

# Public Document Pack

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**PLEASE NOTE:** Members of the public wishing to speak to a planning application are requested to contact the Committee Administrator before the meeting starts.

## MID DEVON DISTRICT COUNCIL

### PLANNING COMMITTEE

A MEETING of the PLANNING COMMITTEE will be held in the Town Hall on Wednesday, 4 March 2015 at 2.15 pm

*Prior to the meeting at 12.30pm a presentation will be made to Members of the Planning Committee and any interested members of the public by Devonshire Homes, the applicants for application 14/01748/MARM (Former Cummings Nursery, Cullompton).*

A special meeting of the Committee will take place on Wednesday, 18 March 2015 at 2.15 pm in the Council Chamber, Town Hall, Tiverton

#### KEVIN FINAN

Chief Executive  
24 February 2015

**Councillors:** Mrs F J Colthorpe (Chairman), Mrs H Bainbridge, M D Binks, Mrs D L Brandon, J M Downes, A V G Griffiths, P J Heal, Mrs L J Holloway, D J Knowles, E G Luxton, R F Radford, J D Squire, Mrs M E Squires (Vice Chairman), R L Stanley and K D Wilson

## 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 **MINUTES OF THE PREVIOUS MEETING** (Pages 5 - 14)  
To receive the minutes of the previous meeting (attached).

- 4        **CHAIRMAN'S ANNOUNCEMENTS**  
To receive any announcements the Chairman may wish to make.
- 5        **DEFERRALS FROM THE PLANS LIST**  
To report any items appearing in the Plans List which have been deferred.
- 6        **MANOR HOUSE HOTEL - REPAIRS NOTICE UPDATE REPORT**  
*(Pages 15 - 24)*  
To receive a report of the Head of Planning and Regeneration updating Members on the Repairs Notice to secure the preservation of The Manor House Hotel, 2-4 Fore Street, Cullompton.
- 7        **THE PLANS LIST** *(Pages 25 - 46)*  
To consider the planning applications contained in the list.
- 8        **THE DELEGATED LIST** *(Pages 47 - 64)*  
To be noted.
- 9        **MAJOR APPLICATIONS WITH NO DECISION** *(Pages 65 - 68)*  
List attached for consideration of major applications and potential site visits.
- 10       **APPLICATION 14/01847/MFUL - ERECTION OF 44 APARTMENTS FOR OLDER PERSONS, INCLUDING COMMUNAL FACILITIES, ASSOCIATED CAR PARKING INCLUDING CONSTRUCTION OF PARKING DECK AND LANDSCAPING (REVISED SCHEME) AT LAND AT NGR 295350 112455 (REAR OF TOWN HALL), ANGEL HILL, TIVERTON** *(Pages 69 - 104)*  
Report of the Head of Planning and Regeneration regarding this application.
- 11       **DECISIONS AGAINST OFFICER RECOMMENDATION** *(Pages 105 - 106)*  
To receive a report of the Head of Planning and Regeneration providing Members with information on committee decisions that were not in agreement with officer recommendation.
- 12       **MEMBERS ANNUAL APPEAL REPORT** *(Pages 107 - 130)*  
To receive a report of the Head of Planning and Regeneration providing Members with information on the outcome of planning appeals since January 2014 and comparisons with previous years.
- 13       **SCHEME OF DELEGATION TO THE HEAD OF PLANNING AND REGENERATION** *(Pages 131 - 134)*  
To receive a report of the Head of Planning and Regeneration updating the current scheme of delegation to the Head of Planning and Regeneration in light of the restructuring of the Planning Service, specifically the deletion of the post of Professional Services Manager from 1st April 2015.

**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. The reports within this agenda have 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.**

Anyone wishing to film part or all of the proceedings may do so unless the press and public are excluded for that part of the meeting or there is good reason not to do so, as directed by the Chairman. Any filming must be done as unobtrusively as possible from a single fixed position without the use of any additional lighting; focusing only on those actively participating in the meeting and having regard also to the wishes of any member of the public present who may not wish to be filmed. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chairman or the Member Services Officer in attendance so that all those present may be made aware that is happening.

Members of the public may also use other forms of social media to report on proceedings at this meeting.

Members of the public are welcome to attend the meeting and listen to discussion. Lift access to the Council Chamber on the first floor of the building is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available. There is time set aside at the beginning of the meeting to allow the public to ask questions.

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 Sally Gabriel on:

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## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **PLANNING COMMITTEE** held on 4 February 2015  
at 2.15 pm

### **Present**

#### **Councillors**

Mrs F J Colthorpe (Chairman)  
M D Binks, Mrs H Bainbridge,  
Mrs D L Brandon, J M Downes,  
A V G Griffiths, Mrs L J Holloway,  
E G Luxton, R F Radford, Mrs M E Squires  
(Vice Chairman), J D Squire and K D Wilson

### **Apologies**

#### **Councillors**

P J Heal, D J Knowles and R L Stanley

### **Also Present**

#### **Councillors**

R M Deed and D F Pugsley

### **Present**

#### **Officers:**

Jenny Clifford (Professional Services Manager), Lucy Hodgson (Area Planning Officer), Tina Maryan (Principal Planning Officer), Daniel Rance, Reg Willing (Enforcement Officer) and Sally Gabriel (Principal Member Services Officer)

## 129 **APOLOGIES AND SUBSTITUTE MEMBERS**

Apologies were received from Cllrs P J Heal and D J Knowles.

Cllr R L Stanley sent apologies and was substituted by Cllr E J Berry.

## 130 **PUBLIC QUESTION TIME (00-03-00)**

Mr Woolley (representing the residents of Shillingford) and referring to Item 11 on the agenda, Bowdens Lane asked the following questions:

Q1. I like, I assume the other 170 objectors, received a letter from Mid Devon District Council dated 26<sup>th</sup> January 2015 stating that the “the application (14/01452/MFUL) has been placed on the Agenda for consideration by Members at the meeting of the Planning Committee on the 4<sup>th</sup> February 2015” and inviting attendance. It also said the officer’s report would be made available on the web site, which indeed it was, pinned to the Agenda for the meeting listing this application as agenda item 11. We were then advised, with another 170 letters, that consideration would be delayed until 11<sup>th</sup> February as Members were unhappy with this report.

Noting that this is now the 3<sup>rd</sup> Report from officers on this application that has been found unacceptable, can Members advise if they still have confidence in the officers

views and it is not, as referred to in the Gazette, bureaucracy trying to browbeat democracy?

The Professional Services Manager stated that no decisions had yet been made, officers have to make recommendations but the decision lies with Members of the Committee. The Committee can come to a different decision but need to have reasons for doing so.

Q2. We note that the third Planning Officers Report and the implications report both use as support quotes from a speech given by Minister Greg Baker made at the Large Scale Solar Conference on the 25<sup>th</sup> April 2013 and attaches the full transcript to the report. Whilst it is not surprising that a speech to that audience was positive towards the industry why did the report fail to mention the more recent, numerous and more relevant Government listed in the paper we submitted yesterday? We have given you all the links, why has this been published and the others not?

The Professional Services Manager stated that Members had wished this speech to be referred to in the report and noted that it is the only ministerial statement referred to that is referenced in National Planning Guidance, the other are not referred to.

