of development to occupation of development (Outline for the erection of 60 dwellings and construction of new vehicular access onto highway to the West of the site)

Date Valid: 30th August 2022



APPLICATION NO: 22/01688/MOUT

MEMBER CALL-IN

At Planning Committee on the 5th October 2022 Members resolved that Application 22/01688/MOUT – Higher Town Sampford Peverell was to be determined by Committee but no site visit was required.

Cllr Collis has also called this application to be considered by Members of the Planning Committee on the grounds that these conditions were set out by the Inspector and to change these should be taken back to the Inspector.

RECOMMENDATION

Grant permission subject to conditions and the signing of a Deed of Variation for the S106 agreement under outline planning permission 17/01359/MOUT to ensure the planning obligations apply to this S73 application.

PROPOSED DEVELOPMENT

The application seeks the variation of conditions 7, 9, 10 and 11 of planning permission 17/01359/MOUT to amend the requirement for access and highway works from pre-commencement of development to occupation of development (Outline for the erection of 60 dwellings and construction of new vehicular access onto highway to the West of the site) on land and buildings at NGR 302469 114078, Higher Town, Sampford Peverell. The initial submission also included a change of wording to the main vehicular access into the site (Condition 8) but this was withdrawn as this is required to be provided pre-commencement in order to allow the development to be built out.

Outline planning permission 17/01359/MOUT was granted by the Planning Inspectorate on the 7th April 2021 subject to a number of conditions. The four conditions relate to the creation of the pedestrian links onto site from the north east corner, south west corner and south east corners and the off site highway works. They are worded as follows:

7. No development shall take place on site until off-site highways works generally in accordance with drawing 06685-HYD-XX-XX-DR-TP-P-07 Rev P 07 for the canal bridge area and as set out in the Statement of Common Ground between the Appellant and the Council, dated 8 December 2020 and for the improvement in width to 2m of approximately 380m of the south side of Turnpike between the proposed SE access and the canal bridge, have been constructed in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority and made available for use by the public.

9. No development shall take place on site until highway works to provide the on-site north-east pedestrian/cycle access onto Higher Town in accordance with, and off-site works generally in accordance with, drawing 06685-HYD-XX-XX-DR-TP-P-04 Rev P3 (inclusive of, but not limited to, a footway/cycle way onto Higher Town, a build out, visibility splays, traffic calming and gateway) have been constructed in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority and made available for use by the public. Those works shall be retained thereafter. Within the visibility splays as formed there shall be no obstruction above 0.6m in height, and the visibility splay shall be maintained thereafter.

10. No development shall take place on site until the highway works to provide the on-site south-east pedestrian/cycle access onto Turnpike in accordance with drawing 06685-HYD-XX-XX-DR-TP-108-P4 and off-site works in accordance with drawing 06685-HYD-XX-XX-TP-0125-Rev P1

(inclusive of, but not limited to, a footway/cycle way onto Turnpike build out and visibility splays) have been constructed in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority and made available for use by the public. Those works shall be retained thereafter. Within the visibility splays as formed there shall be no obstruction above 0.6m in height, and the visibility splay shall be maintained thereafter.

11. No development shall take place on site until the highway works as shown on drawing 06685-HYDXX-XX-DR-TP-0110-P2 for the provision of an access and footway at the Battens Cross junction off Turnpike and link road (inclusive of, but not limited to, footway, tactile crossings, drainage, alignment, visibility splays) have been constructed in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority and made available for use by the public. Those works shall be retained thereafter. Within the visibility splays as formed there shall be no obstruction above 0.6m in height, and the visibility splays shall be maintained thereafter.

In addition to the above, since the submission of this application, a discharge of condition application has been received providing the detailed plans for the highway works as required by conditions 7, 9, 10 and 11 of the outline planning permission. These plans have therefore been attached to this application and these drawings for the highways works have received Technical Approval with confirmation that the legal agreement (S287/38) covering the work is engrossed and currently out for signature with the landowners. In light of this, the condition wording would now be amended so that the highway works specified in conditions 7, 9, 10 and 11 are undertaken in accordance with these approved highway plans being implemented prior to occupation of the first dwelling on site.

Members may recall that an application was recently approved for Reserved Matters for the erection of 60 dwellings following outline approval 17/01359/MOUT, planning reference 22/00040/MARM which was approved on the 26th August 2022. Therefore there is planning permission on site for 60 dwellings which would be a mix of single storey and two storey properties with 39 being open market dwellings, 7 of which are to be 3 bed bungalows with the other two storey properties being a mix of 2, 3 and 4 bed units. There would be 18 affordable units, a mix of 1 bed, 2 bed, 3 bed and 4 bed units and 3 plots for self-build units which would be limited to 2 storey.

The application site comprises approximately 4.3 hectares of land to the west of Sampford Peverell. The site is currently agricultural and is consequently undeveloped. It lies to the north of Turnpike and to the south of Higher Town. It is bounded to the west by an un-named lane which links between Turnpike and Higher Town. The site for the housing is now within the development boundary following the adoption of the Local Plan. The site occupies an elevated position in relation to Sampford Peverell with land levels falling to the south and east. There exists a ribbon development of dwellings on the southern side of Turnpike (opposite the site) and a dwelling to the north of the site (on the southern side of Higher Town). Agricultural buildings are located to the north west of the site. Existing residential dwellings lie to the east of the site, and residential properties to the north east of the site (on the southern side of Higher Town) adjoin the site.

The site is not within a Conservation Area but the north eastern part of the application site lies adjacent to the designated Sampford Peverell Conservation Area although there will be views to the Grand Western Canal Conservation Area. No. 42 Higher Town which itself is Grade II Listed. This building lies adjacent to the site to the north east of it. The site itself falls within Flood Zone 1; land with the lowest probability of flooding and of the least risk of being susceptible to flooding. Within the Local Plan the site is allocated for development under Policy SP2. The Policy outlines the following:

Policy SP2 - Higher Town, Sampford Peverell

A site of 6 hectares at Higher Town, Sampford Peverell is allocated for a low density residential development, subject to the following:

- a) No more than 60 dwellings with 30% affordable housing;
- b) Landscaping and design which respect the setting and character of the area, conservation area and listed building;
- c) Provision of a drainage strategy and Sustainable Urban Drainage Scheme to deal with all surface water from the development and arrangements for future maintenance;
- d) Mitigation of any wildlife impact including protection of hedgerows;
- e) Archaeological investigation and appropriate mitigation
- f) 2.5 hectares of Green Infrastructure laid out and managed with landscaping and open space; and
- g) Improved access to the village for pedestrians and cyclists.

APPLICANT'S SUPPORTING INFORMATION

Completed application form, site location plan, supporting statement including schedule of proposed amendments to the wording of conditions 7, 9-11. Full set of highway plans for the S278 / S38 Works.

RELEVANT PLANNING HISTORY

03/01243/FULL - PERMIT date 23rd June 2003 Erection of timber framed storage building

17/01359/MOUT - REFUSE date 1st August 2019 Outline for the erection of 60 dwellings and construction of new vehicular access onto highway to the West of the site APPEAL ALLOWED - PLANNING PERMISSION GRANTED 07/04/21

19/01836/MOUT - WDN date 9th December 2019 Outline for the erection of 60 dwellings and construction of new vehicular access onto highway to the West of the site

22/00040/MARM - PERCON date 26th August 2022 Reserved Matters for the erection of 60 dwellings and construction of new vehicular access onto highway to the west of the site (with the access having already been approved) following outline approval 17/01359/MOUT

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013 – 2033

- Policy S1 - Sustainable development priorities
- Policy S2 - Amount and distribution of development
- Policy S3 - Meeting housing needs
- Policy S4 - Ensuring housing delivery
- Policy S5 - Public open space
- Policy S8 – Infrastructure
- Policy S9 – Environment
- Policy 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
Policy SP2 - Higher Town, Sampford Peverell

National Planning Policy Framework

National Planning Practice Guidance

CONSULTATIONS

Sampford Peverell Parish Council – 27th September 2022

Following the extension given by MDDC planning to 27 September 2022, the Parish Council discussed this application at its meeting on 26 September 2022.

It was RESOLVED that the Parish Council objected to this application for the following material planning consideration:

Previous planning decisions (including appeal decisions)

These conditions were set by the Appeal Inspector for good reason and have significant effect on the following material planning considerations which formed part of the original objection to the development:

Highway safety
Traffic
Impact on the community

There have been no changes to the relevant aspects of policy, guidance and legislation to justify any changes to the conditions set by the Appeal Inspector.

Given the amount of works traffic going through the village along Lower Town and Turnpike, it is essential that road safety is improved and, therefore, the requirement for access and highway works to be carried out before the commencement of the development is deemed essential.

Local Highway Authority – 15th November 2022

I can confirm that the highway plans for the accesses into the Higher Town site (NE, SE and SW) and the highway works along the canal bridge area have now been submitted and approved under the S278 works.

Local Highway Authority – 18th October 2022

I am now in a position to formally state that the County Highway Authority has no objections to the proposed changes to conditions 7, 9, 10 and 11 of planning permission 17/01359/MOUT for the triggers to be Occupation rather than Commencement.

Lead Local Flood Authority – 20th September 2022

We have also been consulted on planning application 22/01688/MOUT. However, none of the conditions within this application appear to be drainage related. Therefore, we have no comments to submit.

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).

10 letters of objection have been received. The grounds of objection are summarised as follows:

- The Planning Inspector outlined the need for the conditions to be pre-commencement within the appeal decision.
- The S106 arrangements agreed at the Appeal Inquiry commit the applicant, as the landowner, to rely on conditions as worded by the Appeal Inquiry Inspector to secure off-site works.
- The Inspector gave very specific and appropriate reasons to justify her wording of the conditions and these still apply. They concern achievability and safety.
- Events since the Inquiry (especially the absence of the 30mph zone extension) all strengthen the reasons given by the Inspector for requiring pre-commencement restrictions.
- Given all the evidence available, it is unreasonable for the Council simply to presume that all S278 works will be viable when the Inspector's judgement was that their achievability should be proved by their construction.
- If the Council were to agree to vary the conditions imposed on the application, it would be setting itself over and above the Secretary of State / His Majesty's Planning Inspectorate and going back on its own legal officer's formal commitment on 21/12/20 to rely on the conditions agreed at the Inquiry.
- There have been no changes to any relevant aspect of policy, guidance, legislation and case law since the pre-commencement conditions were considered, justified and imposed by the Inspector.
- The agent misquotes PPG and avoids reference to Policy SP2g. In doing so, she fails to give relevant grounds for the application to vary conditions.
- Nowhere does the Agent consider the actual reasons given by the Inspector for imposing a pre-commencement restriction on onsite development.
- The applicant cannot commence onsite work before offsite works are completed because there is only one approved vehicular access to the site. Any other access must be subject to a separate application and must be shown to be safe.
- The Planning Officer and Committee together with the Developer all agreed to the relevant conditions. To vary these conditions now, would be totally unacceptable in terms of the safety of both pedestrians and road users.
- The conditions are reasonable and necessary safeguards. Nothing has changed with regard to safety concerns so why are these amendments necessary?
- The wording is not sufficiently clear and can be misconstrued by the developer resulting in the required road infrastructure works being delayed until the 60th dwelling is occupied as opposed to the 1st dwelling.
- The wording needs more clarity to prevent residents of 59 properties attempting to traverse an already dangerous pinch point of access and egress from Higher Town into Lower Town.
- The building works will be undertaken a very short distance from a primary school with just over 100 children attending. This point in conjunction with heavy machinery associated with the required building works of utilities and dwellings should also make the need to complete road infrastructure works prior to these undertakings of even greater importance.

- After the Inspector's ruling you would be making an absolute mockery of any democratic planning process if you were to agree this application and thereby overturn any of those previous decisions.
- I think this is particularly important for the condition regarding the changes to the Turnpike and the canal bridge. Once building work commences we will see an increase of traffic including heavy goods and equipment. It is vital the safety of the residents of Sampford Peverell including those that live on the Turnpike and in Higher town is prioritised. I therefore request that the conditions in relation to road safety in particular are maintained.
- The applicant is hurriedly seeking to begin to build houses on the site before the access safety and calming measures are put in.
- MDDC accepted conditions as set out at the Appeal Inquiry, where the Inspector clearly justified and expected these safety measures to be in place beforehand for very obvious reasons: that of life and death on the roads.
- As close residents to the site for almost fifty years our experience is that when the weather is wet or freezing Turnpike and the access road off and up from Batten's Cross become even more dangerous and likewise the top of Higher Town towards the site.
- The Inspector assessed these situations and set out her expectations under the expectation of 30mph restriction. As this is no longer going to be imposed, it is even more imperative that her ruling is upheld and not varied, as the roads will be even more dangerous than she thought they would be at the time of her ruling.
- Works vehicles should have their approved accesses into the site built first, for all the reasons set out by the Inspector whose main concern was of course, safety first.
- Pedestrian access routes should also be created first, as the Inspector raised doubts about whether these could be made safe.
- The exit and entrance point on the road between Higher Town and Battens Cross is on a 60mph road also used by pedestrians to get to and from Higher Town and the Canal and has no pavement. If there are no visibility splays in place it will be even more dangerous when works vehicles enter and exit.
- As an Inspector is a Government representative their decision should be adhered to as set out and not second guessed by developers or council. If MDDC were to allow a variation to conditions justified by the Inspector, this sends the message that our Council does not care enough about residents, motorists or pedestrian safety and does not respect His Majesty's Government Inspectorate.
- It's bad enough for our village that we have to cope with this unnecessary development which amounts to a small village being squeezed in on top of us, but the least we could expect is that our Council protect our safety on our roads and lanes to the best possible standard.
- Inaccuracies in the covering statement as there are 2 legal agreements, with the second comprising a unilateral undertaking that is still absent from the planning record.
- The wording of the existing conditions is not "flawed" as stated in the covering statement. There is no flaw in the wording of the conditions whereas for the reason given the revised wording that has been put forward by the agent is ambiguous.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

- 1.1 The principle of residential development on site was approved through outline planning permission 17/01359/MOUT. This application has been submitted in order to vary Conditions 7, 8, 9, 10 and 11 (access and highway works) following the grant of planning permission 17/01359/MOUT, pursuant to Section 73 of the Town and Country Planning Act 1990 (as amended). This application seeks to vary the wording of the above listed conditions to amend the trigger point to 'pre-occupation' rather than 'pre-commencement'. Further to concerns

raised by objectors to the condition wording not being precise, it is proposed that the wording of the conditions would change from 'prior to commencement...' to 'No dwelling comprising part of the development shall be occupied until...'.

- 1.2 The reason given for varying the wording of these conditions is in order to allow time for the final section 38/278 agreements of the Highways Act be agreed with the Local Highway Authority, without impeding the overall development programme and ensuring that the delivery of the consented residential development site is not delayed. This is an allocated site within the Mid Devon Local Plan 2013-2033 and as such the housing forms part of Mid Devon District Council's published land supply assessment for the plan period making a contribution toward meeting the District's housing need. Therefore the delivery of the development is an important consideration.
- 1.3 Outline planning permission 17/01359/MOUT is subject to 26 conditions with conditions 7, 9 – 11 relating to access and highway works, seeking the submission of details to the Local Planning Authority for approval prior to the commencement of any development on site: Canal Bridge works and widening of Turnpike (Condition 7); Pedestrian/cycle access onto Higher Town (Condition 9); South-east pedestrian/cycle access onto Turnpike (Condition 10) and Access and footway at the Battens Cross Junction off Turnpike and the link road (Condition 11).
- 1.4 The applicant has now submitted plans and technical details in relation to the proposed on-site and off-site highways surrounding the site required to be secured by the above referenced planning conditions. These have been submitted to Devon County Council as the local highway authority for approval pursuant to section 278 of the Highways Act. Confirmation has been provided of acceptance to the technical details submitted with the s278 agreement. Therefore technical approval has been given to the details required to address the requirements of Conditions 7, 9, 10 and 11.
- 1.5 In terms of the Planning Policy and Legislative Context, Section 73 of the Town and Country Planning Act 1990 (as amended) ('the Act') relates to applications to develop land without compliance with conditions previously attached to a planning permission. An application can be made under this provision to vary or remove conditions. Section 73(2) sets out that on such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted and: "if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous planning permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly". Section 70(1)(a) of the Act enables the local planning authority in granting planning permission to "impose such conditions as they think fit". This power must be interpreted in light of material factors such as the National Planning Policy Framework (NPPF) (2021), Planning Practice Guidance, the development plan and relevant case law.
- 1.6 A concern of objectors is that the Planning Inspector imposed these conditions as pre-commencement and a change to the conditions would impact on highway safety. The Planning Inspector in Paragraph 196 of the appeal decision stated:

196. Conditions 7 to 11 are necessary and reasonable to ensure that safe and suitable highway works for vehicles, pedestrians, and cycles, are fully assessed and delivered. It is reasonable and necessary to require that they are worded as pre commencement of development conditions to ensure that the schemes are achievable and delivered in accordance with MDLP Policy SP2 g) and paragraph 108 of the Framework.