Q3 Members refused to accept the minutes of 5<sup>th</sup> November Meeting and were not offered a solution at the 3<sup>rd</sup> December meeting. This issue is discussed in the report for Agenda item 11 of today's meeting. However, no actual amendment to the 5<sup>th</sup> November minutes has been offered for consideration. The delay in resolving this issue with the minutes does not fill us with confidence and seems an odd way to manage corrections to them. How are Members going to ensure that their very clear position in opposition to this application on 5<sup>th</sup> November is correctly noted in the record of these previous meetings?

The Professional Services Manager stated that when the application is considered at next week's meeting, a new set of minutes will be produced, the new minutes will mop up the outstanding issues and the disputed minutes, the minutes of 5 November are what they are.

Q4 Can officers explain why the original Planning Officers Report dated 28<sup>th</sup> August 2014 was not posted on the application page of the Planning website until 22<sup>nd</sup> January 2015?

The Professional Services Manager stated that the original Planning Officer's report dated 28<sup>th</sup> August was on the website in connection with the papers for the Planning Committee. With regard to the posting of the report on the application page on the planning webpages, the report is added on the issue of a decision notice, it was added on 22 January 2015 when the notice of appeal for non-determination was received.

## 131 MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting of 7 January 2015 were approved as a correct record and **SIGNED** by the Chairman.

## 132 CHAIRMAN'S ANNOUNCEMENTS (00-11-33)

The Chairman had the following announcements to make:

- A special meeting of the committee would take place next Wednesday 11 February 2015.
- A special meeting of the committee would also take place on 18 March 2015.
- She proposed that the application at Bowdens Lane be deferred so that the Committee could receive an updated report, this was **AGREED**.
- She informed the Committee that this was the last meeting before Miss Hodgson (Area Planning Officer) went on maternity leave and wished her well.

### 133 **ENFORCEMENT LIST (00-14-16)**

Consideration was given to a case in the Enforcement List \*.

Note: \*List previously circulated; copy attached to signed Minutes.

Arising thereon:

- a) No. 1 in the Enforcement List (***Enforcement Case ENF/12/00122/UDRU – without planning permission, an unauthorised development has been undertaken to the area of land to the south east of Autumn Cottage. Namely the construction of an incomplete block built structure measuring 15m x 5m - Autumn Cottage, 46A Brook Street, Bampton.***)

The Enforcement Officer outlined the contents of the report highlighting the impact on the neighbouring properties and the location of the building within the flood zone of the river.

Consideration was given to the purpose of the building and the need to apply for planning permission.

**RESOLVED** that delegated authority be given to the Legal Services Manager to take any appropriate legal action including the service of a notice or notices, seeking the removal of the structure from the land. In the event of any failure to comply with the notice served the additional authority to prosecute, take direct action and/or seek a court injunction.

(Proposed Cllr Mrs L J Holloway and seconded by Cllr K D Wilson)

#### Notes:

- (i) Mrs J Banks (Agent) spoke;
- (ii) Cllr Mrs M E Squires requested that her abstention from voting be recorded;
- (iii) A proposal to give more time for a planning application to come forward was not supported.

- b) No. 2 in the Enforcement List (***Enforcement Case ENF/14/00009//UDRU – without planning permission, an unauthorised development has been undertaken to the area of land to the north west of Hamslade Farm, namely***

***the construction of a single storey building with the facilities required for the creation of a residential unit, Hamslade farm, Bampton).***

The Enforcement Officer outlined the contents of the report highlighting the facilities placed within the unauthorised development and the new damp proof membrane and concrete foundations which had indicated a new build.

**RESOLVED** that delegated authority be given to the Legal Services Manager to take any appropriate legal action including the service of a notice or notices, seeking the removal of the structure from the land. In the event of any failure to comply with the notice served the additional authority to prosecute, take direct action and/or seek a court injunction.

(Proposed Cllr Mrs H Bainbridge and seconded by Cllr Mrs D L Brandon)

Note: Cllr Mrs F J Colthorpe declared a personal interest as the landowner was known to her.

- c) No. 3 in the Enforcement List (***Enforcement Case ENF/14/00098/UWTPO – unauthorised work carried out to a tree protected by a Tree Preservation Order, 1 Springfield, Western Road, Crediton.***)

The Enforcement Officer outlined the contents of the report highlighting the timetable of events that had led to the damage to the tree. He informed the Committee that an application to fell the tree and for a replacement to be put in place had been considered under delegated powers and been approved. Members were required to consider whether the chain of events should lead to the landowner being prosecuted.

Consideration was given to the chain of events and although the landowner was responsible for the safety of the tree, the events that had taken place had been out of his control. It was therefore:

**RESOLVED** that delegated authority be given to the Legal Services Manager to issue a formal warning to the landowner following unauthorised work being carried out to a tree protected by a Tree Preservation Order

(Proposed Cllr M D Binks and seconded by Cllr Mrs M E Squires)

Note:

- i) Cllrs Mrs H Bainbridge, M D Binks, Mrs D L Brandon, Mrs F J Colthorpe, J M Downes, A V G Griffiths, Mrs L J Holloway, E G Luxton, R F Radford, J Squires and Mrs M E Squires made declarations in accordance with the Protocol of Good Practice for Councillors dealing in planning matters as they had received correspondence regarding this issue;
- ii) Mr Huda (Landowner) spoke;
- iii) Cllr M D Binks spoke as Ward Member;



- iv) Cllr Mrs L J Holloway requested that her vote against the decision be recorded;
- v) The following late information was reported: The tree that is to be removed shall be replaced by *Pinus nigra* specified as 25-30cm girth with wired root ball, with adequate anchorage system supplied in accordance with BS8545: The tree is to be planted within 5 metres of the location of the felled tree, the location to be agreed in writing by the local planning authority. The replacement tree must be replaced within the same growing season and in accordance with the above specification. Should it be damaged, uprooted, destroyed or die it will be replaced again in accordance with the above specification.

#### 134 DEFERRALS FROM THE PLANS LIST

There were no deferrals from the Plans List.

#### 135 THE PLANS LIST (01-15-00)

The Committee considered the applications in the plans list \*.

Note: \*List previously circulated; copy attached to the signed Minutes.

- (a) Applications dealt with without debate.

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

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

- (i) No 3 on the Plans List (***14/01876/FULL – Erection of 4 affordable flats following demolition of redundant buildings – 1 Birchen Lane, Tiverton***) be approved subject to conditions as recommended by the Head of Planning and Regeneration

(Proposed by the Chairman)

- (b) No 1 on the Plans List (***14/01474/FULL – Conversion of redundant barn to dwelling – land and buildings at NGR 304595 116820 (adjacent to Goldsmoor House, Westleigh)***).

The Professional Services Manager outlined the contents of the report highlighting the location plan of the proposed development, the layout and proposed elevations and provided photographs from various aspects of the site.

Consideration was given to the design of the proposed dwelling, the need to renovate disused barns or just to leave them in a redundant state and whether the development would contribute to the area's rural character.

**RESOLVED** that the application be refused as recommended by the Head of Planning and Regeneration.

(Proposed by Cllr Mrs D L Brandon and seconded by Cllr Mrs L J Holloway)

Vote 7 for: 6 against – Chairman’s casting vote.

Notes:

- i) Cllr Mrs H Bainbridge made a declaration in accordance with the Protocol of Good Practice for Councillors dealing in planning matters as she had had dealing with the agent regarding this issue;
  - ii) Mr Archer spoke;
  - iii) Cllr Mrs H Bainbridge spoke as Ward Member.
- (c) No 2 on the Plans *List (14/01727/FULL – Erection of a single storey extension – Barton Barn, Leigh Barton, Silverton)*.

The Area Planning officer outlined the contents of the report highlighting the proposal by way of presentation, identifying the plans for the single storey extension and its proximity to Lea Barton, the proposed elevations and photographs from various aspects of the site.

Consideration was given to the impact of the extension on the existing property and neighbouring properties, the view from across the valley and the fact that the extension would not be seen, the level of the roofline and its impact on the existing dwelling and whether the impact of the proposal was sufficient to warrant a refusal.

**RESOLVED** that the application be approved for the following reasons: That the impact of the proposal is not sufficient to warrant refusal of the application and it is not detrimental having regard to the following policies: COR2, COR 18 Mid Devon Core Strategy (LP1) and DM2, DM 13 Development Management Policies (LP3)

And that the Head of Planning and Regeneration be given delegated authority to progress a set of conditions for the planning permission.

(Proposed by Cllr K D Wilson and seconded by Cllr M D Binks)

Notes:

- (i) Mrs H Bainbridge, M D Binks, Mrs D L Brandon, Mrs F J Colthorpe, J M Downes, Mrs L J Holloway, E G Luxton, R F Radford, J Squires and Mrs M E Squires made declarations in accordance with the Protocol of Good Practice for Councillors dealing in planning matters as they had received correspondence regarding this issue;
- (ii) Mr Archer (Agent) spoke;
- (iii) Cllr R M Deed spoke as Ward Member;
- (iv) The following late information was reported: Update received from the Agent stating that the committee report on page 37, under paragraph 1. Design and

visual impact on the existing dwelling and street scene, is incorrect. The report states that the proposed extension would exceed half the length of the existing dwelling. This is incorrect. From the LPA mapping system the dwelling is measured at 16.81m long and the extension is 7.6m long. The extension is therefore not quite half the length of the dwelling..

- (d) No 4 on the Plans *List (14/01901/FULL – Change of use of land to allow log storage and the creation of hard standing – land and buildings at NGR 305546 108277 – opposite Goodiford Cottage, Kentisbeare).*

The Professional Services Manager outlined the contents of the report by way of presentation highlighting the location of the site and the neighbouring cottages, the approximate area of hard surface to be put in place and she reiterated the conditions set out in the report, specifically Condition 4.

Consideration was given to the issues raised by the Ward Member with regard to the possible rental of an industrial unit and his concerns regarding noise issues. Discussion followed with regard to the need for the applicant to have a secure site to park his equipment and store wood on a hard surface.

**RESOLVED** that the application be approved subject to conditions as recommended by the Head of Planning and Regeneration with an amendment to Condition 4 to read: The application site shall be used solely for the benefit of Mr J Drummond in connection with tree surgery business and for the storage of logs, machinery and equipment associated with that use and for no other purpose, including any other purpose in Class B2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification. When the land ceases to be used as such, the lawful use hereby permitted shall cease and the land shall revert to its former agricultural use. All materials, surfaces and equipment brought onto the land, or works undertaken to it in connection with the approved use shall be removed and the land shall be restored to its original condition of grassed field within 9 months of the cessation of the approved use.

(Proposed by Cllr E J Berry and seconded by Cllr Mrs H Bainbridge)

Notes:

- (i) Mr Drummond (Applicant) spoke;
- (ii) Cllr D F Pugsley spoke as Ward Member;
- (iii) The following late information was reported, the rewording of Condition 4 and clarification from Devon County Council Highways position of no objection to the application and the deletion of the duplicated line within condition 3 as appears on page 55 of the agenda papers.

136 **THE DELEGATED LIST (02-38-00)**

The Committee **NOTED** the decisions contained in the Delegated List \*.

The Committee congratulated the Planning Department on the number of applications dealt with.

Note: \*List previously circulated; copy attached to signed Minutes.

137 **MAJOR APPLICATIONS WITH NO DECISION (02-41-00)**

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

Note: \*List previously circulated; copy attached to the signed Minutes.

138 **APPEAL DECISIONS ((02-43-00)**

The Committee had before it and **NOTED** a list of appeal decisions \* providing information on the outcome of recent planning appeals.

Note: \*List previously circulated; copy attached to signed Minutes.

139 **APPLICATION 14/01452/MFUL - INSTALLATION OF SOLAR ENERGY FARM ON 13.34 HA OF LAND TO GENERATE 5.5 MEGAWATTS OF ENERGY (REVISED SCHEME) AT LAND AT NGR 299298 125070 (EAST OF BOWDENS LANE), SHILLINGFORD**

This item has been deferred as indicated at the beginning of the meeting.

140 **APPLICATION 09/01573/MOUT - OUTLINE APPLICATION FOR THE ERECTION OF 15,236 SQM (164,000 SQ FT) OF INDUSTRIAL BUILDINGS (B1, B2 AND B8 USE), FORMATION OF NEW SITE ACCESS, ESTATE ROADS, PARKING AND ASSOCIATED LANDSCAPING (REVISED SCHEME ) AT LAND AND BUILDINGS AT NGR 303161 108402 (VENN FARM) CULLOMPTON (02-43-41)**

The Committee had before it a report \* of the Head of Planning and Regeneration regarding the above application. The Principal Planning Officer outlined the contents of the report by way of presentation highlighting the location plan, the access to the site, the block plan that outlined the indicative layout and the buffer zone for flood prevention. She explained the Environment Agency conditions and the fact that the site was now proposed for allocation in the emerging Local Plan Review and therefore the principle had been established. She also stated that any mitigation in case of noise and light pollution would form part of the reserved matters application.

Consideration was given to the floodline depicted around the proposed buildings.

**RESOLVED** that the granting of outline planning permission be recommended to the National Casework Unit as this was at present a departure to the Local Plan.

(Proposed by the Chairman)

Notes:

- (i) Mr Graves (Agent) spoke;
- (ii) Cllr K D Wilson requested that his vote against the decision be recorded;
- (iii) The following late information was reported: There was an error in the description of the proposal in that the total floorspace has been reduced to 12,000 square metres (from 15,000 square metres) but the corresponding figure in square feet in the description has not been changed. The figure should read 129,000 square feet.

Two further objections received, repeating previous objections, concerned with flooding, noise and light pollution, increased road traffic, damage to greenfield site detrimental to the environment and wildlife and lack of need due to the existence of existing industrial allocations and vacant industrial land. The issues covered in the objection are addressed in the officer's report.

- (iv) \*Report previously circulated, copy attached to signed minutes.