- 1.7 The NPPF makes clear that local planning authorities should approach decisions on proposed development in a positive and creative way; they should work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible (paragraph 38). When it comes to planning conditions, they need to satisfy the six tests for conditions which includes that of being reasonable in all other respects.
- 1.8 As assessed during the outline planning application and as determined by the Inspector at appeal, the approved works contained in conditions 7, 9-11 are necessary to ensure the safe operation of the highway network and to mitigate the impact of traffic generation arising from the occupation of the approved dwellings. However the case put forward is that these highway works do not need to be completed prior to the commencement of development on site, but prior to the occupation of the development. This application therefore seeks to amend the trigger point for these conditions to 'preoccupation' rather than 'pre-commencement'.
- 1.9 Objectors point out that the evidence of unresolved S278 drainage-design problems at the SE and NE access supports the Inspector's doubts whether the off-site works would be achievable. They note her concerns led her to require that they be designed and completed before work onsite may begin. In addition to this, the reliance on 'in situ' testing to design and construct the footway widening required by Condition 7 also reinforces the need for these offsite works to be completed before onsite development begins. Therefore the Council cannot ignore this fact when considering this application and will need to give clear, strong justifications if it is minded to overturn conditions set by the Planning Inspector.
- 1.10 A key reason as noted by objectors for the pre-commencement nature of the conditions was to ensure that the highway works would be deliverable. Through the submission of the detailed highway plans which have received technical approval from the Local Highway Authority, the concern of whether the highway works could be delivered is now dealt with. In respect to drainage concerns, as noted through the reserved matters submission which was approved, the Lead Local Flood Authority did not object to the proposed drainage arrangements and in light of this application, they have stated that they have no objections to the change of wording for the conditions.
- 1.11 The Planning Inspector comments in Paragraph 46 that a main issue was 'whether the proposals satisfactorily demonstrate that proposed access and highway works along Turnpike including the canal bridge area, at the SE corner of the site and at the NE corner of the site, would provide safe and suitable improved access to the village for pedestrians and cyclists'. Having read through the appeal decision, when it comes to a safe and suitable access being provided for the development, it is considered that these requirements come about through traffic generation from occupiers of the development and providing pedestrian links to encourage walking/cycling.
- 1.12 Therefore in terms of the pedestrian links to the SW corner, NE corner and SE corner in particular (conditions 9-11), these would not be required until such time as the site was capable of being occupied and could be used by residents to walk into the village or surrounding countryside. The site is currently not accessible by members of the public so there are no existing public rights of way affected by the proposed changes to the condition wording. It is also not considered that provision of these facilities would be required prior to commencement as due to safety reasons, the site would be closed off to members of the public whilst initial construction work was taking place and would not be practical to use until such time as footways/cycle paths were formed to connect to these access points.

- 1.13 With respect to the off-site works, the Planning Inspector in Paragraph 101 of the appeal decision stated:

101. The off-site works to Turnpike arise out of the requirements of Policy SP2 and relate to improvements that would also benefit the wider community. The necessary highway works, including footways, pedestrian crossing facilities, gateway features, signing and lining and associated works are directly and fairly related to the proposed development in scale and kind, and would be necessary to make the scheme acceptable in planning terms and to satisfy the requirements of the Development Plan. It is reasonable and necessary that those works should be required to have been constructed before development commences. The Appellant, Council and Highway Authority all agree that they could be secured by planning conditions. I have no reason to disagree. Schedule 5 of the S106 would duplicate the conditions and would not be necessary. It is reasonable and necessary though, that provisions for the TRO are secured by the proposed UU.

- 1.14 Whilst the Planning Inspector outlines the case that a pre-commencement condition would be reasonable, being in line with the requirements of Policy SP2. On this point, Policy SP2 (g) outlines the requirement for improved access to the village for pedestrians and cyclists. It does not state it should be provided in advance of the development commencing and it is considered again that these works which arise from additional traffic generation and pedestrian movements associated with the development would not be required until such time as the site was capable of being occupied. The technical details for the off-site highway works have been submitted with technical approval given by the Local Highway Authority. Therefore it would now be a case of the Local Highway Authority planning these works into their highway works schedule. The change to the condition wording would ensure that the residential development could start and that these works would be implemented prior to occupation of the first dwelling on site.
- 1.15 The Local Highway Authority has assessed the proposed changes and has raised no objection. Therefore in light of the inspector's comments in paragraph 101, it should be noted that the applicant, Planning Officer and Highway Authority would agree to the change to the wording of conditions 7, 9, 10 and 11. There is no argument that the conditions are required to secure the highway works, only consideration that these highway works could be provided a little later in the development of the site.
- 1.16 It is considered that a change from pre-commencement to prior to occupation of the first dwelling on site would be in accordance with the NPPF (paragraph 60) which seeks to support developers to build out development quickly, to deliver needed housing by tackling unnecessary delays caused by planning conditions and to ensure that land with planning permission is developed.
- 1.17 The revised conditions would enable the development of land with planning permission in a timely manner. Therefore in light of the above it is considered that the change of wording to conditions 7, 9-11 from pre-commencement to prior to occupation of the first dwelling on site is acceptable and approval is recommended.

CONDITIONS

Conditions 7, 9, 10 and 11 would be reworded as follows:

7. No dwelling comprising part of the development shall be occupied until off-site highways works generally in accordance with drawing 06685-HYD-XX-XX-DR-TP-P-07 Rev P 07 for the canal bridge area and as set out in the Statement of Common Ground between the Appellant and the Council, dated 8 December 2020, and for the improvement in width to 2m of approximately 380m of the south side of Turnpike between the proposed SE access and the canal bridge, have been constructed in accordance with the approved technical details submission for the S278 works and made available for use by the public.

9. No dwelling comprising part of the development shall be occupied until highway works to provide the on-site north-east pedestrian/cycle access onto Higher Town and off-site works generally in accordance with, drawing 06685-HYD-XX-XX-DR-TP-P-04 Rev P3 (inclusive of, but not limited to, a footway/cycle way onto Higher Town, a build out, visibility splays, traffic calming and gateway) have been constructed in accordance with the approved technical details submission for the S278 works and made available for use by the public. Those works shall be retained thereafter. Within the visibility splays as formed there shall be no obstruction above 0.6m in height, and the visibility splay shall be maintained thereafter.

10. No dwelling comprising part of the development shall be occupied until the highway works to provide the on-site south-east pedestrian/cycle access onto Turnpike in accordance with drawing 06685-HYD-XX-DR-TP-108-P4 and off-site works in accordance with drawing 06685-HYD-XX-XX-TP-0125-Rev P1 (inclusive of, but not limited to, a footway/cycle way onto Turnpike build out and visibility splays) have been constructed in accordance with the approved technical details submission for the S278 works and made available for use by the public. Those works shall be retained thereafter. Within the visibility splays as formed there shall be no obstruction above 0.6m in height, and the visibility splay shall be maintained thereafter.

11. No dwelling comprising part of the development shall be occupied until the highway works as shown on drawing 06685-HYDXX- XX-DR-TP-0110-P2 for the provision of an access and footway at the Battens Cross junction off Turnpike and link road (inclusive of, but not limited to, footway, tactile crossings, drainage, alignment, visibility splays) have been constructed in accordance with the approved technical details submission for the S278 works and made available for use by the public. Those works shall be retained thereafter. Within the visibility splays as formed there shall be no obstruction above 0.6m in height, and the visibility splays shall be maintained thereafter.

Notwithstanding the approval of reserved matters 22/00040/MARM and additional information submitted to discharge conditions 6, 16, 17, 21 and 23 the other planning conditions of outline planning permission 17/01359/MOUT listed in the schedule of planning conditions by the Planning Inspector would remain unaltered being as follows:

1. Details of the appearance, landscaping, layout and scale (hereinafter called 'the Reserved Matters') shall be submitted to and approved in writing by the local planning authority before any development begins in respect of that phase. Development shall be carried out in accordance with the approved details.

2. Application for approval of the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

3. The development hereby permitted shall begin no later than two years from the date of approval of the last of the Reserved Matters to be approved.

4. The landscape details required to be submitted by condition 1 shall include the following additional information: details for the attenuation pond, boundary treatments, details for new Devon Banks, new walling (including siting and construction details) and hedgerows, existing and proposed site levels, finished floor levels, tree protection plan and arboricultural method statement. Development shall be carried out in accordance with the approved details.

5. 20% of all the dwellings approved shall be constructed to meet the requirements of Part M4 (2) Category 2: Accessible and Adaptable Dwellings of the Building Regulations 2010 (as amended 2016).

6. No development shall begin until the implementation of a programme of archaeological work for the entire site has been secured in accordance with a written scheme of investigation and timetable for implementation, which shall have been previously submitted to and approved by the Local Planning Authority. The development shall be carried out at all times, in accordance with the approved scheme and timetable, and the results of the fieldwork and post excavation specialist analysis shall be submitted to the Local Planning Authority, in accordance with the approved timetable.

8. No development shall take place on site until the highway works to provide the vehicular access to the site from the road to the west of the site, have been constructed in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority and made available for use by the public. Such works including visibility splays shall be in general conformity with drawing 06685-HYD-XX-XX-DR-TP-106 Rev P5, and as set out in the Hydrock Transport Assessment 2018. Those works shall be retained thereafter. Within the visibility splays as formed there shall be no obstruction above 0.6m in height, and the visibility splay shall be maintained thereafter.

12. No development shall begin until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the approved details. Such Construction Management Plan shall include:

- a) the timetable of the works;
- b) daily hours of construction;
- c) any road closure;
- d) measures to ensure that delivery and construction traffic travelling to and from the site shall not take place other than between 8.00am and 6.00pm on Mondays to Fridays inclusive, 9.00am to 1.00pm on 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 proposed route of all construction traffic exceeding 7.5 tonnes;
- g) site management arrangements including provision for on-site storage of materials, plant and machinery; location of temporary offices, contractors' compounds and other facilities; on-site parking and turning provision for site operatives, visitors and construction vehicles; and the loading/unloading of plant and materials to take place within the site;
- i) the means of enclosure of the site during construction works;
- j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking on-site;
- k) details of wheel washing facilities;
- l) details of the amount and location of construction worker parking and measures to prevent overspill parking on the public highway.

13. The estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang

margins, embankments, 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. The development shall take place in accordance with the approved details and be retained thereafter. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials, and method of construction shall be submitted to and approved in writing by the Local Planning Authority.

14. No part of the development, other than that relating to the access works hereby permitted 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 metres back from its junction with the public highway in accordance with approved Plan 06685-HYD-xx-xx-DR-TP-106 REV P5.

B) The ironwork has been set to base course level and the visibility splays required by this permission laid out in accordance with approved plan 06685-HYD-xx-xx-DR-TP106 REV P5.

15. No development shall commence until a temporary surface water drainage management system to serve the development site for the full period of its construction has been implemented and is operational. Details of such temporary surface water drainage management system shall be submitted to and approved in writing by the Local Planning Authority before its implementation and shall address both the rates and volumes, and quality, of the surface water runoff from the construction site. The temporary surface water management system shall be implemented in accordance with the approved details and so retained and maintained during the construction period.

16. No development shall take place until a programme of percolation tests for the whole site, with details of the locations and depths of the proposed infiltration devices have been carried out in accordance with BRE Digest 365 Soakaway Design (2016), and in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority.

17. No part of the development hereby permitted within the site shall be commenced until the full results of a groundwater monitoring programme for the whole site undertaken over a period of 12 months, including locations and depth of proposed infiltration devices, has been submitted to, and approved in writing by, the Local Planning Authority.

18. 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. The design of this permanent surface water drainage management system will be informed by the programme of approved BRE Digest 365 Soakaway Design (2016) percolation tests and in accordance with the principles set out in the Flood Risk Assessment and Drainage Strategy (Ref. C-06685-C; Rev. P4; dated 1st February 2018), Drainage Strategy Layout Sheet 1 of 2 (Drawing No. C-06685-C- 002; Rev. C; dated 9th May 2018), Drainage Strategy Layout Sheet 2 of 2 (Drawing No. C- 06685C-003; Rev. C; dated 9th May 2018), Drainage Strategy Layout Option B: No Infiltration Sheet 1 of 2 (Drawing No. C-06685-C-005; Rev. B; dated 9th May 2018), Drainage Strategy Layout Option B: No Infiltration Sheet 2 of 2 (Drawing No. C-06685-C- 006; Rev. B; dated 9th May 2018), MicroDrainage outputs of greenfield runoff rates for the site (File Attenuation – 30 YEAR_WHOLE; dated 23rd March 2018), MicroDrainage outputs for proposed Highway Soakaways (Ref. Highways Soakaway 1 - Rev A; File Highway soakaway; dated 23rd March 2018, as well as Ref. Highway Soakaway 2; File Highway soakaway; dated 23rd March 2018) and MicroDrainage outputs for attenuation option (Ref. Whole Site: 30 Year Only; File Attenuation - 30 YEAR_WHOLE; dated 23rd March 2018, as well as Ref. Whole Site: 100 Year + 40%; File Attenuation 30 YEAR_WHOLE; dated 23rd March 2018). Once approved, the development shall be constructed in accordance with the approved

permanent surface water drainage management system and the system shall be fully operational before any of the proposed dwellings are first occupied and be so retained.

19. None of the dwellings hereby permitted shall be occupied until full details of the adoption and maintenance arrangements for the permanent surface water drainage management system approved pursuant to condition 18 above have been submitted to and approved in writing by the Local Planning Authority. The permanent surface water drainage management system shall be retained and maintained in accordance with the approved adoption and maintenance arrangements for the lifetime of the development.

a) No dwelling shall be first occupied until the following works have been carried out in accordance with details that have previously been submitted to and approved in writing by the local planning authority:

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

c) The spine road and cul-de-sac footways and footpaths which provide access to that dwelling have been constructed up to and including base course level;

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

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

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

g) The verge, service margin and vehicle crossing on the road frontage of the dwelling have been completed within the highway boundary;

h) Within twelve months of the first occupation of the first dwelling all roads, footways, footpaths, drainage, statutory undertakers' mains and apparatus, junction, access, retaining walls and visibility splay works shall be completed in accordance with the approved details and thereafter retained.

20. No street and/or external lighting of public areas shall be installed on site except in accordance with a sensitive lighting plan that shall have previously been submitted to and approved in writing by the Local Planning Authority.

21. Prior to the commencement of development, including groundworks, the site shall be re-surveyed by an appropriate person for evidence of badgers. An updated report shall be submitted to and approved in writing by the Local Planning Authority either confirming that no badgers were found, or/and containing appropriate mitigation measures (if required) including a timetable for implementation. Where the approved report identifies mitigation measures these should be implemented in full in accordance with the requirements of the report and associated timetable and be retained thereafter.

22. The recommendations in the reptile mitigation strategy report undertaken by Ecological Surveys Ltd dated May 2018 are to be fully implemented and maintained during the course of development associated with the relevant area of the site as set out within the report.

23. Before the development hereby approved is commenced, a site investigation and risk assessment shall be carried out to determine the nature and extent of any land contamination that may be present and the likely impact on all receptors that may result. A full report of the investigation and risk assessment shall be submitted to the Local Planning Authority. No development shall take place until either the Local Planning Authority has given written approval for the development to commence or the requirements of condition 25 below are met.

24. Where actual or probable significant pollutant linkages are found following the investigation and risk assessment required by condition 24 above, no development shall take place without the prior written approval of the Local Planning Authority of a remediation statement and timetable for completion of the required works.

25. Following completion of any works required by condition 25 above a remediation validation report shall be submitted to the Local Planning Authority. Occupation on the site, or parts of the site affected by land contamination, shall not take place without the prior written approval of the Local Planning Authority of the validation report.

26. Notwithstanding the approved site location plan drawing 1238.01.A, the area for the 60 dwellings shall be restricted to within the residential area identified on the Sampford Peverell Adopted Policies Map in the Mid Devon Local Plan 2013-2033.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The variation of conditions 7, 9, 10 and 11 of planning permission 17/01359/MOUT to amend the requirement for access and highway works from pre-commencement of development to occupation of development (Outline for the erection of 60 dwellings and construction of new vehicular access onto highway to the West of the site) is considered to be acceptable. The highway works covered by planning condition have received technical approval from the Highway Authority, and are not technically required until such time as any part of the site is capable of being occupied. The principle of development for 60 dwellings on site is already established by the granting of outline planning permission 17/01359/MOUT. Comprehensive consideration has also been given to the overall design, scale and layout of the proposal through reserved matters approval 22/00040/MARM. Subject to the scope of mitigation proposed and conditions, the development is not considered to have an unacceptable impact on highway safety, heritage assets, the environment including flood risk and protected species and/or the amenities of local residents within the locality. The proposal is therefore in accordance with Policies S1, S9, SP2, DM1 and DM25 of the Mid Devon Local Plan 2013-2033.

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

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.