(The meeting ended at 5.35 pm)

**CHAIRMAN**

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**PLANNING COMMITTEE  
4 MARCH 2015**

**AGENDA ITEM:**

**MANOR HOUSE HOTEL 2-4 FORE STREET CULLOMPTON  
ENF/14/00142**

**Cabinet Member                      Cllr Richard Chesterton  
Responsible Officer                Head of Planning and Regeneration**

**Reason for Report:** To update members on the Repairs Notice to secure the preservation of The Manor House Hotel, 2-4 Fore Street, Cullompton.

**RECOMMENDATIONS:**

- i) That the Council appoint a structural engineer to undertake structural investigations and compile a schedule of remedial works.**
- ii) That the Council gain valuations of the property as set out in the report.**
- iii) That a further report be brought before Planning Committee once the results under i) are available with updated options for further action.**

**Relationship to Corporate Plan:**

Thriving economy- regeneration and improvement of market towns

**Financial Implications: As set out in Section 4.**

**Legal Implications: As set out in section 3.**

**Risk Assessment: Without further intervention the risks are that the future of the building will remain uncertain with further deterioration to the detriment of its fabric; the building will continue to detract from the setting of the recently restored Grade I listed building of The Walronds as well as the appearance of the wider Cullompton Conservation Area; the closure of Tiverton Road will be unnecessarily extended with ongoing inconvenience to residents and local businesses.**



## 1.0 BACKGROUND INFORMATION.

- 1.1 The Manor House Hotel comprises two linked buildings; the first a four gabled Grade II\* listed medieval building dating from 1603 and extended in 1718; the second a Grade II listed 19<sup>th</sup> century building which may retain some earlier fabric. The Hotel is located in the Cullompton Conservation Area in a prominent position in the town centre.
- 1.2 The Manor House Hotel is part of a row of high grade listed buildings on the west side of Fore Street, including the recently restored listed Grade I The Walronds and Grade II\* The Merchants House.
- 1.3 Members will recall that at their meeting on 5 November 2014 they authorised the service of a Repairs Notice on the owner of The Manor House Hotel in Fore Street Cullompton. The notice was served because the condition of the building, particularly the structural stability of the oldest part of the building at the junction of Fore Street and Tiverton Road was giving rise to concern. The notice gave two months for specified works that are reasonable necessary for



the proper preservation of the building to be undertaken. This two month period expired on 2nd February 2015. The specified works have not been undertaken. Works required under the notice were:

- i) to investigate and assess the condition of the building including identification of the underlying causes of structural movement observed;
- ii) to repair various areas of stonework and cob; to repair window lintels and timber floors. All works to address the structural issues must be in accordance with the structural engineer's recommendations.
- iii) treatment of any timbers affected by insect attack or rot, repair of damaged decorative plaster work, repairs to glass and leadwork of windows and overhauling of the rainwater goods.

1.4 The owner of Manor House Hotel has appointed the specialist structural engineer who carried out the initial assessment of the building, to carry out a detailed investigation of the causes of the structural problems. A measured survey of the building is now complete. However to date no progress has been made with the detailed investigation of the structural concerns or with specifying appropriate remedial works.

1.5 English Heritage has assessed the building with a view to including the property on the register of Heritage at Risk. A building on the register of Heritage at Risk would be eligible to apply for grant aid although the amount of money that English Heritage has available is limited and there are very stringent requirements associated with any grant offered including production of a conservation management plan for the future of the building as well as detailed studies of all elements of the fabric. To date English Heritage has not made a decision on inclusion in the register.

1.6 The property is currently for sale and actively being marketed by the owner.

## 2.0 RECENT EVENTS.

2.1 The condition of the building has continued to deteriorate. Following a report of further cracking, an assessment was carried out by the authority's Building Control officers in mid January. This led to the closure of Tiverton Road and part of Fore Street on safety grounds and the subsequent scaffolding of the cracked stone corbelling at the corner of Fore Street with Tiverton Road. The scaffolding system was designed by the owner's structural engineer to provide support to the corner of the building. In this way the immediate risk to public safety has been addressed.

2.2 With the erection of the scaffolding, the traffic restrictions in Fore Street have been removed. However part of the pavement in Fore Street and the whole of the carriageway of Tiverton Road remain closed. The closure of Tiverton Road to all but emergency vehicles is due to the impact of the scaffolding upon highway visibility.

## 3.0 OPTIONS AVAILABLE FOR FURTHER ACTION OR REMEDY.

### 3.1 **Take no action.**

- 3.1.1 The condition of the property has deteriorated further and to the extent that scaffolding has now had to be erected in order to support the fabric of the building and safeguard public safety. However the underlying condition of the building has not as yet been addressed. **No action is not considered appropriate in this case as public safety has only been addressed in the short term with the addition of the scaffolding, the condition of this high grade listed building continues to deteriorate, the scaffolding is resulting in road closure and associated inconvenience and the appearance of the property / scaffolding is detrimentally affecting the town centre and Conservation Area of Cullompton.**

### 3.2 **Section 215 Town and Country Planning Act 1990 (Untidy Land).**

- 3.2.1 A notice may be served under s215 of the Town and Country Planning Act where the local planning authority considers that the amenity of part of their area is adversely affected by the condition of land. A notice would need to set out works to remedy the condition of the land, but can only require works that relate to the visual appearance as seen from public vantage points, or in this case, the front and side elevation to Tiverton Road. No other works can be required as they would be deemed excessive and as a result the notice could fail in the event of any subsequent appeal under the provisions of Section 217 (c). The structural condition therefore is not able to be addressed through this notice. In addition it is the scaffolding, rather than the appearance of the building itself that is adversely affecting the amenity of the area. **The serving of a s215 notice under the Town and Country Planning Act 1990 is not considered to be appropriate in this instance.**

### 3.3 **Compulsory Purchase.**

- 3.3.1 Local authorities have a range of legal powers to compulsorily acquire land in their area. Section 47 of the Planning (Listed Building and Conservation Areas) Act 1990 Act gives this power where it appears that reasonable steps are not being taken for properly preserving a listed building. A compulsory purchase order must be authorised by the Secretary of State. If the owner objects, he may apply to the Magistrate's Court for an order to stay compulsory purchase proceedings. The owner has a right of appeal to the Crown Court against the decision of the Magistrates Court over this order. Compensation is payable to the owner if compulsory purchase action is taken. If the authority considers that the building has been deliberately allowed to fall into disrepair for the purpose of justifying its demolition and the development / redevelopment of the site, it may include in the compulsory purchase order a direction of minimum compensation.
- 3.3.2 The issuing of a Repairs notice is a required first step to acquisition of the building under compulsory purchase powers. In this instance a Repairs notice was issued giving two months for specified works that are reasonably necessary for the proper preservation of the building to be undertaken. This two month period expired on 2nd February 2015. The authority is now able to begin compulsory purchase proceedings under Section 47 as referred to above.

3.3.3 Further guidance on the use compulsory purchase powers lie within Circular 06/2004. Important in any consideration of compulsory purchase is the following guidance taken from the circular:

- i) An order should only be made where there is a compelling case in the public interest and should be regarded as a last resort measure. The public benefit needs to outweigh the private loss as the human rights of the landowner will be interfered with, for which justification is required.
- ii) The authority should first seek to resolve the planning issue by other means.
- iii) The acquiring authority needs to show that it has a clear scheme for the use of the land, that the resources including funding are in place to achieve the scheme within a reasonable time-scale.
- iv) The authority will need to demonstrate that there is a reasonable prospect of the scheme going ahead and that impediments such as consents are in place or are unlikely to be withheld.
- v) The authority should first seek to acquire the land by negotiation. Informal negotiations with the owner can be undertaken in parallel with making preparations for compulsory purchase.

3.3.4 The 'last resort' stage has not yet been reached, particularly as there is currently still a lack of critical information on the condition of the building, the cause of the structural problems and the mitigation works needed to address the condition. This information is also considered necessary for compulsory purchase action to succeed. In addition the council would need to gain valuations of the property as existing and post remedial work. Initiation of compulsory purchase at this stage would be premature. **Formal compulsory purchase action is not appropriate at this stage, however preparatory work can be commenced that would benefit any such formal action that may be reconsidered in the future.** Such preparatory work could include gaining valuations and the Council appointing a structural engineer. More information on the latter is included at section 3.7 below.

#### 3.4 **Sections 77 and 78 Building Act 1984**

3.4.1 Where a building (or part of) is in a dangerous condition, the authority may apply to a Magistrate's Court under section 77 of the Building Act 1984 for an order. Where the danger arises from the condition of the building, the order can require the owner to undertake works to obviate the danger or if he elects, demolition of the building, or any dangerous parts of it and remove any rubbish resulting from the demolition. If the order is not complied with within the required timescale, the local authority may undertake the works and recover the expenses reasonably incurred. (Listed Building Consent would be required before the building could be demolished).

3.4.2 Works to be specified under such an order can only be those reasonably necessary to make the building safe. The scope of works cannot extend beyond this. Before making such an order, Councils are required under section 56 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to consider whether instead they should take action under this latter

legislation by way of compulsory purchase following the issue of a Repairs notice or the issue of an Urgent works notice.

3.4.3 Where a building or part of a building is dangerous and immediate action should be taken to remove the danger, the authority may take step in to do the works and recover the cost from the owner under section 78 of the Building Act 1984. Notice of the intention to do works should be given to the owner in advance if reasonably practical. In order to recover the expenses of the work, the authority must demonstrate to the court why proceedings could not take place under section 77. If the court determined that section 77 powers could have been used instead, the cost of works to the authority is not recoverable. Furthermore the owner may apply to the Magistrate's Court to determine whether the authority was justified in using powers under this section. If the court determined not, the owner is entitled to compensation for damage sustained.

3.4.4 **Action under sections 77 or 78 is not consider appropriate at this time, as information is not currently available about the cause of the structural problems with the building and there is not currently a schedule of remedial works to address the safety concerns.**

### 3.5 **Section 54 Urgent works notice**

3.5.1 Section 54 of the Planning (Listed Building and Conservation Areas) Act 1990 allows for a local authority to undertake urgent works necessary for the preservation of a listed building in their area. If the building is occupied, works may only take place to those parts that are not in use. The Council has been advised that the area of the building in question is not in use.

3.5.2 The owner must be given no less than 7 days' notice in writing of the intention to carry out the works through the issue of a notice specifying the proposed works. The cost of the works is recoverable from the owner. The owner may apply to the Secretary of State for a determination on the cost of the works:

- i) That some or all of the works are unnecessary for the preservation of the building;
- ii) That in the case of works for temporary support or shelter, that the temporary arrangements have continued for an unreasonable length or time;
- iii) That the amount specified in the notice is unreasonable;
- iv) That the recovery of that amount would cause him hardship.

3.5.3 **Action under section 54 is not considered appropriate at this time, as information is not currently available about the cause of the structural problems with the building and it is therefore not possible to specify detailed works to address the safety concerns.**

### 3.6 **Allow the owner more time for the completion of structural investigation and for remedial works to be specified.**

3.6.1 The owner's structural engineer has been commissioned to design a specification of remedial works in order to address the condition of the building. Measured survey drawings have now been undertaken by surveyors

and are available to inform the remedial works. The structural engineer has yet to carry out detailed building investigations in order to design and detail the remedial works. Whilst he anticipates that these detailed investigations will take place in the next couple of weeks, he has been unable to set a specific timeframe for the work as it will in part depend upon what is uncovered and found at the building and the process that needs to be gone through before the work is specified. Due to the high grade listing of the building, specialist conservation advice from the Council's Conservation Officer and from English Heritage will need to feed into the specification of the works.

- 3.6.2 An option available is for a further period of three months to be allowed for the investigation and specification of works. The situation could be reviewed at the end of that time period. Little progress has been achieved in investigation / specification of works within the two months since the Repairs Notice was issued and despite attempts, the Council has not been able to get a clear timescale for the completion to this stage from the owner's structural engineer. **There is therefore no guarantee that allowing this further period of time would result in significant progress and this is not recommended.**

3.7 **That the Council appoint an independent structural engineer to investigate and specify works.**

- 3.7.1 This option would allow the Council to control the timescale for detailed investigations and formulation of a schedule of remedial work. The detailed report will allow the Authority to get a clear picture of the range and likely cost of remedial works reasonably necessary for the proper preservation of the building. This information can then be taken into account in the consideration of any other further action which could include the serving of a further Repairs notice or Urgent Works notice. The detailed investigation results and specification of remedial works is considered a pre-requisite for undertaking further formal action and set out within other options in this report.

- 3.7.2 Specialist structural engineers that have the requisite experience in historic buildings have been identified and are available to undertake this work on behalf of the Council. Letters have been sent out to a number of specialist structural engineers asking for an estimate of fees for carrying out a detailed survey, specifying the remedial works and providing costings for the various remedial works recommended together with a timescale for producing the information required. Responses are awaited and Members will be updated verbally at the meeting.

- 3.7.3 Given that the property owner has also commissioned this work, it is unlikely that the Council could reasonably recover the cost of its own structural engineer from the owner. It is the speed of the investigation and works specification stage that is the issue rather than whether it will be done. Cost recovery from an owner is where remedial works have been undertaken. **It is recommended that this option is taken in order to control the pace of investigation and specification of works.** It would also inform other options for action that are currently not appropriate.