Application No. 22/00868/MFUL

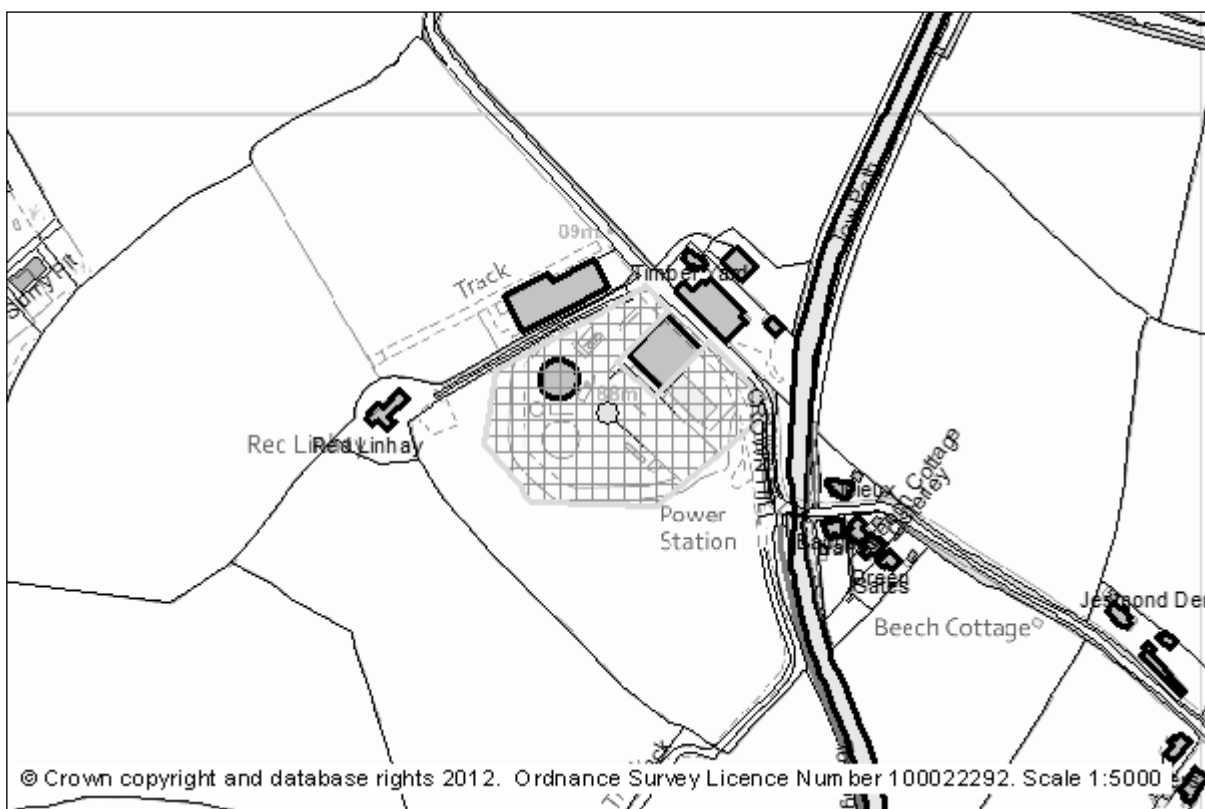
Grid Ref: 299621 : 112764

Applicant: Mr J Clapp

Location: Land at NGR 299621 112764 (Red Linhay)
Crown Hill
Halberton
Devon

Proposal: Removal of condition 13 of planning permission 17/01142/FULL - further noise assessments

Date Valid: 8th May 2022



APPLICATION NO: 22/00868/MFUL

Site Visit: No

Decision Delayed Reason: to be considered at planning committee.

CALL-IN required to be considered by the Planning Committee

RECOMMENDATION

Approval to vary Condition 13 (rather than remove) of Planning Permission 17/01142/Full to be consistent with condition 14 of previous permission 16/01180/Mful and subject to conditions

PROPOSED DEVELOPMENT

Removal of condition 13 of planning permission 17/01142/FULL - further noise assessments

APPLICANT'S SUPPORTING INFORMATION

Application form
Noise compliance assessment

RELEVANT PLANNING HISTORY

08/00282/PNAG - NOBJ date 7th March 2008 Prior notification for the erection of an agricultural storage building

12/00585/PNAG - NOBJ date 11th June 2012 Prior notification for the erection of a agricultural storage building

PRIOR APPROVAL REQUIRED - LETTER SENT 17TH MAY 2012

12/00630/FULL - PERMIT date 19th June 2012 Erection of a agricultural livestock building

13/01605/MFUL - PERMIT date 10th July 2014 Erection of a 500kW anaerobic digester and associated works with 4 silage clamps - NON MATERIAL AMENDMENT GRANTED 24TH MARCH 2015

14/02086/SCR - CLOSED date 5th January 2015 Request for Scoping Opinion relating to proposed mixed use development

13/01605/MFUL/NMA - PERMIT date 24th March 2015 Erection of a 500kW anaerobic digester and associated works with 4 silage clamps - Non Material Amendment to amend the route of a buried high voltage cable

15/01034/MFUL - PERCON date 12th July 2016 Erection of a 500kW anaerobic digester and associated works with 2 silage clamps. Revised Scheme to include the change of orientation of the layout and installation of 2 driers

16/01180/FULL - PERCON date 9th January 2017 Variation of condition 2 of planning permission 15/01034/MFUL to allow substitute plans

17/01142/FULL - PERCON date 5th October 2017 Variation of Condition 9 of planning permission 16/01180/FULL to change sections i) and ii) of the condition with reference to the location and source of feedstock and the subsequent ultimate destination of digestate from the anaerobic digester

17/01167/PNAG - PDA date 25th August 2017 Prior notification for the erection of an extension to an agricultural storage building

19/01215/FULL - PERCON date 20th September 2019Erection of an agricultural storage building
19/01485/CLP - PERMIT date 8th November 2019Certificate of lawfulness for the proposed
installation of a microgeneration heat source pump
20/00226/FULL - PERCON date 30th March 2020Erection of extension to existing agricultural
building to house 1 ground source heat pump (2 MWh) and conveyor dryer, with associated
groundworks - 22/00887/NMA - GRANTED - 31.05.22

20/01429/FULL - PERMIT date 30th October 2020Erection of 2 cover buildings: to house existing
2 CHP units and an associated storage container and existing solid feeds hopper
22/00868/MFUL - PCO date Removal of condition 13 of planning permission 17/01142/FULL -
further noise assessments
22/00887/NMA - PERMIT date 31st May 2022Non Material Amendment for 20/00226/FULL to
allow amended proposal description from 'Erection of extension to existing agricultural building to
house 1 ground source heat pump (2 MWh) and conveyor dryer, with associated groundworks' to
Erection of extension to existing agricultural building to house 1 ground source heat pump (2.25
MWh) and conveyor dryer, with associated groundworks

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan Review 2013 – 2033

S1 – Sustainable development priorities
S9 – Environment
S14 – Countryside
DM1 – High quality design
DM2 – Renewable and low carbon energy
DM3 – Transport and air quality
DM4 – Pollution
DM5 – Parking
DM20 – Agricultural development
DM25 – Development affecting heritage assets

CONSULTATIONS

The GWCJAC Objects to this Application.

Condition 13 of the Planning Permission specifies sound levels which must not be exceeded during the operation of the AD plant. It also requires the operator to undertake mitigation works if the sound levels exceed these limits. It appears that a Sound Assessment carried out in March 2018 showed that the sound levels were exceeded.

It is possible that the 22dB limit specified in the Condition could have been a typographical error since it represents a relatively low, possibly unrealistic target so, rather than removing the Condition, it should be reviewed by the Planning Officer.

However, Condition 13 fits in well with the other noise Conditions; 12 & 14 so that those Conditions, as a set, serve to protect the nearby residences and the Grand Western Canal corridor that passes close to the AD plant. The operation of the AD plant with its attendant noise and associated intermittent butyric smells, that occur when the plant is not operating correctly, have a deleterious effect on the peace and character of the Canal's Conservation Area.

The GWCJAC notes MDDC's Local Plan for 2013-2033 Policy S1, referring to sustainable development priorities, seeks to conserve and enhance the natural environment by protecting and

enhancing valued landscapes and prevent significant harm to soil, air, water, noise and visual quality, in particular air quality.

The GWCJAC considers that the AD plant contravenes this Policy so any reduction of the Noise Conditions would be damaging so it Objects to the removal of Condition 13.

Additionally, Policy S9, referring to Environment, states that

Development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets and minimise the impact of development on climate change through:

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...

The GWCJAC feels that the AD plant already breaches this Policy. Again considering Policy S9, it objects to the removal of Condition 13.

Following the extension provided to 15 June 2022 and given the comments from local residents regarding noise from the plant, it was RESOLVED to object to the removal of condition 13 and ask for the application to be called in by Councillor Ray Radford. Noise was a material planning consideration and there was historic evidence of non-compliance with condition 13.

A document has been prepared and uploaded to MDDC's planning portal.

Halberton Parish Council

At its meeting on 12 July 2022, it was RESOLVED that Halberton Parish Council would re-iterate its strong objection to this application.

The material considerations that we would like MDDC to take into consideration are:

- 1) Highway safety
- 2) Traffic
- 3) Noise
- 4) Previous planning decisions (including appeal decisions) and for these reasons, the Parish Council would ask our MDDC representative Councillor Ray Radford to call the application in.

Residents within the parish have contacted the Parish Council regarding the excessive noise produced by the AD plant and its failure to comply with the conditions of the approval of the planning application.

It is essential that noise surveys are carried and thus the condition relating to such surveys should not be removed.

Tiverton town council

Tiverton Town Council cannot support this application as it feels the condition was implemented for a good reason. It notes the comments made by the Parish Council, for which this application sits, and agrees with their comments

Public health

I have considered the application and the scant information provided with it. This refers to two previous planning approvals - 15/01034 and 17/01142. I have also read the report submitted by SLR in 2018. This report identifies that the noise conditions were not complied with at that time and recommended noise mitigation measures.

In order to better consider whether the conditions have been complied with, and/or are appropriate, we would request that further detailed information is provided describing what mitigation has been put in place, what effect this has had and what the check monitoring has

shown. We would also require that any noise monitoring is attended so that the consultant can describe the noises being heard and their source. The reason for this is that there are multiple noise sources on site and in some parts of the report it is suggested that some of the noise levels recorded are contributed to by off-site noise. In this rural location we would not expect that to be the case.

We will be pleased to comment again once this additional information is provided, but at this stage we do not consider it appropriate to remove any of the noise conditions from either of the applications.

REPRESENTATIONS

The application was advertised by a site notice, and within the Gazette along with neighbour notifications, a total of 58 properties were contacted.

There have been 6 letters of representation received.

1. Stipulated noise level limits must not be exceeded, therefore some control is required.
2. The report submitted with the application relating to noise were made 4-6 years ago
3. It was stated by planning back in August 2018 that the condition could not be discharged, as the information submitted by SLR consulting do not comply with the requirements of the condition. The applicant is now relying on this report for the removal of the condition. There has been sufficient time to resolve this by the applicant. No mention of how noise levels will be monitored.
4. Noise levels have increased over the years along with odour and particles.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

1. Policy and procedure

- 1.1. This application seeks Planning permission for the removal of condition 13 of 17/01142/full with regard to a further noise assessment.
- 1.2. Section 73 of the 1990 Act provides that developers can make “applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted”. Where a developer makes a Section 73 application the Local Planning Authority is only permitted to consider the question of the conditions attached to the planning permission.
- 1.3. If the application is granted then the developer has two planning permissions which could be implemented and developed out. If the application is refused the developer still has the benefit of the original planning permission.
- 1.4. The key point is that an amendment must be able to be facilitated through the variation or deletion of a condition. The operation of Section 73 of the 1990 Act therefore gives the developer an opportunity to request changes to the conditions attached to a planning permission without risking losing the original planning permission. Section 73 states:

73 Determination of applications to develop land without compliance with conditions previously attached.

(1) This section applies, subject to subsection (4), to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

(2) On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and

- (a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and*
- (b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.*

1.5. The condition in question is set out below:

Condition 13: The Operator is to provide a further noise assessment demonstrating that the screening and acoustic panelling/boxes are adequate and provides enough protection to ensure that the typical minimum background sound level 22dB (LA90 15min) is not breached from the operation of the plant. This assessment must be submitted to the planning authority within 5 months from the Operational commencement of the AD unit ("Operational" shall mean the first production of electricity to be exported to the grid confirmed as the 1st July 2017).

A copy of the findings from the assessment and all recorded data and audio files obtained as part of the assessment shall be provided to the Local Planning Authority (in electronic form) within 28 days of completion of the analysis.

Where the assessment information confirms that the noise levels from the operation of the plant are above the typical minimum background sound level 22dB (LA90 15min) within any amenity areas 3.5m from the façade of any noise sensitive properties, the operator shall carry out works to mitigate such effects to comply with the noise condition, details of which shall have first been submitted in writing and approved in writing by the local Authority.

The assessment and any such noise mitigation works shall be completed within 6 months from the date of notification and be so retained. The date of notification is the date the operator is informed in writing by the Local Planning Authority detailing the inadequate screening.

1.6. The applicant considers that this condition is unenforceable as the background sound level of 22dB (LA90 15min) is lower than that set out in condition 12 of the same approval as set out below.

Condition 12 states:

Condition 12 Noise emissions from Red Linhay Anaerobic Digester site at the nearest noise-sensitive locations are not to exceed the decibel levels stipulated below, day or night.

Daytime Noise level 07.00am -23.00pm shall not at the boundary of any noise sensitive premises exceed the decibel level 41 dB (LAeq 1hr)

Night-time Noise Level 23.00pm – 7.00am shall not when measured at 3.5m from the façade of any noise sensitive premises exceeds= the decibel level 33dB (LA90 15min).

Daytime (Evening) & Night time Noise Level 19.00pm – 23.00pm the Maximum Instantaneous Noise Level shall not when measured at 3.5m from the façade of any noise sensitive premises exceed 55dB (LAF max) evening (19.00-23.00hrs) and night-time (23.00-7.00hrs).

**(from noise data supplied)*

The average daytime background noise level is 36dB (LA90 1hr) plus 5dB exceedance

The average night-time background noise level is 28dB (LA90 15min) plus 5dB exceedance.

- 1.7. It is clear there is a discrepancy between the dB levels of the two conditions, however although there is this difference it is concluded that although problematic to comply with condition 13, the pragmatic approach is to amend the condition to be in line with the background noise levels.
- 1.8. However, it would appear that in a previous application 16/01180/Full this anomaly was looked at and the condition changed to reflect the condition set out in condition 12 above, it is unclear why the original 2015 approval condition as set out in condition 13 of 17/01142/full, was reinstated when it had been altered for the 16/01180/Full approval. This can only be put down to an office error at the time and the condition set out in the 2016 approval should have been included.
- 1.9. Having discussed the matter with the Environmental Health officer, it is considered that some form of additional noise condition is required to ascertain that noise levels are being maintained to an acceptable level. Therefore it is proposed to replace condition 13 with a similar worded condition (although it will need to be amended as the plant is now operational) which was associated with the 2016 approval (16/01180/Full), condition 14.
- 1.10. Condition 14 of 16/01180/Full reads:

Once the plant is operational, the operator shall provide a further noise assessment demonstrating that the screening and acoustic panelling/boxes are adequate and provides enough protection to meet the Decibel levels specified in condition 13 of this decision notice. This assessment must be submitted to the planning authority within 3 months from the Operational commencement of the AD unit ("Operational" shall mean the first production of electricity to be exported to the grid).

Should this assessment identify that suitable noise mitigation has not been provided the operator shall at its expense, within 21 days or such longer period as approved by the Local Planning Authority, undertake an assessment of the noise in accordance with the requirements of the Local Planning Authority.

Where the assessment information confirms that the noise levels from the operation of the plant are above the limits specified in Condition 13 of this decision notice, the operator shall carry out works to mitigate such effects to comply with the noise condition, details of which shall have first been submitted in writing and approved in writing by the Local Planning Authority.

The assessment and any such noise mitigation works shall be completed within 6 months from the date of notification and be so retained. The date of notification is the date the operator is informed in writing by the Local Planning Authority detailing the inadequate screening.

- 1.11. It is understood that the Local Authority Planning Enforcement team are currently investigating the possible non-compliance with the noise condition (13) as set out in the 2017 approval. This is an ongoing investigation which will be further considered following this application.

2. Conclusion

- 2.1. It is your officers recommendation that condition 13 of the 2017 planning approval is replaced with a suitably worded condition similar to that of condition 14 of the 2016 approval with suitable times to allow the operator to be able to provide the necessary information to the Authority. The new condition would read:

The operator is to provide a further noise assessment demonstrating that the screening and acoustic panelling/boxes are adequate and provides enough protection to ensure that the typical minimum background sound level as set out in condition 12 above is not breached from the operation of the Anaerobic digester plant. This assessment must be submitted to the planning authority within 6 months from the date of this permission.

Should this assessment identify that suitable noise mitigation has not been provided the operator shall at its expense, within 21 days or such longer period as approved by the Local Planning Authority, undertake an assessment of the noise in accordance with the requirements of the Local Planning Authority.

Where the assessment information confirms that the noise levels from the operation of the plant are above the limits specified in Condition 12 of this decision notice, the operator shall carry out works to mitigate such effects to comply with the noise condition, details of which shall have first been submitted in writing and approved in writing by the Local Planning Authority.

The assessment and any such noise mitigation works shall be completed within 6 months from the date of notification and be so retained. The date of notification is the date the operator is informed in writing by the Local Planning Authority detailing the inadequate screening.

- 2.2. This condition is considered to be appropriate and allows all six test as identified in the NPPF, paragraph 55 to be met.
- 2.3. As members will be aware, a section 73 application must also pull through any conditions as required within the extant application with any amendments following discharge of those conditions as required, these conditions are set out below.

CONDITIONS to be included with the approval

1. The date of commencement of this development shall be taken as the 11th May.2022 when the application was registered by the Local Planning Authority.

2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. The colour and finish of the building materials (including the digester dome) shall be retained in accordance with the details as submitted and approved in writing by the Local Planning Authority on 27th October 2016 pursuant to 15/01034/MFUL.
4. All works and operations shall take place in accordance with the Operational Traffic Management Plan in the agreed parameters as set out under condition 4 of 16/01180/FULL. The date the plant first became operational ("Operational" shall mean the first production of electricity to be exported to the grid which has been confirmed as 1st June 2017).
5. The completed passing bay on Crown Hill is to be retained in accordance with the approved plans "The Passing Bay scale 1:250 and dated 10.02.2015; and The Passing Bay Position scale 1:250 dated 10.03.2015" as set out in 13/01605/MFUL.
6. There shall be no storage of chicken and farmyard manures or slurry within the application site except within the liquids buffer tank and feeder hopper (triolet) serving the AD digester approved as part of this planning application.
7. All hedgerows within or on the boundary of the site located to the north west of the site and east adjacent to the highway shall be retained and maintained to a minimum height of 2 metres. Any trees or plants die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
8. The external lighting shall be retained in accordance with details agreed under condition 4 of 16/01180/FULL.
9.
 - i) The feedstock and approved quantities for the anaerobic digester shall be slurry (2,000 tonnes), farmyard and chicken manure (3,000 tonnes), grass and arable crops (8,925 tonnes) only, originally sourced from the sites named in Transport Statement(s) of application 17/01142/Full (Hartnoll Farm 62.13ha, Manley Lane 37.60ha, plots 1-13 41.48ha, Maunders 7.71ha, Wellington 23.55ha and Blocks A 19.92ha and B 96ha and shown on plans/aerial photos, Drawing numbers 13425/T04 Revision A 13425/T05 Revision A set out in the approved transport statement date stamped 21st August 2015 under application 15/01034/MFUL and Drawing 3 set out in the approved transport statement date stamped 15th August 2017 and
 - ii) The ultimate destination for the digestate from the anaerobic digester shall be to the sites named in the Transport Statement of application 17/01142/Full Hartnoll Farm 62.13ha, Manley Lane 37.60ha, plots 1-13 41.48ha, Maunders 7.71ha Blocks A 19.92ha and B 96ha only and shown on plan/aerial photos Drawing numbers 13425/T04 Revision A and 13425/T05 Revision A set out in the approved transport statement date stamped 21st August 2015 under application 15/01034/MFUL and set out in the approved transport statement date stamped 15th August 2017.
 - iii) A log book shall be maintained and completed detailing where and when the feedstock(s) for the AD plant have come from and where, when and mode of transport of the digestate leaving the site. The Log book shall record name of farm, plot, supplier, number and gross and net weight of vehicles along with date and time of feedstock delivery / digestate distribution.

iv) No other sites are to be utilised for either feedstock source or digestate destination. Such log book records shall be submitted to the Local Planning Authority quarterly or within any other frequency as requested by the Local Planning Authority.
v) Records of feedstock input into the digester by weight from the hopper (triolet) shall be kept and submitted to the Local Planning authority in writing quarterly or within any other frequency as requested by the Local Planning Authority.

10. The storage of digestate or other hazardous substances must be within the properly constructed bunded areas of sufficient capacity and containment, as approved in plan number WIN01_Redlinhay3_PP_002 under application 16/01180/FULL. Such approved scheme shall be so retained.
11. The planting scheme and Bund shall be retained and fully implemented in accordance with details agreed within condition 12 under application 16/01180/FULL. Any trees or plants which within a period of 5 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.
12. Noise emissions from the Red Linhay Anaerobic Digester site at the nearest noise-sensitive locations are not to exceed the decibel levels stipulated below, day or night.

Daytime Noise Level 07.00am - 23.00pm shall not at the boundary of any noise sensitive premises exceed the decibel level 41 dB (LAeq1hr)

Night-time Noise Level 23.00pm - 07.00am shall not when measured at 3.5m from the façade of any noise sensitive premises exceed the decibel level 33 dB (LA90 15min).

Daytime (Evening) & Night-time Noise Level 19.00pm - 23.00pm the Maximum Instantaneous Noise Level shall not when measured at 3.5m from the façade of any noise sensitive premises exceed 55 dB(LAFmax) evening (19.00-23.00hrs) and night-time (23.00-07.00hrs).

*(From the noise data supplied)

The average daytime background noise level is 36 dB (LA90 1hr) plus 5 dB exceedance

The average night-time background noise level is 28 (LA90 15min) plus 5 dB exceedance

13. The operator is to provide a further noise assessment demonstrating that the screening and acoustic panelling/boxes are adequate and provides enough protection to ensure that the typical minimum background sound level as set out in condition 12 above is not breached from the operation of the Anaerobic digester plant. This assessment must be submitted to the planning authority within 6 months from the date of this permission.

Should this assessment identify that suitable noise mitigation has not been provided the operator shall at its expense, within 21 days or such longer period as approved by the Local Planning Authority, undertake an assessment of the noise in accordance with the requirements of the Local Planning Authority.

Where the assessment information confirms that the noise levels from the operation of the plant are above the limits specified in Condition 12 of this decision notice, the operator shall carry out works to mitigate such effects to comply with the noise condition, details of

which shall have first been submitted in writing and approved in writing by the Local Planning Authority.

The assessment and any such noise mitigation works shall be completed within 6 months from the date of notification and be so retained. The date of notification is the date the operator is informed in writing by the Local Planning Authority detailing the inadequate screening.

14. The emergency flare stack shall not be operated for maintenance or for testing purpose except between 0700 and 1700 hours on any day (not including Bank Holidays).
15. Heavy and light Goods vehicles along with plant under the control of the operators which deliver waste, remove digestate or biofertiliser or operate at the site (the site is the area set out on the approved location plan outlined in red) shall only use non-intrusive broadband (white noise) vehicle noise alarms and/or reversing cameras. On such vehicles, there shall be no use of single or multi-pitch reversing beepers.
16. Written notification confirming the cessation of operations is to be given to the Local Planning Authority 3 month prior to the cessation of the use of the Anaerobic Digester plant hereby approved.
17. On the cessation of the use of the Anaerobic Digester plant hereby approved, the site shall be cleared of all buildings and structures, hardstandings bunds and any wastes within a period of six months from the date of cessation. After removal of the above, the surface of the site shall be regraded and be covered with topsoil to a depth of 500mm within a period of three months. The site shall then be planted in accordance with details to be agreed in writing by the Local Planning Authority.
18. The visibility splay at the site entrance shall be retained in accordance with plan 13425/T03 approved under planning permission 13/001605/MFUL with no obstructions within the visibility area over 1m above the adjacent carriageway level. It shall thereafter be so maintained for that purpose.
19. The approved system Foscam F19900P or equivalent to monitor the barrier and access to the site is to be retained and maintained operational such results of the monitoring system shall be submitted to the Local Planning Authority quarterly or within any other frequency as requested by the Local Planning Authority. The approved system is to be so retained.
20. The permission hereby granted is for a 500kw anaerobic digester only. Power generation from the development shall not exceed 500kw averaged over a quarterly period (such quarterly period to commence from the first Feed In tariff submissions and continue thereafter). Such records of power generation shall be kept and submitted quarterly in writing to the Local Planning Authority.
21. The Local Planning Authority shall be afforded access at reasonable times to all on site monitoring systems associated with the operation of the AD plant hereby granted.
22. The PF5000 Heavy Duty Manual Raise Barrier shall be retained in accordance with plan Drawing A Camera and Barrier dated 19th January 2017 agreed under 16/01180/FULL.

REASONS FOR CONDITIONS:

1. In order to establish a legal commencement date for the development to enable the development to be monitored by the Local Planning Authority.
2. For the avoidance of doubt and in the interests of proper planning.
3. To ensure the use of materials 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 Mid Devon Local Plan 2013-2033 Policies S9, DM2 and DM25.
4. To safeguard the amenities of the area and occupiers of nearby buildings in accordance with DM2 of Mid Devon Local Plan 2013-2033.
5. In the interest of highway safety and to ensure that adequate passing facilities are available for vehicles attracted to the site in accordance with DM2 and DM20 of the Mid Devon Local Plan 2013-2033.
6. To reduce odour levels within the site and to prevent pollution of the water environment in accordance with Policy DM4 of Mid Devon Local Plan 2013-2033.
7. In the interest of the visual amenity of the area and to protect the setting of the Grand Western Canal in accordance with Policies DM2, DM22 and DM27 of the Mid Devon Local Plan 2013-2033.
8. To protect the rural character of the area in accordance with Policies S9, DM5, DM20 and DM25 of the Mid Devon Local Plan 2013-2033.
9. The application has been considered as a site accepting these feedstock types only and not as a general waste facility and consideration of the impacts on the environment, neighbouring residents and the road network has been made on this basis and in order to accord with Policies DM2 and DM20 of the Mid Devon Local Plan 2013-2033.
10. To prevent pollution of the water environment in accordance with Policy DM4 of Mid Devon Local Plan 2013-2033.
11. To protect the rural character of the area in accordance with Policies S9, DM2, DM20 and DM25 of the Mid Devon Local Plan 2013-2033.
12. To minimise the potential for pollution and disturbance to local amenity, in accordance with Policy DM4 of the Mid Devon Local Plan 2013-2033.
13. To minimise the potential for pollution and disturbance to local amenity, in accordance with Policy DM4 of the Mid Devon Local Plan 2013-2033.
14. To minimise the potential for pollution and disturbance to local amenity, in accordance with Policy DM4 of the Mid Devon Local Plan 2013-2033.
15. To minimise the potential for pollution and disturbance to local amenity, in accordance with Policy DM4 of the Mid Devon Local Plan 2013-2033.
16. To ensure the Local Authority are made aware of the impending cessation of the use to enable proper consideration of the removal of the items on the site.

17. To achieve a satisfactory landscape/restoration. In the interest of the visual amenity of the area in accordance with Policies DM1 and DM20 of the Mid Devon Local Plan 2013-2033.
18. To provide adequate visibility from and of emerging vehicles. In the interest of highway safety and consideration of the impacts on the environment, neighbouring residents due to the number of movements to and from the site and in order to accord with Policies DM2 and DM20 of the Mid Devon Local Plan 2013-2033.
19. To ensure the AD plant is in accordance with that as set out in the application and supporting information and in order to ensure that the impacts of the development are acceptable.
20. To ensure the AD plant operates in accordance with the parameters and limitations as approved and as set out within the application and its supporting information.
21. To ensure the AD plant operates in accordance with the parameters and limitations as approved and as set out within the application and its supporting information.
22. To ensure all vehicles entering and leaving the site pass over the weighbridge to ensure the AD plant operates in accordance with the parameters and limitations as approved and as set out within the application and its supporting information.

REASON FOR APPROVAL OF GRANT OF CONSENT

The proposal is to remove condition 13 of planning permission 17/01142/Full relating to an additional noise assessment. However it is considered in this case that the requisite condition is not removed but amended to address the anomaly of the lower dB level and to provide a suitable condition for compliance and to protect the amenity of neighbouring properties.

The new variation of the condition will need to ensure that there is not only compliance with the noise levels as set out in condition 12 but also to ensure there are adequate facilities to maintain this noise to an acceptable level. All previous conditions will be re-imposed where they are required.

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.

It is also considered that to assist the Planning committee there will be 3 appendices with the decision notices for the 2015, 2016 and 2017 approvals.

APPENDIX 1

Reference No: 15/01034/MFUL

Parish: Halberton 25

TOWN AND COUNTRY PLANNING ACT 1990
APPROVAL OF FULL PLANNING APPLICATION

Name and Address of Applicant:

Mr David Manley
Greener For Life Energy Ltd
The Cricket Barn
Nomansland
Tiverton
Devon
EX16 8NP

Name and Address of Agent:

Ms Deborah Cairns
E4environment Ltd
Hilley Farm
Pentre
Shrewsbury
Shropshire
SY4 1BP

Date Registered : 17th July 2015

Date of Permission : 12th July 2016

Proposal: Erection of a 500kW anaerobic digester and associated works with 2 silage clamps. Revised Scheme to include the change of orientation of the layout and installation of 2 driers

Location: Land at NGR 299621 112764 (Red Linhay) Crown Hill Halberton

Site Vicinity Grid Ref: 299621/112764

MID DEVON DISTRICT COUNCIL HEREBY GRANTS FULL PLANNING PERMISSION FOR THE ABOVE DEVELOPMENT

Subject to the following conditions:

1. The date of commencement of this development shall be taken as the 17th July 2015 when the application was registered by the Local Planning Authority.
2. The development hereby permitted is for the erection of an anaerobic digester and associated works which shall be carried out in accordance with the approved plans, approved reports and statements listed in the schedule on the decision notice.

3. Details of the colour and finish of the building materials to be used (including the digester dome) are to be submitted within 1 month of the date of this approval and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with these details within 2 months of approval of the submitted details.
4. Within 1 month of the date of this approval a Construction and Operational Environment and Traffic Management Plan shall have been submitted to and approved in writing by the Local Planning Authority.

The plan shall include details of:

1. hours of working;
2. hours of deliveries; including details of any importation of digestate associated with commencement of operations.
3. dust suppression management measures;
4. traffic management
5. vehicle routing to and from the site;
6. programme of works
7. parking for vehicles of site personnel, operatives and visitors;
8. storage of plant and materials;
9. loading, unloading and movement of plant and materials within the site.
10. facilities for cleaning wheels on exiting vehicles

All works and operations shall take place in accordance with the approved details during construction and operation phases of the development. The date the plant first becomes operational ("Operational" shall mean the first production of electricity to be exported to the grid) shall be confirmed in writing to the Local Planning Authority no more than one week following that date.

5. The passing bay on Crown Hill shall be completed in accordance with the details shown on plan '00030-GFL-Hartnoll-Passing bay' approved under planning permission 13/0160/MFUL within 3 months of the date the AD plant becomes operational ("Operational" shall mean the first production of electricity to be exported to the grid) and be so retained. Written confirmation of the date the AD plant first becomes operational shall be submitted to the Local Planning Authority within 1 week of this date.
6. Within three months of the date of this planning permission, a programme of archaeological work indicating details/areas of the parts of the site it shall relate to will be implemented in

accordance with a written scheme of investigation submitted by the applicant or their agent and approved by the Local Planning Authority.

7. The anaerobic digester facility hereby permitted shall not be brought into operation ("Operational" shall mean the first production of electricity to be exported to the grid) until a drainage scheme has been implemented in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority. Such scheme shall include details of the provision for the disposal of clean surface water by a Sustainable Urban Drainage System, and separate provision for disposal of foul waste and dirty surface/ yard water. The scheme shall include specifications and a timetable for implementation. The water management system shall be completed in accordance with the approved details and retained and maintained for that purpose at all times.
8. There shall be no storage of chicken and farmyard manures or slurry within the application site except within the liquids buffer tank and feeder hopper (triolet) serving the AD digester approved as part of this planning application.
9. All hedgerows within or on the boundary of the site located to the north west of the site and east adjacent to the highway shall be retained and maintained to a minimum height of 2 metres. Any trees or plants die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
10. i) The feedstock for the anaerobic digester shall be slurry, farmyard and chicken manure, grass and arable crops only, originally sourced from the sites named in Transport Statement of this application only (Hartnoll Farm 62.13ha, Manley Lane 37.60ha, plots 41.48ha, Maunders 7.71ha, and Wellington 23.55ha and shown on plan/aerial photos Drawing numbers 13425/T04 Revision A and 13425/T05 Revision A set out in the approved transport statement date stamped 21st August 2015).

ii) The ultimate destination for the digestate from the anaerobic digester shall be to the sites named in the Transport Statement of this application Hartnoll Farm 62.13ha, Manley Lane 37.60ha, plots 41.48ha, Maunders 7.71ha only and shown on plan/aerial photos Drawing numbers 13425/T04 Revision A and 13425/T05 Revision A set out in the approved transport statement date stamped 21st August 2015).

iii) A log book shall be maintained and completed detailing where and when the feedstock(s) for the AD plant have come from and where, when and mode of transport of the digestate leaving the site. The Log book shall record name of farm, plot, supplier, number and gross and net weight of vehicles along with date and time of feedstock delivery / digestate distribution.

iv) No other sites are to be utilised for either feedstock source or digestate destination. Such log book records shall be submitted to the Local Planning Authority quarterly or within any other frequency as requested by the Local Planning Authority.

v) Records of feedstock input into the digester by weight from the hopper (triolet) shall be kept and submitted to the Local Planning authority in writing quarterly or within any other frequency as requested by the Local Planning Authority.

11. Prior to installation, details of any external lighting including a lighting assessment which should include the following information:

- o A description of the proposed lighting scheme together with hours of operation;
- o A layout plan of the proposed development site showing the lighting scheme together with light spread, spill and intensity;
- o Details of the proposed equipment design;
- o An assessment of the impact of the proposed lighting upon ecology; neighbouring properties, roads and character of the site and its surroundings;
- o Details of any proposed measures to mitigate or compensate for the possible impacts of the proposed lighting shall be submitted to and approved in writing by the Local Planning Authority. Any approved external lighting shall be installed in accordance with the approved details and shall be so retained.

12. The storage of digestate or other hazardous substances must be within properly constructed bunded areas of sufficient capacity and containment, details of which are to be submitted to and approved in writing by the Local Planning Authority prior to the first storage of any digestate outside the digestate storage tank and separator fibre clamp. Such approved scheme shall be so retained.

13. The Tree Planting scheme submitted and approved plan WIN01_Redlinhay2_PP_004 shall be undertaken and completed within one month of the completion of the archaeological works subject to condition 6 above or within the next planting season following completion of the archaeological works, October-March whichever is the sooner. Any trees or plants which within a period of 5 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.