4.0 **FINANCIAL IMPLICATIONS.**

- 4.1 Little information is currently available in respect of the financial implications of many of the options for action. A valuation of the property as existing and with remedial works having been completed will inform future decision making. The cost of the remedial works themselves is currently unknown and will be required. Instructing such valuations to be undertaken at this stage is considered appropriate and would be required before any compulsory purchase action is taken.
- 4.2 More cost information will also be required in order to undertake a full cost benefit analysis of the works in relation to the value of the building and its heritage significance. This is particularly important in any application that the owner may wish to make for its demolition in the event that the cost of repairs is greater than its monetary value.
- 4.3 It is also worth considering whether any enabling works are appropriate and could assist in covering the cost of the repairs. Investigation is needed to see if there is any potential for this on part of the existing car park associated with the property.
- 4.4 English Heritage is keen to encourage authorities to follow Repairs Notices through until the future of a building that is at risk has been secured. To this end English Heritage will consider underwriting up to 80% of the costs of acquisition through compulsory purchase procedures with eligible costs including professional services as well as the purchase price. Any grant offer would be dependent upon the local authority having a convincing strategy for resolving the long term future of the listed building, including where the building effectively has a negative value that “conservation deficit” can be funded.
- 4.5 Similarly English Heritage encourages local authorities to serve Urgent Works Notices as soon as the need for them becomes apparent and will consider applications from local authorities for grants to underwrite up to 80% of the cost of undertaking urgent works including essential professional services brought in and where necessary the cost of carrying out the urgent works.
- 4.6 Officers propose discussing the option of applying for grants from English Heritage as set out in 4.4 and 4.5 above with English Heritage’s local office in Bristol to establish whether the case would be a priority for support.
- 5.0 **HUMAN RIGHTS AND EQUALITY ISSUES:**
- 5.1 Many of the actions being considered in relation to this report could affect the land/property and the owner’s rights under the provisions of Article 8, 6 and Article 1 of the First Protocol of the Human Rights Act 1998. However, the Local Planning authority feels it is pursuing a legitimate aim in seeking to ensure the preservation of a high grade listed building, so as to prevent demonstrable harm to interests of acknowledged importance and to protect the environment.
- 5.2 The Human Rights provisions in relation to this case are qualified rights and the interference with those rights is considered to be proportionate so as to

protect harm to the visual amenity identified. The steps proposed in the recommendations are considered proportionate and expedient way forward.

## **6.0 CONCLUSIONS.**

- 6.1 The immediate concerns relating to the safety of the site have been addressed following the erection of supportive scaffolding. However this has currently achieved no more than placing the situation on hold in the short term pending further investigation works and the specification of remedial works to address the situation. Once specified, the remedial works themselves will also take time to be completed. It is therefore clear that the resolution of the condition of this building will not be quick and that Tiverton Road is unlikely to be able to reopened for at least a further six to nine months.
- 6.2 Analysis of options for further action has highlighted the current lack of information about the condition of the building and what works are required to remedy this. This information is critical to safeguarding this high grade listed building, to resolving the inconvenience being experienced in Cullompton through road closure and in addressing the current detrimental appearance of the site within the town centre and Conservation Area. It is needed for formal action as set out in the options considered above and therefore must be the first priority.
- 6.3 Given the current uncertainty over the timescale for this information being produced if left to the applicant, it is appropriate for the Council to commission the work in order to control the timescale. Valuations can also be obtained that will also inform future decisions. It is proposed that a further report be prepared for Planning Committee once the Council has received the required structural investigations and remedial works. These will be sought on an urgent basis.

**Contact for more Information: Sue Warren 01884 234391 / Jenny Clifford 01884 234346**

**Circulation of the Report: Cllr Richard Chesterton, Members of Planning Committee**

**List of Background Papers: Planning Committee 5th November 2015**

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## PLANNING COMMITTEE AGENDA - 4th March 2015

### Applications of a non-delegated nature

- | <u>Item No.</u> | Description   |
|-----------------|---|
| 1.              | 14/01943/FULL - Erection of dwelling at Three Tuns, 14 Exeter Road, Silverton.<br><b>RECOMMENDATION</b><br>Grant permission subject to conditions.  |
| 2.              | 14/02077/FULL - Erection of a dwelling with parking and associated access (Revised scheme) at 11 Uplowman Road, Tiverton, Devon.<br><b>RECOMMENDATION</b><br>Grant permission subject to conditions.                                      |
| 3.              | 15/00062/FULL - Relocation of existing parking spaces with access and erection of 2 dwellings with altered access at Land at NGR 296643 113493, Beech Road, Tiverton.<br><b>RECOMMENDATION</b><br>Grant permission subject to conditions. |

Application No. 14/01943/FULL

Plans List No. 1

Grid Ref: 295502 : 102734

Applicant: Mr M Pink

Location: Three Tuns 14 Exeter Road  
Silverton

Proposal: Erection of dwelling

Date Valid: 25th November 2014



## **Application No. 14/01943/FULL**

### **RECOMMENDATION**

Grant permission subject to conditions.

### **COUNCILLOR MRS JENNY ROACH HAS REQUESTED THAT THIS APPLICATION BE DETERMINED BY THE PLANNING COMMITTEE FOR THE FOLLOWING REASON:**

To consider the significant loss of parking provision, the problems that would occur if the car park is not large enough to allow large delivery vehicles to turn on site and the adverse impact on the neighbouring parties.

### **PROPOSED DEVELOPMENT**

The application seeks permission for the erection of a two storey, 3 bedroom dwelling within the northern part of the car park that is currently associated with the Three Tuns public house in Silverton. The dwelling is proposed to have painted render walls and a slate roof with either timber or upvc windows and doors. There are no first floor openings proposed at first floor level on either gable end. The proposal includes the provision of two parking spaces specifically allocated for the dwelling. Following provision of the dwelling there would be 18 parking spaces associated with the public house.

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

Flood Risk Assessment  
Design and Access Statement  
South West Water Drainage maps  
Ecology Report

### **PLANNING HISTORY**

82/01322/FULL Erection of kitchen extension - PERMITTED OCTOBER 1982  
84/01592/OUT Outline for the erection of a dwelling - REFUSED JANUARY 1985  
87/02192/FULL Alterations to existing skittle alley to provide hotel accommodation and erection of single storey dwelling - PERMITTED FEBRUARY 1988  
91/00565/FULL Completion of previously approved staff accommodation dwelling and use for general residential purposes with provision of independent vehicular access - REFUSED JULY 1991  
01/02020/FULL Erection of dwelling and alterations to access - PERMITTED AUGUST 2002  
14/00150/LBC Listed Building Consent for works within existing dining room and bedroom to provide additional letting rooms - PERMITTED MARCH 2014

### **DEVELOPMENT PLAN POLICIES**

#### **Mid Devon Core Strategy (Local Plan 1)**

COR1 - Sustainable Communities  
COR2 - Local Distinctiveness  
COR17 - Villages

#### **Mid Devon Local Plan Part 3 (Development Management Policies)**

DM2 - High quality design  
DM8 - Parking  
DM14 - Design of housing  
DM15 - Dwelling sizes  
DM27 - Development affecting heritage assets

## CONSULTATIONS

HIGHWAY AUTHORITY - 5th December 2014 - Standing advice applies please see Devon County Council document <http://www.devon.gov.uk/highways-standingadvice.pdf>

ENVIRONMENT AGENCY - 24th November 2014 - Operational development less than 1ha within Flood Zone 1 - No consultation required - see surface water management good practice advice - see standard comment.

SILVERTON PARISH COUNCIL - 7th January 2015

The Parish Council recommends refusal of the above application on the grounds the proposed development would increase a great loss of valuable car parking space for a commercial business coupled with it feels the height of the proposed two storey building would be encroaching on the privacy and light of the adjacent bungalow.

HISTORIC ENVIRONMENT SERVICE – 18<sup>th</sup> December.2014 - The proposed development lies in an area of archaeological potential on the edge of the medieval settlement at Silverton. Listed buildings to the south-east of the proposed development date from the 17th century suggesting that this part of the village was being developed in from the 1600s onwards. The proposed development to the rear of these properties and in an area where archaeological and artefactual deposits such as rubbish pit and evidence of small-scale industrial activity may be present. Groundworks associated with the construction of the proposed new dwelling have the potential to expose and destroy archaeological and artefactual deposits associated with the early post-medieval settlement at Silverton.

For this reason and in accordance with paragraph 141 of the National Planning Policy Framework (2012) I would advise that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the District Planning Authority.

Reason

'To ensure that an appropriate record is made of archaeological evidence that may be affected by the development'

I would envisage a suitable programme of work as taking the form of the archaeological supervision of all groundworks associated with the proposed development to allow for the identification, investigation and recording of any archaeological or artefactual material exposed by construction works. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report.

## REPRESENTATIONS

6 letters of objection have been received. The objections have been summarised and raise the following concerns:

1. Design out of keeping with surrounding properties;
2. Loss of parking for the Three Tuns Public House;
3. Loss of turning space for lorries;
4. Impact on right of way to rear of 6-12 Exeter Road;
5. If permission is granted the pub will close and community asset lost;
6. Loss of light;
7. Overbearing on rear garden;

8. If permitted, no additional windows in gable ends;
9. Loss of privacy to garden;
10. Concerns about use of shared access for construction purposes;

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

- 1) Design and impact on the Conservation Area**
- 2) Impact on residential amenity**
- 3) Parking and access**
- 4) Other**

### **1) Design and impact on the conservation area**

The proposal is for the erection of a two storey, 3 bedroom detached dwelling within part of the car park of the Three Tuns public house. The public house is a listed building and is in Silverton Conservation Area. The public house car park and the site of the proposed dwelling are outside the Conservation Area but adjacent to it. There are views toward the site from the Conservation Area.

The dwelling is proposed to have an external appearance of render with a slate roof with either timber or upvc windows and doors. Conditions have been suggested that require a sample of the slate to be submitted as well as details of the render finish and the working details of the doors and windows (as well as details of the recess of the windows).

The dwelling is orientated to face south toward the entrance of the car park. It is relatively tucked away at the northern end of the car park and will not compete with the setting of the listed public house or been imposing within the adjacent Conservation Area, although there would be some views of the dwelling from Tuns Lane to the south. The principal windows are on the south elevation with patio doors to the living room on the western elevation. There are no windows on the east elevation and very few on the northern elevation. The dwelling is compliant with the size requirements for new dwellings under policy DM15 of Local Plan Part 3 (Development Management Policies).

There is a reasonable sized, private patio area to the west of the dwelling with a very narrow strip of amenity space to the north. A grassed front garden is proposed with a path leading to the front door. Two parking spaces are proposed to the south west of the front of the dwelling and the dwelling site will be separated from the remainder of the car park by a 600mm high wall.

The Conservation Officer has reviewed the proposal and indicated that the design of the house, including its size, massing and height are all reasonable within the context of the site and the surrounding residential properties. As Silverton has a wide range of housing styles and appearances the proposed dwelling is considered to fit in well as it has a fairly traditional appearance.

It is considered that the Conservation Area will be either preserved or enhanced by the proposal and it will cause no harm to surrounding heritage assets including nearby listed buildings and the Conservation Area. The proposal is therefore considered to be in accordance with policy DM27 of Local Plan Part 3 (Development Management Policies and the National Planning Policy Framework).

### **2) Impact on residential amenity**

Policies DM2 and DM14 require that new dwellings do not have an unacceptably adverse effect on the privacy or amenity of the proposed or neighbouring properties and uses. The proposed dwelling would be west of existing dwellings in Exeter Road (built at the lower ground level associated with Exeter Road) and east of a detached modern dwelling called The Rowans which is built on a similar (possibly slightly higher) ground level as the proposed dwelling.

Objections have been received from the occupiers of the nearest residential dwellings to the east and west, none received from the dwelling to the north within the garden of which there is consent for the erection of a

dwelling.

The dwelling would be gable end/side on to the rear of dwellings to the west in Exeter Road and approximately 16m from the rear of the two nearest properties 6 and 8 Exeter Road. At this distance, although the dwelling may cast some shadow over the eastern end of these gardens toward the end of a sunny day, it is not considered that the dwelling would have an overbearing impact on these dwellings. There are no first floor gable end/side windows proposed on the east elevation of the dwelling which would ensure no loss of privacy for the occupiers of these properties. The dwelling is therefore considered to be in accordance with the requirements of policies DM2 and DM14 of Local Plan Part 3 (Development Management Policies).

Numbers 10 and 12 Exeter Road are listed dwellings and although there would be some views from the rear of these properties toward the new dwelling it is not considered that the proposed dwelling would have an adverse impact either on the privacy or amenity of these properties or on their setting in accordance with policies DM2, DM14 and DM27 of Local Plan Part 3 (Development Management Policies).

The Rowans is to the west of the application site and faces toward the proposed dwelling. In order to prevent any loss of privacy to the occupiers of this property there are no windows proposed in the first floor of the western gable end. There are patio doors proposed at ground floor giving access from the new dwelling on to a patio area, however, due to the existence of a fairly tall boundary fence between the Rowans and the proposed dwelling the use of the patio doors and patio will not result in any overlooking or loss of privacy to the occupiers of The Rowans. While the proposed dwelling will be visible from the front elevation dormer windows of The Rowans and there would be a view of the upper parts of the western gable end from the downstairs windows of The Rowans, as the dwelling would be approximately 10 metres from this property it is not considered that it would have a significant detrimental impact on the amenity of the occupiers of The Rowans in accordance with policies DM2 and DM14 of Local Plan Part 3 (Development Management Policies).

There is permission for the erection of a detached dwelling to the north within the garden of 4 Exeter Road. While there is some vegetation on the northern boundary of the site which would assist in reducing how visible the proposed dwelling would be from 4 Exeter Road (and the additional dwelling in garden) it is neither high enough or thick enough to form a visual screen and prevent overlooking. The north elevation of the proposed dwelling includes only two small first floor windows associated with bathrooms. As these windows are therefore likely to have translucent glazing reflecting the function of the internal spaces, they are unlikely to result in any overlooking or loss of privacy to the dwelling(s) to the north. A condition is proposed requiring these two windows to be glazed with translucent glass.

Permitted development rights are proposed to be removed by condition for any new first floor windows in the west, east and north elevations of the proposed dwelling to protect the privacy of the occupiers of surrounding properties.

### **3) Parking and access**

The application proposes to use the northernmost part of the existing car park to the rear of the public house as the site for the new dwelling. The site area is approximately 187 square metres and this includes the footprint of the dwelling, the garden and patio as well as two parking spaces and access to the spaces. The site would be segregated from the remainder of the car park by a 600mm high wall.

The car parking space within the existing car park is not set out into formal spaces although it is estimated that the application site will result in the loss of approximately 8 potential spaces when using the average parking space measurement of 4.8m long x 2.4m wide.

Pre-application discussion with the Highways Authority indicated that the loss of parking provision associated with the erection of a dwelling within the car park was acceptable and that a reasonable level of parking would remain following the provision of the dwelling. The plans indicate that there would be 18 car parking spaces for the public house (and associated letting rooms) following the erection of the dwelling. The access to the dwelling through the car park is also considered to provide a safe access in accordance with policy DM2 of Local Plan Part 3 (Development Management Policies).