14. Noise emissions from the Red Linhay Anaerobic Digester site at the nearest noise-sensitive locations are not to exceed the decibel levels stipulated below, day or night.

Daytime Noise Level 07.00am - 23.00pm shall not at the boundary of any noise sensitive premises exceed the decibel level 41 dB (LAeq1hr)

Night-time Noise Level 23.00pm - 07.00am shall not when measured at 3.5m from the façade of any noise sensitive premises exceed the decibel level 33 dB (LA90 15min).

Daytime (Evening) & Night-time Noise Level 19.00pm - 23.00pm the Maximum Instantaneous Noise Level shall not when measured at 3.5m from the façade of any noise

sensitive premises exceed 55 dB(LAFmax) evening (19.00-23.00hrs) and night-time (23.00-07.00hrs).

*(From the noise data supplied)

The average daytime background noise level is 36 dB (LA90 1hr) plus 5 dB exceedance

The average night-time background noise level is 28 (LA90 15min) plus 5 dB exceedance

15. Once the plant is fully operational, the operator provides a further noise assessment demonstrating that the screening is adequate and provides enough protection to ensure that the typical minimum background sound level 22dB (LA90 15min) is not breached from the operation of the plant. This assessment must be submitted to the planning authority within 3 months from the Operational commencement of the AD unit ("Operational" shall mean the first production of electricity to be exported to the grid).

A copy of the findings from the assessment and all recorded data and audio files obtained as part of the assessment shall be provided to the Local Planning Authority (in electronic form) within 28 days of completion of the analysis.

Where the assessment information confirms that the noise levels from the operation of the plant are above the typical minimum background sound level 22dB (LA90 15min) within any amenity areas 3.5m from the façade of any noise sensitive properties, the operator shall carry out works to mitigate such effects to comply with the noise condition, details of which shall have first been submitted in writing and approved in writing by the local Authority.

The assessment and any such noise mitigation works shall be completed within 6 months from the date of notification and be so retained. The date of notification is the date the operator is informed in writing by the Local Planning Authority detailing the inadequate screening.

16. The emergency flare stack shall not be operated for maintenance or for testing purpose except between 0700 and 1700 hours on any day (not including Bank Holidays).
17. Heavy and light Goods vehicles along with plant under the control of the operators which deliver waste, remove digestate or biofertiliser or operate at the site (the site is the area set out on the approved location plan outlined in red) shall only use non-intrusive broadband (white noise) vehicle noise alarms and/or reversing cameras. On such vehicles, there shall be no use of single or multi-pitch reversing beepers.
18. Written notification confirming the cessation of operations is to be given to the Local Planning Authority 3 month prior to the cessation of the use of the Anaerobic Digester plant hereby approved.

19. On the cessation of the use of the Anaerobic Digester plant hereby approved, the site shall be cleared of all buildings and structures, hardstandings bunds and any wastes within a period of six months from the date of cessation. After removal of the above, the surface of the site shall be regraded and be covered with topsoil to a depth of 500mm within a period of three months. The site shall then be planted in accordance with details to be agreed in writing by the Local Planning Authority.
20. Notwithstanding the submitted details, within 1 month from the date of the grant of planning permission, details of an earth bund and any stock fencing to enclose the western and southern sides of the site together with a landscaping scheme shall be submitted to and agreed in writing by the Local Planning Authority. The bund shall be provided in accordance with the agreed details prior to the development becoming first operational ("Operational" shall mean the first production of electricity to be exported to the grid) and the landscaping scheme shall be completed in accordance with the agreed details within the first planting season following the development becoming first operational. Once provided the bund and landscaping scheme shall be so retained. Any trees or plants which within a period of 5 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.
21. The visibility splay at the site entrance shall be provided and laid out in accordance with plan 13425/T03 approved under planning permission 13/001605/MFUL within 1 month of the date of this permission with no obstructions within the visibility area over 1m above the adjacent carriageway level. It shall thereafter be so maintained for that purpose.
22. Within 1 month from the date of approval, details are to be provided in writing to the Local Planning Authority of the location and type of electronic system to be installed to monitor the number and type of vehicles entering and leaving the anaerobic digester site. Such approved system is to be installed and operational prior to the first operation ("Operational" shall mean the first production of electricity to be exported to the grid) of the anaerobic digester site. Such results of the monitoring system shall be submitted to the Local Planning Authority quarterly or within any other frequency as requested by the Local Planning Authority. The approved system is to be so retained.
23. The permission hereby granted is for a 500kw anaerobic digester only. Power generation from the development shall not exceed 500kw averaged over a quarterly period (such quarterly period to commence from the first Feed In tariff submissions and continue thereafter). Such records of power generation shall be kept and submitted quarterly in writing to the Local Planning Authority.
24. The Local Planning Authority shall be afforded access at reasonable times to all on site monitoring systems associated with the operation of the AD plant hereby granted.

25. Within 1 month from the date of this permission, details are to be submitted to the Local Planning Authority of the location and specification of physical barrier to be provided to prevent vehicles bypassing the weighbridge to the lower part of the site. The physical barrier shall be erected prior to the first operation of the site in accordance with the details which shall first have been agreed in writing by the Local Planning Authority and shall thereafter be so retained. ("Operational" shall mean the first production of electricity to be exported to the grid).

REASONS FOR CONDITIONS:

1. In order to establish a legal commencement date for the development to enable the development to be monitored by the Local Planning Authority.
2. For the avoidance of doubt and in the interests of proper planning.
3. To ensure the use of materials 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 Mid Devon Core Strategy 2007 COR2 Mid Devon Local Plan DM2 and DM27.
4. To safeguard the amenities of the area and occupiers of nearby buildings in accordance with DM2.
5. In the interest of highway safety and to ensure that adequate passing facilities are available for vehicles attracted to the site in accordance with DM2 and DM22 of the Local Plan Part 3 (Development Management Policies).
6. To ensure, in accordance with paragraph 141 of the National Planning Policy Framework (2012) and the supporting text in paragraph 5.3 of the Mid Devon Local Plan Part 3: Development Management Policy DM27 (2013), that an appropriate record is made of archaeological evidence that may be affected by the development.
7. To ensure adequate facilities are provided for the disposal of surface water from the development in accordance with policies DM2, DM22 and DM27 of the local Plan Part 3 (Development Management Policies).
8. To reduce odour levels within the site and to prevent pollution of the water environment in accordance with policy DM7 of Local Plan Part 3 (Development Management Policies).
9. In the interest of the visual amenity of the area and to protect the setting of the Grand Western Canal in accordance with policies DM2, DM22 and DM27 of the Local Plan Part 3 (Development Management Policies).

10. The application has been considered as a site accepting these feedstock types only and not as a general waste facility and consideration of the impacts on the environment, neighbouring residents and the road network has been made on this basis and in order to accord with policies DM5 and DM22 of the Local Plan Part 3 (Development Management Policies).
11. To protect the rural character of the area in accordance with policies COR2 of the Mid Devon Core Strategy (LP1) and DM5, DM22 and DM27 of the Local Plan Part 3 (Development Management Policies).
12. To prevent pollution of the water environment in accordance with policy DM7 of Local Plan Part 3 (Development Management Policies).
13. To ensure the archaeological works are completed prior to the planting of the screening to minimise disturbance to the planting scheme and to provide further screening for the site and assist with reducing any potential noise.
14. To minimise the potential for pollution and disturbance to local amenity, in accordance with policy DM7 of the Local Plan Part 3.
15. To minimise the potential for pollution and disturbance to local amenity, in accordance with policy DM7 of the Local Plan Part 3.
16. To minimise the potential for pollution and disturbance to local amenity, in accordance with policy DM7 of the Local Plan Part 3.
17. To minimise the potential for pollution and disturbance to local amenity, in accordance with policy DM7 of the Local Plan Part 3.
18. To ensure the Local Authority are made aware of the impending cessation of the use to enable proper consideration of the removal of the items on the site.
19. To achieve a satisfactory landscape/restoration.
20. In the interest of the visual amenity of the area in accordance with policies DM2, DM22 of the Local Plan Part 3.
21. To provide adequate visibility from and of emerging vehicles.
22. In the interest of highway safety and consideration of the impacts on the environment, neighbouring residents due to the number of movements to and from the site and in order to accord with policies DM5 and DM22 of the Local Plan Part 3 (Development Management Policies).
23. To ensure the AD plant is in accordance with that as set out in the application and supporting information and in order to ensure that the impacts of the development are acceptable.

24. To ensure the AD plant operates in accordance with the parameters and limitations as approved and as set out within the application and its supporting information.
25. To ensure all vehicles entering and leaving the site pass over the weighbridge to ensure the AD plant operates in accordance with the parameters and limitations as approved and as set out within the application and its supporting information.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

While a significant number of objections have been received in response to the consultation on this proposal, it is not considered that the harm to the environment, the landscape, neighbouring residents and the Grand Western Canal is significant enough to warrant refusal of the application when balanced against the benefits. The Anaerobic Digestion plant will process farm wastes into a product which will assist in improving land management techniques and will generate a source of renewable energy. The proposal has demonstrated how it will reduce traffic movements on the local highway network and improve the access to site. The impact on the Grand Western Canal is considered to be limited and is considered to be outweighed by the benefits of the proposal. Any harm likely to arise from this proposal can be adequately mitigated by the imposition of conditions. It is considered that this proposal will not cause significant harm and that the benefits of granting planning permission outweigh any limited harm that may be caused. Accordingly the application is in accordance with Mid Devon Core Strategy (Local Plan 1) policies COR1, COR2, COR5 and COR18, Local Plan Part 3 (Development Management Policies) DM1, DM2, DM5, DM6, DM7, DM8, DM22, DM27, and the National Planning Policy Framework.

Statement of Positive Working

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, in determining this application the Local Planning Authority has worked proactively and positively with the applicant to ensure that all relevant planning considerations have been properly resolved. This has included discussions, negotiations and meetings.

In accordance with paragraph 69 of the National Planning Policy Framework, the Local Planning Authority has also involved the community in the consideration of this application.

DEVELOPMENT PLAN POLICIES:

Mid Devon Core Strategy (Local Plan Part 1)

COR1 - Sustainable Communities

COR2 - Local Distinctiveness

COR5 - Climate Change

COR18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development

DM2 - High quality design

DM5 - Renewable and low carbon energy

DM6 - Transport and air quality

DM7 - Pollution

DM8 - Parking

DM22 - Agricultural development

DM27 - Development affecting heritage assets

Relevant Plans

The plans listed below are those approved. No substitution shall be made.

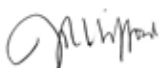
Plan Type	Reference	Title/Version	Date Received
Site Location Plan	FIGURE 1	Site Location Plan	21/09/2015
Supporting Information	V 2	ODOUR MANAGEMENT PLAN	21/09/2015
Supporting Information	TRANSPORT STATEMENT		20/08/2015
Supporting Information	MANURE MANAGEMENT PLAN		20/08/2015
Supporting Information	NUTRIENT MANAGEMENT PLAN		20/08/2015
Noise and Vibration		Noise Assessment	24/06/2015
Proposed	WIN01_HA2_EL_W __001	West Elevation	24/06/2015
Proposed	WIN01_HA2_EL_S _001	South Elevation	24/06/2015
Proposed	WIN01_HA2_EL_E _001	East Elevation	24/06/2015

Proposed	WIN01_HA2)EL_N_001	North Elevation	24/06/2015
Supporting Information	NOISE ASSESSMENT	Revised noise assessment	02/11/2015
Supporting Information	NOISE ASSESSMENT	Supp noise assessment	06/11/2015
Landscape Supporting	WIN01_RED LINHA Y2_PP_006	Planting Specification	03/12/2015
Proposed	WIN01_HA2_EL_0_002	Elevation - Overview	03/12/2015
Proposed	WIN01_RE_RETAINING WALLS	Retaining Walls	03/12/2015
Proposed	WIN01_RE_SITE LAYOUT	Layout	03/12/2015
Proposed	WIN01_RE_DRAIN AGE	Drainage Layout	03/12/2015
Supporting Information		Amended Transport Statem	20/01/2016

A copy of the approved plans will be available on Mid Devon's online planning facility.

Website: <http://www.middevon.gov.uk/planning>

Signed:



Mrs Jenny Clifford

Head of Planning and Regeneration

Date: 12th July 2016

THIS DECISION IS NOT A DECISION UNDER BUILDING REGULATIONS AND SEPARATE CONSENT MAY BE REQUIRED. PLEASE CONTACT OUR BUILDING CONTROL DEPARTMENT FOR MORE INFORMATION.

Please refer to notes attached

APPENDIX 2

2016 Approval decision notice

Reference No: 16/01180/FULL

Parish: Halberton 25

TOWN AND COUNTRY PLANNING ACT 1990 *APPROVAL OF FULL PLANNING APPLICATION*

Name and Address of Applicant:

Mr David Manley
Greener For Life Energy Ltd
The Cricket Barn
Nomansland
Tiverton
Devon
EX16 8NP

Name and Address of Agent:

Ms Deborah Cairns
E4environment Ltd
Hilley Farm
Pentre
Shrewsbury
Shropshire
SY4 1BP

Date Registered : 26th August 2016

Date of Permission : 9th January 2017

Proposal: Variation of condition 2 of planning permission 15/01034/MFUL to allow substitute plans

Location: Land at NGR 299621 112764 (Red Linhay) Crown Hill Halberton

Site Vicinity Grid Ref: 299621/112764

MID DEVON DISTRICT COUNCIL HEREBY GRANTS FULL PLANNING PERMISSION FOR THE ABOVE DEVELOPMENT

Subject to the following conditions:

1. The date of commencement of this development shall be taken as the 26th August 2016 when the application was registered by the Local Planning Authority.
2. The development hereby permitted shall be carried out in accordance with the approved plans together with approved reports and statements listed on the decision notice. Elements of the anaerobic digester and associated works not varied by the approved plans, reports and statements submitted with this application shall be carried out in accordance with the approved plans, approved reports and statements under application 15/01034/MFUL.
3. The colour and finish of the building materials to be used (including the digester dome) shall be retained in accordance with the details as submitted and approved in writing by the Local Planning Authority on 27th October 2016 pursuant to 15/01034/MFUL.
4. Within 1 month of the date of this approval a Construction and Operational Environment and Traffic Management Plan shall have been submitted to and approved in writing by the Local Planning Authority.

The plan shall include details of:

1. hours of working;
2. hours of deliveries; including details of any importation of digestate associated with commencement of operations.
3. dust suppression management measures;
4. traffic management
5. vehicle routing to and from the site;
6. programme of works
7. parking for vehicles of site personnel, operatives and visitors;
8. storage of plant and materials;
9. loading, unloading and movement of plant and materials within the site.
10. facilities for cleaning wheels on exiting vehicles

All works and operations shall take place in accordance with the approved details during construction and operation phases of the development. The date the plant first becomes operational ("Operational" shall mean the first production of electricity to be exported to the grid) shall be confirmed in writing to the Local Planning Authority no more than one week following that date.

5. The passing bay on Crown Hill shall be completed in accordance with the details shown on plan '00030-GFL-Hartnoll-Passing bay' approved under planning permission 13/0160/MFUL within 3 months of the date the AD plant becomes operational ("Operational" shall mean the first production of electricity to be exported to the grid) and be so retained. Written confirmation of the date the AD plant first becomes operational shall be submitted to the Local Planning Authority within 1 week of this date.
6. The anaerobic digester facility hereby permitted shall not be brought into operation ("Operational" shall mean the first production of electricity to be exported to the grid) until a drainage scheme has been implemented in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority. Such scheme shall include details of the provision for the disposal of clean surface water by a Sustainable Urban Drainage System, and separate provision for disposal of foul waste and dirty surface/ yard water. The scheme shall include specifications and a timetable for implementation. The water management system shall be completed in accordance with the approved details and retained and maintained for that purpose at all times.
7. There shall be no storage of chicken and farmyard manures or slurry within the application site except within the liquids buffer tank and feeder hopper (triolet) serving the AD digester approved as part of this planning application.
8. All hedgerows within or on the boundary of the site located to the north west of the site and east adjacent to the highway shall be retained and maintained to a minimum height of 2 metres. Any trees or plants that die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
9.
 - i) The feedstock and approved quantities for the anaerobic digester shall be slurry, farmyard and chicken manure, grass and arable crops only, originally sourced from the sites named in Transport Statement of application 15/01034/MFUL only (Hartnoll Farm 62.13ha, Manley Lane 37.60ha, plots 41.48ha, Maunders 7.71ha, and Wellington 23.55ha and shown on plan/aerial photos Drawing numbers 13425/T04 Revision A and 13425/T05 Revision A set out in the approved transport statement date stamped 21st August 2015) under application 15/01034/MFUL.
 - ii) The ultimate destination for the digestate from the anaerobic digester shall be to the sites named in the Transport Statement of application 15/01034/MFUL Hartnoll Farm 62.13ha, Manley Lane 37.60ha, plots 41.48ha, Maunders 7.71ha only and shown on plan/aerial photos Drawing numbers 13425/T04 Revision A and 13425/T05 Revision A set out in the approved transport statement date stamped 21st August 2015) under application 15/01034/MFUL.
 - iii) A log book shall be maintained and completed detailing where and when the feedstock(s) for the AD plant have come from and where, when and mode of transport of the digestate leaving the site. The Log book shall record name of farm, plot, supplier, number and gross and net weight of vehicles along with date and time of feedstock delivery / digestate distribution.

iv) No other sites are to be utilised for either feedstock source or digestate destination. Such log book records shall be submitted to the Local Planning Authority quarterly or within any other frequency as requested by the Local Planning Authority.

v) Records of feedstock input into the digester by weight from the hopper (triolet) shall be kept and submitted to the Local Planning authority in writing quarterly or within any other frequency as requested by the Local Planning Authority.

10. Prior to installation, details of any external lighting including a lighting assessment which should include the following information:

- A description of the proposed lighting scheme together with hours of operation;
- A layout plan of the proposed development site showing the lighting scheme together with light spread, spill and intensity;
- Details of the proposed equipment design;
- An assessment of the impact of the proposed lighting upon ecology; neighbouring properties, roads and character of the site and its surroundings;
- Details of any proposed measures to mitigate or compensate for the possible impacts of the proposed lighting

shall be submitted to and approved in writing by the Local Planning Authority. Any approved external lighting shall be installed in accordance with the approved details and shall be so retained.

11. The storage of digestate or other hazardous substances must be within properly constructed bunded areas of sufficient capacity and containment, details of which are to be submitted to and approved in writing by the Local Planning Authority prior to the first storage of any digestate outside the digestate storage tank, separator fibre clamp and the dryer storage bunker. Such approved scheme shall be so retained.

12. A revised Tree Planting scheme and Landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority, a landscaping scheme, including details of any changes proposed in existing ground levels (including the Bund). All planting, seeding, turfing or earth reprofiling comprised in the approved details of planting and landscaping scheme shall be carried out within the next planting season following completion of the archaeological works, October-March whichever is the sooner. Any trees or plants which within a period of 5 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.

13. Noise emissions from the Red Linhay Anaerobic Digester site at the nearest noise-sensitive locations are not to exceed the decibel levels stipulated below, day or night.

Daytime Noise Level 07.00am - 23.00pm shall not at the boundary of any noise sensitive premises exceed the decibel level 41 dB (LAeq1hr)

Night-time Noise Level 23.00pm - 07.00am shall not when measured at 3.5m from the façade of any noise sensitive premises exceed the decibel level 33 dB (LAeq 15min).

Daytime (Evening) & Night-time Noise Level 19.00pm - 23.00pm the Maximum Instantaneous Noise Level shall not when measured at 3.5m from the façade of any noise sensitive premises exceed 55 dB(LAFmax) evening (19.00-23.00hrs) and night-time (23.00-07.00hrs).

*(From the noise data supplied)

The average daytime background noise level is 36 dB (LA90 1hr) plus 5 dB exceedance

The average night-time background noise level is 28 (LA90 15min) plus 5 dB exceedance

14. Once the plant is operational, the operator shall provide a further noise assessment demonstrating that the screening and acoustic panelling/boxes are adequate and provides enough protection to meet the Decibel levels specified in Condition 13 of this decision notice. This assessment must be submitted to the planning authority within 3 months from the Operational commencement of the AD unit ("Operational" shall mean the first production of electricity to be exported to the grid).

Should this assessment identify that suitable noise mitigation has not been provided the operator shall at its expense, within 21 days or such longer period as approved by the Local Planning Authority , undertake an assessment of the noise in accordance with the requirements of the Local Planning Authority.

A copy of the findings from the assessment and all recorded data and audio files obtained as part of the assessment shall be provided to the Local Planning Authority (in electronic form) within 28 days of completion of the analysis.

Where the assessment information confirms that the noise levels from the operation of the plant are above the limits specified in Condition 13 of this decision notice, the operator shall carry out works to mitigate such effects to comply with the noise condition, details of which shall have first been submitted in writing and approved in writing by the Local Planning Authority.

The assessment and any such noise mitigation works shall be completed within 6 months from the date of notification and be so retained. The date of notification is the date the operator is informed in writing by the Local Planning Authority detailing the inadequate screening.

15. The emergency flare stack shall not be operated for maintenance or for testing purpose except between 0700 and 1700 hours on any day (not including Bank Holidays).

16. Heavy and light Goods vehicles along with plant under the control of the operators which deliver waste, remove digestate or biofertiliser or operate at the site (the site is the area set out on the approved location plan outlined in red) shall only use non-intrusive broadband (white noise) vehicle noise alarms and/or reversing cameras. On such vehicles, there shall be no use of single or multi-pitch reversing beepers.
17. Written notification confirming the cessation of operations is to be given to the Local Planning Authority 3 months prior to the cessation of the use of the Anaerobic Digester plant hereby approved.
18. On the cessation of the use of the Anaerobic Digester plant hereby approved, the site shall be cleared of all buildings and structures, hardstandings bunds and any wastes within a period of six months from the date of cessation. After removal of the above, the surface of the site shall be regraded and be covered with topsoil to a depth of 500mm within a period of three months. The site shall then be planted in accordance with details to be agreed in writing by the Local Planning Authority.
19. The agreed discharge of condition 20 associated with 15/01034/MFUL with regard to the amended shape of the bund and stock proof fencing shall be undertaken and completed prior to the development becoming first operational ("Operational" shall mean the first production of electricity to be exported to the grid) and the landscaping scheme shall be completed in accordance with the agreed details within the first planting season following the development becoming first operational. Once provided the bund and landscaping scheme shall be so retained. Any trees or plants which within a period of 5 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.
20. The visibility splay at the site entrance shall be provided and laid out in accordance with plan 13425/T03 approved under planning permission 13/001605/MFUL within 1 month of the date of this permission with no obstructions within the visibility area over 1m above the adjacent carriageway level. It shall thereafter be so maintained for that purpose.
21. Within 1 month from the date of approval, details are to be provided in writing to the Local Planning Authority of the location and type of electronic system to be installed to monitor the number and type of vehicles entering and leaving the anaerobic digester site. Such approved system is to be installed and operational prior to the first operation ("Operational" shall mean the first production of electricity to be exported to the grid) of the anaerobic digester site. Such results of the monitoring system shall be submitted to the Local Planning Authority quarterly or within any other frequency as requested by the Local Planning Authority. The approved system is to be so retained.
22. The permission hereby granted is for a 500kw anaerobic digester only. Power generation from the development shall not exceed 500kw averaged over a quarterly period (such quarterly period to commence from the first Feed In tariff submissions and continue thereafter). Such records of power generation shall be kept and submitted quarterly in writing to the Local Planning Authority.

23. The Local Planning Authority shall be afforded access at reasonable times to all on site monitoring systems associated with the operation of the AD plant hereby granted.
24. Within 1 month from the date of this permission, details are to be submitted to the Local Planning Authority of the location and specification of physical barrier to be provided to prevent vehicles bypassing the weighbridge to the lower part of the site. The physical barrier shall be erected prior to the first operation of the site in accordance with the details which shall first have been agreed in writing by the Local Planning Authority and shall thereafter be so retained. ("Operational" shall mean the first production of electricity to be exported to the grid).

REASONS FOR CONDITIONS:

1. In order to establish a legal commencement date for the development to enable the development to be monitored by the Local Planning Authority.
2. For the avoidance of doubt and in the interests of proper planning.
3. To ensure the use of materials 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 Mid Devon Core Strategy (Local Plan Part 1) Policy COR2 and Mid Devon Local Plan Part 3 (Development Management Policies) Policies DM2 and DM27.
4. To safeguard the amenities of the area and occupiers of nearby buildings in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies).
5. In the interest of highway safety and to ensure that adequate passing facilities are available for vehicles attracted to the site in accordance with Policies DM2 and DM22 of the Local Plan Part 3 (Development Management Policies).
6. To ensure adequate facilities are provided for the disposal of surface water from the development in accordance with Policies DM2, DM22 and DM27 of the Local Plan Part 3 (Development Management Policies).
7. To reduce odour levels within the site and to prevent pollution of the water environment in accordance with Policy DM7 of Local Plan Part 3 (Development Management Policies).
8. In the interest of the visual amenity of the area and to protect the setting of the Grand Western Canal in accordance with Policies DM2, DM22 and DM27 of the Local Plan Part 3 (Development Management Policies).
9. The application has been considered as a site accepting these feedstock types only and not as a general waste facility and consideration of the impacts on the environment, neighbouring residents and the road network has been made on this basis and in order to accord with Policies DM5 and DM22 of the Local Plan Part 3 (Development Management Policies).

10. To protect the rural character of the area in accordance with Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and Policies DM5, DM22 and DM27 of the Local Plan Part 3 (Development Management Policies).
11. To prevent pollution of the water environment in accordance with Policy DM7 of Local Plan Part 3 (Development Management Policies).
12. To ensure the archaeological works are completed prior to the planting of the screening to minimise disturbance to the planting scheme and to provide further screening for the site and assist with reducing any potential noise.
13. To minimise the potential for pollution and disturbance to local amenity, in accordance with Policy DM7 of the Local Plan Part 3 (Development Management Policies).
14. To minimise the potential for pollution and disturbance to local amenity, in accordance with Policy DM7 of the Local Plan Part 3 (Development Management Policies).
15. To minimise the potential for pollution and disturbance to local amenity, in accordance with Policy DM7 of the Local Plan Part 3 (Development Management Policies).
16. To minimise the potential for pollution and disturbance to local amenity, in accordance with Policy DM7 of the Local Plan Part 3 (Development Management Policies).
17. To ensure the Local Planning Authority are made aware of the impending cessation of the use to enable proper consideration of the removal of the items on the site.
18. To achieve a satisfactory landscape/restoration.
19. In the interest of the visual amenity of the area in accordance with Policies DM2 and DM22 of the Local Plan Part 3 (Development Management Policies).
20. To provide adequate visibility from and of emerging vehicles.
21. In the interest of highway safety and consideration of the impacts on the environment, neighbouring residents due to the number of movements to and from the site and in order to accord with Policies DM5 and DM22 of the Local Plan Part 3 (Development Management Policies).
22. To ensure the AD plant is in accordance with that as set out in the application and supporting information and in order to ensure that the impacts of the development are acceptable.
23. To ensure the AD plant operates in accordance with the parameters and limitations as approved and as set out within the application and its supporting information.
24. To ensure all vehicles entering and leaving the site pass over the weighbridge to ensure the AD plant operates in accordance with the parameters and limitations as approved and as set out within the application and its supporting information.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

While a number of objections have been received in response to the consultation on this proposal, it is not considered that the introduction of the additional CHP unit, the sound attenuation measures, weighbridge, office and resitting of various items within the site will harm the environment, the landscape, neighbouring residents and the Grand Western Canal to a degree to warrant refusal of the application when balanced against the benefits. The Anaerobic Digestion plant will process farm wastes into a product which will assist in improving land management techniques and will generate a source of renewable energy. The impact on the Grand Western Canal is considered to be limited and is considered to be outweighed by the benefits of the proposal. Any harm likely to arise from this proposal can be adequately mitigated by the imposition of conditions. It is considered that this proposal will not cause significant harm and that the benefits of granting planning permission outweigh any limited harm that may be caused. Accordingly the application is in accordance with Mid Devon Core Strategy (Local Plan Part 1) Policies COR1, COR2, COR5 and COR18, Local Plan Part 3 (Development Management Policies) Policies DM1, DM2, DM5, DM6, DM7, DM8, DM22 and DM27, Devon Waste Local Plan policy WPC1 and the National Planning Policy Framework.

Statement of Positive Working

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, in determining this application the Local Planning Authority has worked proactively and positively with the applicant to ensure that all relevant planning considerations have been properly resolved. This has included negotiations and discussions.

In accordance with paragraph 69 of the National Planning Policy Framework, the Local Planning Authority has also involved the community in the consideration of this application.

DEVELOPMENT PLAN POLICIES:

Mid Devon Core Strategy (Local Plan Part 1)

COR1 - Sustainable Communities

COR2 - Local Distinctiveness

COR5 - Climate Change

COR18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development

DM2 - High quality design

DM5 - Renewable and low carbon energy

DM6 - Transport and air quality

DM7 - Pollution

DM8 - Parking

DM22 - Agricultural development

DM27 - Development affecting heritage assets

Relevant Plans

The plans listed below are those approved. No substitution shall be made.

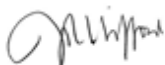
Plan Type	Reference	Title/Version	Date Received
Proposed	WIN01_RE_SLb_001	Site Location Plan	15/12/2015
Proposed	WIN01_REDLINHA Y_S73_ELO_004	Elevation - Overview	26/08/2016
Proposed	WIN01_REDLINHA Y_S73_ELN_004	North Elevation	26/08/2016
Proposed	WIN01_REDLINHA Y_S73_ELS_004	East Elevation	26/08/2016
Proposed	WIN01_REDLINHA Y_S73_ELS_004	South Elevation	26/08/2016
Proposed	WIN01_REDLINHA Y_S73_ELSP_004	South with Planting Sche	26/08/2016
Proposed	WIN01_REDLINHA Y_73_ELW_004	West Elevation	26/08/2016
Supporting Information		Transport Statement	20/08/2015
Supporting Information		Manure Management Plan	20/08/2015
Supporting Information		Nutrient Management Plan	20/08/2015
Supporting Information	REVISED	Noise Assessment	02/11/2015
Supporting Information	SUPPLEMENTAL	Noise Assessment	06/11/2015
Travel Assessment	AMENDED	Transport Assessment	20/01/2016

Proposed	WIN01_RE_DRAIN AGE	Drainage Layout	03/12/2015
Supporting Information		Acoustic Report	19/08/2016
Supporting Information	VERSION 2	Odour Management	19/08/2016
Supporting Information	PHOTOGRAPHS	Low Level Motor Cover	29/11/2016
Supporting Information		Noise Barrier System	29/11/2016
Noise and Vibration		Noise assessment	06/12/2016
Proposed	WIN01_RE_S73_N OISE_002	Fig 5 Noise abatement	01/12/2016

A copy of the approved plans will be available on Mid Devon's online planning facility.

Website: <http://www.middevon.gov.uk/planning>

Signed:



Mrs Jenny Clifford

Head of Planning and Regeneration

Date: 9th January 2017

THIS DECISION IS NOT A DECISION UNDER BUILDING REGULATIONS AND SEPARATE CONSENT MAY BE REQUIRED. PLEASE CONTACT OUR BUILDING CONTROL DEPARTMENT FOR MORE INFORMATION.

Please refer to notes attached

APPENDIX 3

DECISION NOTICE – 17/01142/FULL

Reference No: 17/01142/FULL

Parish: Halberton 25

TOWN AND COUNTRY PLANNING ACT 1990
APPROVAL OF FULL PLANNING APPLICATION

Name and Address of Applicant:

Mr Manley

Greener For Life Energy Ltd

The Cricket Barn

Nomansland

Tiverton

EX16 8NP

Name and Address of Agent:

Date Registered : 15th August 2017

Date of Permission : 5th October 2017

Proposal: Variation of Condition 9 of planning permission 16/01180/FULL to change sections i) and ii) of the condition with reference to the location and source of feedstock and the subsequent ultimate destination of digestate from the anaerobic digester

Location: Land at NGR 299621 112764 (Red Linhay) Crown Hill Halberton Devon

Site Vicinity Grid Ref: 299621/112764

MID DEVON DISTRICT COUNCIL HEREBY GRANTS FULL PLANNING PERMISSION FOR THE ABOVE DEVELOPMENT

Subject to the following conditions:

1. The date of commencement of this development shall be taken as the 15th August 2017 when the application was registered by the Local Planning Authority.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. The colour and finish of the building materials (including the digester dome) shall be retained in accordance with the details as submitted and approved in writing by the Local Planning Authority on 27th October 2016 pursuant to 15/01034/MFUL.
4. All works and operations shall take place in accordance with the Operational Traffic Management Plan in the agreed parameters as set out under condition 4 of 16/01180/FULL. The date the plant first became operational ("Operational" shall mean the first production of electricity to be exported to the grid which has been confirmed as 1st June 2017).
5. The completed passing bay on Crown Hill is to be retained in accordance with the approved plans "The Passing Bay scale 1:250 and dated 10.02.2015; and The Passing Bay Position scale 1:250 dated 10.03.2015" as set out in 13/01605/MFUL.
6. There shall be no storage of chicken and farmyard manures or slurry within the application site except within the liquids buffer tank and feeder hopper (triolet) serving the AD digester approved as part of this planning application.
7. All hedgerows within or on the boundary of the site located to the north west of the site and east adjacent to the highway shall be retained and maintained to a minimum height of 2 metres. Any trees or plants die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
8. The external lighting shall be retained in accordance with details agreed under condition 4 of 16/01180/FULL.
9.
 - i) The feedstock and approved quantities for the anaerobic digester shall be slurry (2,000 tonnes), farmyard and chicken manure (3,000 tonnes), grass and arable crops (8,925 tonnes) only, originally sourced from the sites named in Transport Statement(s) of this application (Hartnoll Farm 62.13ha, Manley Lane 37.60ha, plots 1-13 41.48ha, Maunders 7.71ha, Wellington 23.55ha and Blocks A 19.92ha and B 96ha and shown on plans/aerial photos, Drawing numbers 13425/T04 Revision A 13425/T05 Revision A set out in the approved transport statement date stamped 21st August 2015 under application 15/01034/MFUL and Drawing 3 set out in the approved transport statement date stamped 15th August 2017 and
 - ii) The ultimate destination for the digestate from the anaerobic digester shall be to the sites named in the Transport Statement of this application Hartnoll Farm 62.13ha, Manley Lane 37.60ha, plots 1-13 41.48ha, Maunders 7.71ha Blocks A 19.92ha and B 96ha only and shown on plan/aerial photos Drawing numbers 13425/T04 Revision A and 13425/T05 Revision A set out in the approved transport statement date stamped 21st August 2015

under application 15/01034/MFUL and set out in the approved transport statement date stamped 15th August 2017.

iii) A log book shall be maintained and completed detailing where and when the feedstock(s) for the AD plant have come from and where, when and mode of transport of the digestate leaving the site. The Log book shall record name of farm, plot, supplier, number and gross and net weight of vehicles along with date and time of feedstock delivery / digestate distribution.

iv) No other sites are to be utilised for either feedstock source or digestate destination. Such log book records shall be submitted to the Local Planning Authority quarterly or within any other frequency as requested by the Local Planning Authority.

v) Records of feedstock input into the digester by weight from the hopper (triolet) shall be kept and submitted to the Local Planning authority in writing quarterly or within any other frequency as requested by the Local Planning Authority.

10. The storage of digestate or other hazardous substances must be within the properly constructed bunded areas of sufficient capacity and containment, as approved in plan number WIN01_Redlinhay3_PP_002 under application 16/01180/FULL. Such approved scheme shall be so retained.
11. The planting scheme and Bund shall be retained and fully implemented in accordance with details agreed within condition 12 under application 16/01180/FULL. Any trees or plants which within a period of 5 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.
12. Noise emissions from the Red Linhay Anaerobic Digester site at the nearest noise-sensitive locations are not to exceed the decibel levels stipulated below, day or night.

Daytime Noise Level 07.00am - 23.00pm shall not at the boundary of any noise sensitive premises exceed the decibel level 41 dB (LAeq1hr)

Night-time Noise Level 23.00pm - 07.00am shall not when measured at 3.5m from the façade of any noise sensitive premises exceed the decibel level 33 dB (LA90 15min).

Daytime (Evening) & Night-time Noise Level 19.00pm - 23.00pm the Maximum Instantaneous Noise Level shall not when measured at 3.5m from the façade of any noise sensitive premises exceed 55 dB(LAFmax) evening (19.00-23.00hrs) and night-time (23.00-7.00hrs).

*(From the noise data supplied)

The average daytime background noise level is 36 dB (LA90 1hr) plus 5 dB exceedance

The average night-time background noise level is 28 (LA90 15min) plus 5 dB exceedance

13. The operator is to provide a further noise assessment demonstrating that the screening and acoustic panelling/boxes are adequate and provides enough protection to ensure that the typical minimum background sound level 22dB (LA90 15min) is not breached from the operation of the plant. This assessment must be submitted to the planning authority within 5 months from the Operational commencement of the AD unit ("Operational" shall mean the first production of electricity to be exported to the grid confirmed as the 1st June 2017).

A copy of the findings from the assessment and all recorded data and audio files obtained as part of the assessment shall be provided to the Local Planning Authority (in electronic form) within 28 days of completion of the analysis.

Where the assessment information confirms that the noise levels from the operation of the plant are above the typical minimum background sound level 22dB (LA90 15min) within any amenity areas 3.5m from the façade of any noise sensitive properties, the operator shall carry out works to mitigate such effects to comply with the noise condition, details of which shall have first been submitted in writing and approved in writing by the local Authority.

The assessment and any such noise mitigation works shall be completed within 6 months from the date of notification and be so retained. The date of notification is the date the operator is informed in writing by the Local Planning Authority detailing the inadequate screening.

14. The emergency flare stack shall not be operated for maintenance or for testing purpose except between 0700 and 1700 hours on any day (not including Bank Holidays).
15. Heavy and light Goods vehicles along with plant under the control of the operators which deliver waste, remove digestate or biofertiliser or operate at the site (the site is the area set out on the approved location plan outlined in red) shall only use non-intrusive broadband (white noise) vehicle noise alarms and/or reversing cameras. On such vehicles, there shall be no use of single or multi-pitch reversing beepers.
16. Written notification confirming the cessation of operations is to be given to the Local Planning Authority 3 month prior to the cessation of the use of the Anaerobic Digester plant hereby approved.
17. On the cessation of the use of the Anaerobic Digester plant hereby approved, the site shall be cleared of all buildings and structures, hardstandings bunds and any wastes within a period of six months from the date of cessation. After removal of the above, the surface of the site shall be regraded and be covered with topsoil to a depth of 500mm within a period of three months. The site shall then be planted in accordance with details to be agreed in writing by the Local Planning Authority.
18. The visibility splay at the site entrance shall be retained in accordance with plan 13425/T03 approved under planning permission 13/001605/MFUL with no obstructions within the visibility area over 1m above the adjacent carriageway level. It shall thereafter be so maintained for that purpose.

19. The approved system Foscam F19900P or equivalent to monitor the barrier and access to the site is to be retained and maintained operational. Such results of the monitoring system shall be submitted to the Local Planning Authority quarterly or within any other frequency as requested by the Local Planning Authority. The approved system is to be so retained.
20. The permission hereby granted is for a 500kw anaerobic digester only. Power generation from the development shall not exceed 500kw averaged over a quarterly period (such quarterly period to commence from the first Feed In tariff submissions and continue thereafter). Such records of power generation shall be kept and submitted quarterly in writing to the Local Planning Authority.
21. The Local Planning Authority shall be afforded access at reasonable times to all on site monitoring systems associated with the operation of the AD plant hereby granted.
22. The PF5000 Heavy Duty Manual Raise Barrier shall be retained in accordance with plan Drawing A Camera and Barrier dated 19th January 2017 agreed under 16/01180/FULL.
23. Within one Calendar month from the date of this permission a drainage scheme is to be submitted and implemented in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority. Such scheme shall include details of the provision for the disposal of clean surface water by a sustainable urban drainage system, and separate provision for disposal of foul waste and dirty surface/yard water. The scheme shall include specifications and a timetable for implementation. The water management system shall be completed in accordance with the approved details and retained and maintained for that purpose at all times.

REASONS FOR CONDITIONS:

1. In order to establish a legal commencement date for the development to enable the development to be monitored by the Local Planning Authority.
2. For the avoidance of doubt and in the interests of proper planning.
3. To ensure the use of materials 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 Mid Devon Core Strategy (Local Plan Part 1) COR2 Mid Devon Local Plan DM2 and DM27.
4. To safeguard the amenities of the area and occupiers of nearby buildings in accordance with DM2 of Mid Devon Local Plan Part 3 (Development Management Policies).
5. In the interest of highway safety and to ensure that adequate passing facilities are available for vehicles attracted to the site in accordance with DM2 and DM22 of the Local Plan Part 3 (Development Management Policies).

6. To reduce odour levels within the site and to prevent pollution of the water environment in accordance with policy DM7 of Local Plan Part 3 (Development Management Policies).
7. In the interest of the visual amenity of the area and to protect the setting of the Grand Western Canal in accordance with policies DM2, DM22 and DM27 of the Local Plan Part 3 (Development Management Policies).
8. To protect the rural character of the area in accordance with policies COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and DM5, DM22 and DM27 of the Local Plan Part 3 (Development Management Policies).
9. The application has been considered as a site accepting these feedstock types only and not as a general waste facility and consideration of the impacts on the environment, neighbouring residents and the road network has been made on this basis and in order to accord with policies DM5 and DM22 of the Local Plan Part 3 (Development Management Policies).
10. To prevent pollution of the water environment in accordance with policy DM7 of Local Plan Part 3 (Development Management Policies).
11. To protect the rural character of the area in accordance with policies COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and DM5, DM22 and DM27 of the Local Plan Part 3 (Development Management Policies).
12. To minimise the potential for pollution and disturbance to local amenity, in accordance with policy DM7 of the Local Plan Part 3 (Development Management Policies).
13. To minimise the potential for pollution and disturbance to local amenity, in accordance with policy DM7 of the Local Plan Part 3 (Development Management Policies).
14. To minimise the potential for pollution and disturbance to local amenity, in accordance with policy DM7 of the Local Plan Part 3 (Development Management Policies).
15. To minimise the potential for pollution and disturbance to local amenity, in accordance with policy DM7 of the Local Plan Part 3.
16. To ensure the Local Authority are made aware of the impending cessation of the use to enable proper consideration of the removal of the items on the site.
17. To achieve a satisfactory landscape/restoration.

In the interest of the visual amenity of the area in accordance with policies DM2, DM22 of the Local Plan Part 3.

18. To provide adequate visibility from and of emerging vehicles.

In the interest of highway safety and consideration of the impacts on the environment, neighbouring residents due to the number of movements to and from the site and in order to accord with policies DM5 and DM22 of the Local Plan Part 3 (Development Management Policies).

19. To ensure the AD plant is in accordance with that as set out in the application and supporting information and in order to ensure that the impacts of the development are acceptable.
20. To ensure the AD plant operates in accordance with the parameters and limitations as approved and as set out within the application and its supporting information.
21. To ensure the AD plant operates in accordance with the parameters and limitations as approved and as set out within the application and its supporting information.
22. To ensure all vehicles entering and leaving the site pass over the weighbridge to ensure the AD plant operates in accordance with the parameters and limitations as approved and as set out within the application and its supporting information.
23. To ensure adequate facilities are provided for the disposal of surface water from the development in accordance with policies DM2, DM22 and DM27 of the Local Plan Part 3 (Development Management Policies).

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The proposal is to vary parts of condition 9 of planning permission 16/01180/Full relating to where crops can be harvested to provide fuel for the AD plant at Redlinhay along with additional areas for the distribution of the subsequently produced digestate. There is no intention of providing additional feed stock to the site but to provide a more flexible and sustainable cropping rotation in order to facilitate better farming practices.

It is considered that there will be no adverse impacts on the highway network or noticeable increases in traffic generation due to the proposed changes.

The new variation of the condition will need to ensure that there is not only compliance with the previous transport statement but also the new transport statement subject to this application. All previous conditions will be re-imposed where they are required.

Since the granting of the earlier consents a number of the conditions have been discharged and the conditions listed below reflect that situation.

Statement of Positive Working

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, in determining this application the Local Planning Authority has worked proactively and positively with the applicant to ensure that all relevant planning considerations have been properly resolved. This has included negotiations and discussions.

In accordance with paragraph 69 of the National Planning Policy Framework, the Local Planning Authority has also involved the community in the consideration of this application.

DEVELOPMENT PLAN POLICIES:

Mid Devon Core Strategy (Local Plan Part 1)

COR1 - Sustainable Communities

COR2 - Local Distinctiveness

COR5 - Climate Change

COR18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development

DM2 - High quality design

DM5 - Renewable and low carbon energy

DM6 - Transport and air quality

DM7 - Pollution

DM8 - Parking

DM22 - Agricultural development

DM27 - Development affecting heritage assets

Relevant Plans

The plans listed below are those approved. No substitution shall be made.

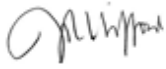
Plan Type	Reference	Title/Version	Date Received
Proposed	WIN01_RE_SLb_001	Site Location Plan	15/12/2015
Proposed	WIN01_REDLINEHA Y_S73_ELO_004	Elevation - Overview	26/08/2016
Proposed	WIN01_REDLINEHA Y_S73_ELN_004	North Elevation	26/08/2016
Proposed	WIN01_REDLINEHA Y_S73_ELS_004	East Elevation	26/08/2016
Proposed	WIN01_REDLINEHA Y_S73_ELS_004	South Elevation	26/08/2016
Proposed	WIN01_REDLINEHA Y_S73_ELSP_004	South with Planting Sche	26/08/2016

Proposed	WIN01_REDLINEHA Y_73_ELW_004	West Elevation	26/08/2016
Supporting Information		Transport Statement	20/08/2015
Supporting Information		Manure Management Plan	20/08/2015
Supporting Information		Nutrient Management Plan	20/08/2015
Supporting Information	REVISED	Noise Assessment	02/11/2015
Supporting Information	SUPPLEMENTAL	Noise Assessment	06/11/2015
Travel Assessment	AMENDED	Transport Assessment	02/01/2016
Proposed	WIN01_RE_DRAIN AGE	Drainage Layout	03/12/2015
Supporting Information		Acoustic Report	19/08/2016
Supporting Information	VERSION 2	Odour Management	19/08/2016
Supporting Information	PHOTOGRAPHS	Low Level Motor Cover	29/11/2016
Supporting Information		Noise Barrier System	29/11/2016
Noise and Vibration		Noise Assessment	06/12/2016
Travel Assessment			31/08/2017

A copy of the approved plans will be available on Mid Devon's online planning facility.

Website: <http://www.middevon.gov.uk/planning>

Signed:



Mrs Jenny Clifford

Head of Planning and Regeneration

Date: 5th October 2017

**THIS DECISION IS NOT A DECISION UNDER BUILDING REGULATIONS AND SEPARATE
CONSENT MAY BE REQUIRED. PLEASE CONTACT OUR BUILDING CONTROL
DEPARTMENT FOR MORE INFORMATION.**

Please refer to notes attached

Application No. 22/01437/FULL

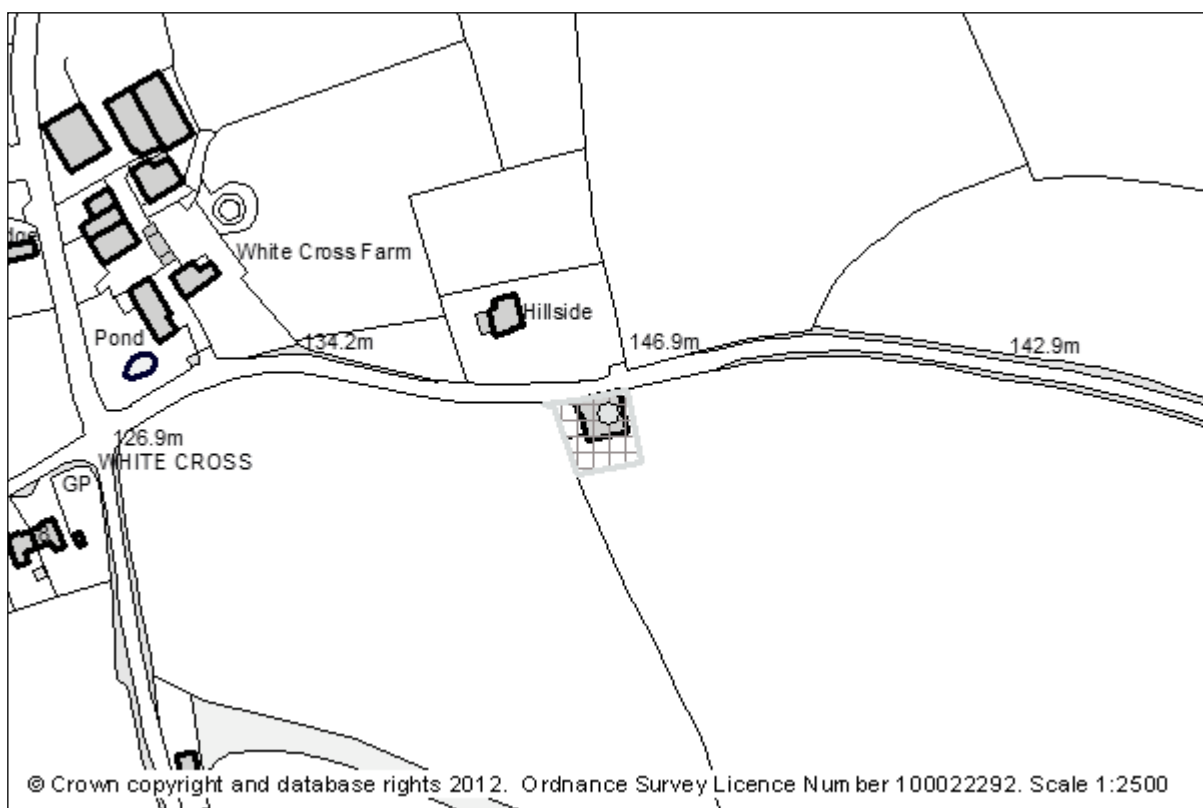
Grid Ref: 287820 : 106395

Applicant: Mr Carr

Location: Barn at NGR 287821 106397 (Orchard Hayes Farm)
Cheriton Fitzpaine
Devon

Proposal: Conversion of redundant agricultural building to a dwelling

Date Valid: 28th July 2022



APPLICATION NO: 22/01437/FULL

MEMBER CALL-IN

Cllr Peter Heal has been requested to call this to committee on behalf of Cllr Polly Colthorpe to consider if the proposal meets with Policy DM9 for conversion.

RECOMMENDATION

Refuse permission

PROPOSED DEVELOPMENT

The applicant seeks planning permission for the conversion of redundant agricultural building to a dwelling at NGR 287821 106397 (Orchard Hayes Farm), Cheriton Fitzpaine.

APPLICANT'S SUPPORTING INFORMATION

Bat and Owl Survey
Design and Access Statement
Foul Drainage
Structural engineers report + appendix A
Surface water drainage
Plans and Elevations

RELEVANT PLANNING HISTORY

22/01437/FULL - PCO date Conversion of redundant agricultural building to a dwelling

21/01700/PNCOU - WDN date 19th November 2021 Prior notification for the change of use of an agricultural building to 1 dwelling under Class Q

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan 2013 – 2033

Policy S1 – Sustainable development priorities
Policy S9 - Environment
Policy S14 – Countryside
Policy DM1 – High quality design
Policy DM2 – Renewable and low carbon energy
Policy DM3 – Transport and Air Quality
Policy DM5 – Parking
Policy DM9 – Conversion of rural buildings

National Planning Policy Framework

National Planning Practice Guidance

CONSULTATIONS

Cheriton Fitzpaine Parish Council – 17.08.2022

The Parish Council have concerns over the access being at the brow of a hill, along with visibility splays entering and leaving the village.

Highways Authority - 08.08.2022

The County Highway Authority recommends that the Standing Advice issued to Mid Devon District Council is used to assess the highway impacts, on this application.
Public health no concerns with regard to drainage etc.

Public Health – 17.08.2022

We have considered the application and have no environmental health concerns. There is no public sewer in the vicinity and the applicant proposes a new package treatment plant discharging cleaned water to a drainage field on land in their ownership. We have no concerns regarding this proposal.

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. **Principle of development/sustainability**
2. **Ecology**
3. **Additional information**
4. **Conclusion**

1. Principle of the development/sustainability

- 1.1. Policy S12 envisages that Crediton will, 'develop in its role as a small and vibrant market town, serving a rural hinterland in the western part of the district. The strategy Policy S1 of the Mid Devon Local Plan seeks to manage growth in a sustainable way to support the diverse needs of communities. Policy S9 seeks to ensure that development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets, particularly through requiring high quality sustainable design which will reinforce the character and legibility of its built environment. Policy S14 seeks to restrict development in the countryside and does not permit new built open market dwellings but does support the conversion of appropriate redundant buildings into residential dwellings which is in line with the National Planning Policy Framework which permits conversion of appropriate rural buildings.

Policy DM9 permits conversion of redundant or disused rural buildings of substantial and permanent construction which positively contribute to the area's rural character where;

- a) A suitable access is in place or can be created without damaging the surrounding area's rural character and the road network can support the proposed use;
- b) The building can be converted without significant alteration, extension and rebuilding;
- c) The design will retain the original character of the building and its surroundings; and
- d) The development will retain any nature conservation interest associated with the site or building, and provide net gains in biodiversity where possible.

The existing building is constructed mainly of concrete blocks prefabricated concrete panels, galvanised vertical tin cladding under big 6 asbestos roofing and profiled tin sheeting. The building is of a relatively substantial form and is considered to have a comparatively traditional modern agricultural appearance, although presently in need of repairs. It is considered that the building does not provide a positive contribution to the character and appearance of the rural area. Therefore its conversion is not supported in principal by DM9. A summary assessment of the scheme in relation to the DM9 criteria is set out below;

- A) The site has existing access from the public highway and no alterations are proposed. The likely number of traffic movements associated with the proposed dwelling are not considered to be significant and it is considered that the existing access can support the propose use. Concerns have been raised by the Parish Council with regard to visibility from the site. However the plan shows an appropriate visibility splay which was agreed appropriate in the previous application 21/01700/PNCOU, which was withdrawn.
 - B) The building is supported by a structural report which considers that the main barn and extension are generally stable with some remediation works. The ground floor slab could be retained. The plans demonstrate that the building would be converted without significant extension or alteration. Although there will be wholesale replacement of the cladding and roofing material.
 - C) The proposed design is considered to reflect the general scale and shape of the building. Whilst the building would inevitably take on a more domestic character it is considered that generally the scheme is relatively well designed and the proposed alterations and material palette would provide for a suitable building; although it will be seen as a domestic building with the associated paraphernalia and lighting which goes with a domestic dwelling.
 - D) The application is supported by a protected species survey which includes the results of the preliminary ecological appraisal. The initial inspection found no evidence of bat droppings or of roosting bats within the barn. There were no features suitable for roosting bats. The barn is considered to have negligible potential for roosting bats. No evidence of nesting birds was found within or on the barn.
- 1.2. Specific to new housing developments, policy DM1 aims to ensure that new residential properties have suitably sized rooms, with adequate levels of daylight, sunlight and privacy. Properties should be provided with private amenity space that reflects the size, location, floorspace and orientation of the property. In terms of the design of the development, Policy DM1 (High Quality Design) is applicable which outlines that:

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

- a) Clear understanding of the characteristics of the site, its wider context and the surrounding area;
- b) Efficient and effective use of the site, having regard to criterion (a);

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

- 1.3. The proposed dwelling would comply with the national space standards as a 3 bedroom, 5 person single storey dwelling and would benefit from an acceptable level of amenity space such that it is considered that future occupiers would be offered an acceptable amenity. There are no significant concerns in respect of drainage arrangements and it is considered that these can be suitably managed within the site area. It is not considered that the proposed dwelling would result in any unacceptable adverse impacts to the amenities of neighbouring occupiers. There is sufficient room to provide parking in accordance with policy DM5.

2. Ecology

- 2.1. The impacts to ecology are covered by the ecology appraisal. The ecology appraisal stated that there was no evidence of roosting bats, with no features suitable for roosting bats. The Barn was considered to have negligible potential for roosting bats. No evidence of nesting birds were found within or on the barn. Mitigation measures are proposed to include provision for roosting bats with one bat box to be erected on the east aspect wall near to the ridge. A suitable box would be the Beaumaris Woodstone Bat Box or equivalent.
- 2.2. In terms of the installation of glazing, it is considered that the design provides a suitable balance between the character and appearance of the building and achieving an appropriate level of glazing in the interests of solar gain. Whilst the installation of green energy measures are generally encouraged by the Council, there are no specific policies to make this a requirement for new development although in this instance there will be the provision of solar panels to the southern roof slope.
- 2.3. The Applicant has included a number of ecological enhancements such as reinforcing the hedge with additional planting, electric charging point and as already required the provision of a bat box

3. Additional Information

- 3.1 Class Q application (21/01700/PNCOU) was submitted (and subsequently withdrawn) for the conversion of this building. However, the Class Q permitted development rights were not available as the applicant had undertaken works under Part 6 Class A. The Part 6 unit was approved under 20/00691/PNAG on the 29th May 2020 for the erection of an extension to an agricultural livestock building at Orchardhayes Farm. It has been confirmed this has been carried out on the established agricultural Unit. As such this prevented the proposed conversion from being permitted development.

As there can be no class Q conversion of the building there is no fall-back provision on the site.

4. Conclusion

- 4.1. Although the proposed conversion may re-invigorate and provide suitable accommodation in this rural setting, consideration has to be made to the principle of policy DM9. The building in question is a standard modern utilitarian agricultural building providing no aesthetic qualities and coming to the end of its use for farming activity. It is evident that the building does not meet the main criteria associated with Policy DM9 in that it does not positively contribute to the area's rural character.

REASON FOR REFUSAL

1. The site is in a countryside location where it is the policy of the Local Planning Authority to resist new housing development unless it is demonstrated that the proposal serves a genuine agricultural or other appropriate need. In the opinion of the Local Planning Authority the building is not worthy of conversion and retention as it is not of a design or appearance which is important to the character and appearance of the area. In addition the proposed development would be located where it is remote from adequate services, employment, and public transport and will therefore increase the need for travel by private motor vehicles. The proposal is therefore contrary to Policy S1 & DM9 of the Mid Devon Local Plan 2013-2033.

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

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	1	06/02/2023	22/02102/MFUL	Construction of on-farm anaerobic digestion plant with associated equipment and works	Land at NGR 300535 112291 (Bycott Farm) Lower Town Halberton Devon	Mr Daniel Rance	COMM	
2	2	25/01/2023	22/01492/MFUL	Erection of a roof over existing slurry store (2370 sqm)	Land at NGR 300509 112340 (Bycott Farm) Lower Town Halberton Devon	Mr John Millar	DEL	
3	2	30/01/2023	22/01911/MFUL	Retention of change of use of land and buildings from agriculture to a mixed use of storage and motor vehicle repairs	Serstone Units Down St Mary Devon	Mr Adrian Devereaux	DEL	
4	2	31/01/2023	22/00505/MFUL	Engineering works to create a level hardstanding for an agricultural building	Land and Buildings at NGR 272226 96468 (Swallowtree Farm) Hittisleigh Devon	Mr Daniel Rance	DEL	
5	3	24/01/2023	22/01901/MFUL	Conversion of part of former clubhouse to 19 dwellings and demolition of remaining building, associated parking and landscaping	Padbrook Park Cullompton Devon EX15 1RU	Mr Jake Choules	DEL	
6	4	16/01/2023	22/01893/MFUL	Erection of 40 dwellings with associated infrastructure	Land at NGR 306468 113062 Chapel Hill Uffculme Devon	Mr James Clements	DEL	

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LIST OF APPEAL DECISIONS FROM 17th Oct 22 to 15th Nov 22

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
21/01805/PNCOU	Prior notification for the change of use of an agricultural building to 1 dwelling under Class Q(a)	Land and Buildings at NGR 285640 108239 (The Barton) Poughill Devon	Refusal of Prior Approval	Delegated Decision	Refusal of Prior Approval	Written Representations	Appeal Dismissed

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Planning Committee Procedure

November 1 May

2022

This document sets out the detailed procedures for those attending the Planning Committee; it also outlines the procedure used for the Planning Working Group.

Planning Committee – Procedure

This document sets out the detailed procedures of the Planning Committee that are not covered by the council's procedure rules within the Constitution. The Members are bound by the Council's constitution, Code of Conduct and the Protocol of Good Practice.

The Planning Committee consists of 11 Councillors, drawn from each of the political groups within the Council.

Prior to the Meeting

How do I know the application I am interested in is going to committee?

5% of applications are determined by the committee, all other applications are dealt with under delegated powers by the Development Management Manager (see Constitution for detail). If an application is to be submitted to committee for consideration, you will be notified of this about a week before the meeting, if you are an applicant or their agent, or have commented on the application.

What happens if there is a site visit prior to the meeting and who decides to have them?

The committee consider a major application list at each of its meetings, from this list they decide whether they wish to determine an application and/or have a full committee site visit. (Only members of the committee and the planning officer attend full committee site visits).

The Planning Committee can also agree to defer the determination of an application to allow for a Planning Working Group (8 Members) site visit to be held when they consider an application at a meeting. (Procedure attached).

Can I see a copy of the committee agenda/officer's report?

Copies of the agendas for Planning Committee are published at least five clear working days before the meeting. Agendas can be accessed via the Council's website via the following link:

<https://democracy.middevon.gov.uk/ieListMeetings.aspx?CId=132&Year=0>

Can additional representations be made after the agenda has been published?

Any additional written or photographic material will only be accepted by the Committee Clerk and forwarded onto the Committee if it is received by the Friday before the committee.

Members of the public and/or applicants/agents will not be permitted to share their own presentations/photographs or written statements to the Committee on the day of the meeting.

The Meeting

Are members of the public allowed to attend and/or speak at Planning Committee meetings?

All meetings of the Planning Committee are open to the public. You can attend in person or remotely. You are asked to inform the Committee Clerk by 4pm the day before the meeting if you will be attending via committee@middevon.gov.uk and advise how you will be attending. If you intend to speak at the meeting you must provide the detail of which application you wish to speak to and in which capacity.

In accordance with Council Procedure Rule 11.1 only:

(d) Residents, electors or business rate payers of the District shall be entitled to ask questions

Questioners may be requested to submit evidence of the above.

All questions are to be submitted to the Committee clerk by 4pm the day before the meeting. Questions not submitted in advance will not be permitted.

Public Question Time is available at the beginning of the meeting for those present to ask questions about any item of the agenda, or to speak briefly by way of background or introduction to those questions, including planning applications.

Questions may be rejected if:

- They do not refer to material planning considerations
- They contain any defamatory statements
- They contain reference to any new information not previously submitted as part of the planning process
- They are duplicate questions already submitted

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Members of the public, Parish Councils and Ward Members also have a right to speak at meetings of the committee during the consideration of planning applications.

If the person asking the questions is not available to attend the meeting in person or remotely, they can request that the Chairman read out the question on their behalf. The questions to be read out must be provided to the Committee Clerk by 4pm the day before the meeting to committee@middevon.gov.uk. It is at the Chairman's discretion that questions are read out as they have been submitted.

For applications reserved for individual consideration, the Chairman will call those who have indicated a wish to speak in the following order: officer, one objector (3 minutes), one from applicant/agent/supporter (3 minutes), Parish Council (3 minutes) and Ward Member(s) (5 minutes each).

In the event of more than one objector or applicant/supporter wishing to speak, a spokesperson should be agreed between the objectors or applicant/supporters. If the objectors or applicant/supporters cannot reach agreement about who will speak, then the person who registered first will be given the opportunity to speak. (Public Question Time is available for others to speak if they wish to do so).

Through the Chairman, Members of the Planning Committee may ask questions of any person who has spoken. Further, a Ward Member who has spoken may raise through the Chairman a point of order in order to correct a statement or error of fact which has been made during the course of the debate.

How much time will be allowed for speakers?

As stated above a maximum of 3 minutes will be allowed for the objector, the applicant/agent and a representative from the Parish Council. Ward Members (whether or not they are on the planning committee) will have 5 minutes.

Speakers should restrict their comments to material planning considerations only, examples are listed below:

- Government guidance and Local Plan Policies
- The Development Plan
- Highway safety and impact of traffic in the environment
- Design, appearance and layout – visual impact
- Residential amenity – privacy, loss of light, overbearing, noise, smells
- Conservation of buildings, trees and open land
- Need to safeguard the countryside or protected species of plant or animal
- The need for development
- Previous planning history of the site
- Case Law
- Appeal decisions

The following are examples of matters which are not material planning considerations:

- Private property rights such as covenants
- The applicant/developer's identity, morals, motives or past record
- Effect on the value of your property
- The fact that development has commenced without the benefit of planning permission
- Loss of a private view
- Private neighbour disputes.

Is the meeting recorded?

All meetings of the committee are audio recorded. The recordings will be available on the website within 5 days of the meeting.

What will be the order of items at the committee meeting?

The applications will normally be considered in agenda order. The Chairman may however at his/her discretion alter the running order.

The time taken to discuss each item is difficult to predict and estimates of when each item is to be heard cannot be given.

How is each application considered at Committee?

Each application will be considered as follows:

- A report will be included on the agenda for all parties to have read prior to the meeting.
- The Chairman will announce the item to be considered.
- The Chairman will request any interests that members of the committee require to be registered.
- The Planning Officer will make a presentation on each application. This will be a summary of main points only as full details will be incorporated in the written report. A powerpoint presentation will be used for visual presentations of plans, drawings, layouts, elevations and other illustrative material which was not included in the report (this could include any late or updated information).
- The officer recommendation on each application will be stated within the report

- Registered speakers will be called to speak in the following order:
 - Objector to the application
 - Applicant or agent
 - Parish Council
 - Ward Member
- At the conclusion of the public speakers, the Chairman will invite questions of fact/clarification from members of the committee to officers but no submission of views will be given at this stage. Officers will respond to queries with factual information.
- When all information has been received, the members of the committee will discuss the application.
- The committee will then take a decision on the application. This will be made by a councillor making a proposal which will need to be seconded before it can be voted on. If the Chairman proposes a decision from the Chair then it does not need to be seconded.
- Once a proposal has been proposed and seconded the Chairman will make it clear upon which motion/amendment the vote is to be taken and ask for members to vote either in favour or against the application (individual votes will not be recorded unless specifically requested by Members of the committee). The Committee Clerk will count the votes so that everyone is aware of the result.
- The Chairman will state the decision of the committee on the application following the vote.

What happens if the Committee wish to make a decision contrary to the Officer's recommendation?

As the decision makers, Members have the authority to make a proposal which is contrary to the officer's recommendation. If Members are minded to refuse an application which is contrary to a recommendation of the Head of Planning and Regeneration, the application should be deferred to allow for a report to be received setting out the implications for the proposed reasons for refusal.

What happens if the Committee wish to add additional and/or amend conditions already proposed by the planning officer?

If the committee consider it appropriate to add a further condition to a recommendation for approval or to vary a condition that is set out in the report, they

may do so, provided that the opportunity is given to officers to make any comments on the implications and appropriateness of such a condition or amendment.

After the meeting

When are Decision Notices issued?

The Planning Department aim to issue the decision notices to the applicant within a few days of the committee meeting.

When are the Committee minutes available for members of the public?

The minutes are normally provided on the website within 5 working days of the meeting.

Procedure for Planning Working Group

1. Arrive on site
2. Introduce the Members and others present
3. Ask the Committee Clerk to remind the PWG why they are there
4. Inform the Group of the procedure that will take place

- a) the Area Planning Officer will outline the application
- b) the Objector will be requested to speak
- c) the Applicant will be requested to speak
- d) the Town/Parish Council Representative will be requested to speak
- e) the Ward Member will be requested to speak
- f) Members of the Committee may like to ask any questions regarding statements made by the above

5. Members should be reminded that they should stick together and not wander off; everyone present should be able to hear what people have to say.
6. Remind those present that the PWG is an extension to the Planning Committee, all discussions should come through the Chairman and there are no time limits on speaking, however those attending are encouraged to keep their representations short and to the point.

Once the APO has outlined the application then invite the above to speak in order. It may be that you encourage them to speak again (in the same order) when you get to different parts of the site, however they should not repeat themselves.

Once everyone has had a chance to speak and ask questions, thank those attending for their input and say that the PWG will now have a short discussion before departing, also inform those present that we will not be making a recommendation to the Planning Committee but will inform the rest of the Committee of our thoughts following the visit.

NB. When trying to organise a PWG site visit, try and make it the Friday week following Committee, timing is important as the notes of the meeting have to marry up with the report for the publication of the next agenda.