Policy DM8 of Local Plan Part 3 (Development Management Policies) requires 1 parking space per 3sqm of drinking area and 1 space per bedroom of tourist accommodation. Deducting 5 spaces for the 5 letting rooms leaves 13 spaces for the public house. The public house is not large and the 13 spaces to serve the drinking area is considered to be adequate.

It is understood that deliveries to the public house are taken in Exeter Road rather than from the car park to the rear and the Highways Authority have not raised any specific concerns regarding this approach. While there would be parking and turning for cars and smaller vehicles within the car park, it would not be suitable for the turning of delivery lorries.

The car park is accessed from Three Tuns Lane, which in turn is accessed from Exeter Road. Three Tuns Lane is fairly narrow in places and it would not be a suitable access road to serve significant additional development. However, it already serves a number of dwellings and it is not considered that the traffic associated with one additional dwelling would have a significant adverse impact on the local highway network.

The access into the car park is also used by the residents of an off site dwelling called The Rowans. This access arrangement would not be affected as a result of the erection of one additional dwelling. The new dwelling would have access through the centre of the car park and into the dwelling site (and allocated spaces) at the northern end.

The quantity of parking allocated for the dwelling and remaining for the public house is considered to be acceptable and in accordance with the requirements of policy DM8 Local Plan Part 3 (Development Management Policies) and the provision of a new dwelling will not have any long term adverse effects on the access and parking associated with The Rowans and will provide sufficient access for the dwelling in accordance with the requirements of policy DM2 of Local Plan Part 3 (Development Management Policies).

#### **4) Drainage, ecology, private right of way etc**

##### **Drainage**

The proposed dwelling would be connected to the mains sewer and this connection would be used for both foul and surface water drainage.

##### **Ecology**

The site is part of a tarmacked car park. The removal of the tarmac to form the site of a dwelling will not have any adverse impact on biodiversity and the bank/trees/hedgerow on the northern boundary of the site is proposed to be retained.

##### **Private right of way**

Concern has been raised by the occupiers of 6-12 Exeter Road that a private right of way through the car park to the rear of their properties has been blocked off by the previous owner of the public house and not re-opened by the current owner of the public house. Issues regarding private rights of way are not planning considerations and are a civil matter. Personal legal assistance would need to be sought in order to address and private rights of way issues, the planning system is not able to address such issues.

#### **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. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority. The development shall be carried out at all

times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

4. No development shall begin until samples of slate and details of render to be used for all the external surfaces of the building have been submitted to, and approved in writing by, the Local Planning Authority. Such approved materials shall be so used and retained.
5. No development shall begin until working details of the new external doors/windows, including sections, mouldings and profiles, finishes and glazing have been submitted to, and approved in writing by, the Local Planning Authority. Installation of the doors/windows shall be in accordance with these approved details, and be so retained.
6. The external doors, door frames and windows hereby approved shall be recessed into the walls in accordance with details to be submitted to and approved in writing by the Local Planning Authority. These works shall be carried out in accordance with the approved details and be so retained.
7. Before the development hereby permitted is first brought into its permitted use, the first floor windows in the north elevation shall be glazed with translucent glass, and be so retained.
8. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) Amendment (No.2) Order 2008 (or any Order revoking and re-enacting that Order with or without modification) no new windows or openings shall be inserted above ground floor level in the in the west, east or north elevations of the dwelling without the Local Planning Authority first granting planning permission.

## **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 ensure that an appropriate record is made of archaeological evidence that may be affected by the development in accordance with policy DM27 Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.
4. To ensure the use of materials appropriate to the development in order to safeguard the character and appearance of the conservation area in accordance with: Mid Devon Core Strategy (Local Plan 1) COR2, Local Plan Part 3 (Development Management Policies) DM2, DM14 and DM27.
5. To ensure the use of materials and detailing appropriate to the development, in order to safeguard the character and appearance of the conservation area in accordance with: Mid Devon Core Strategy (Local Plan 1) COR2, Local Plan Part 3 (Development Management Policies) DM2, DM14 and DM27.
6. To ensure the use of materials and detailing appropriate to the development in order to safeguard the character and appearance of the conservation area in accordance with: Mid Devon Core Strategy (Local Plan 1) COR2, Local Plan Part 3 (Development Management Policies) DM2, DM14 and DM27.
7. To safeguard the privacy of the occupiers of 4 Exeter Road and new dwelling within its garden in accordance with Policy DM13 of the Local Plan Part 3 (Development Management Policies).
8. To safeguard the privacy and amenity of nearby residential properties in accordance with Local Plan Part 3 (Development Management Policies) DM2, and DM14.



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

The proposed dwelling is considered to be an acceptable design and location in accordance with the policy requirements of COR2 of Mid Devon Core Strategy (Local Plan Part 1), policies DM2 and DM14 of Local Plan Part 3 and provides accommodation in accordance with the size requirements of policy DM15 Local Plan Part 3. The proposed dwelling will result in the loss of some parking associated with the public house although 18 spaces will be retained for the public house as well as providing two spaces for the proposed dwelling. The existing access arrangements to the car park and one off site dwelling will not be adversely affected by the development. The proposal is therefore in accordance with policy DM8 of Local Plan Part 3. The dwelling will not have an adverse impact on heritage assets in accordance with policy DM27 and while there will be some impact on surrounding residential properties this will not be significant and is therefore in accordance with policies DM2 and DM14 in this regard. The proposal is considered to be in accordance with relevant planning policies and has been recommended for approval.

**Application No. 14/02077/FULL**

**Plans List No. 2**

**Grid Ref:** 298379 : 113442

**Applicant:** Mr Wren

**Location:** 11 Uplowman Road  
Tiverton Devon

**Proposal:** Erection of a dwelling  
with parking and  
associated access  
(Revised scheme)

**Date Valid:** 16th December 2014



## **Application No. 14/02077/FULL**

### **RECOMMENDATION**

Grant permission subject to conditions.

### **COUNCILLOR DENNIS KNOWLES HAS REQUESTED THAT THIS APPLICATION BE DETERMINED BY THE PLANNING COMMITTEE FOR THE FOLLOWING REASON:**

To consider whether the proposed development is out of keeping with the existing character of the area as identified in the Tiverton Urban Extension Masterplan.

### **PROPOSED DEVELOPMENT**

The application is for the erection of a single storey dwelling in the rear garden of a detached dwelling on the corner of Uplowman Road and Pomeroy Road. The proposed dwelling would be a three bedroom bungalow with rooms in the roof space. Materials are proposed to be rendered walls, artificial slate roof and white UPVC windows and doors.

The proposed dwelling would have two parking spaces to the front and a small garden to the rear and sides. The dwelling would be accessed from Pomeroy Road, a no-through road, and it is proposed to improve visibility from Pomeroy Road onto Uplowman Road by providing a visibility splay along the frontage of 11 Uplowman Road.

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

Planning, design and access statement

### **PLANNING HISTORY**

78/00292/FULL Erection of a storm porch - PERMITTED MARCH 1978  
81/00060/FULL Erection of lounge extension - PERMITTED FEBRUARY 1981  
81/01876/FULL Erection of fence - PERMITTED DECEMBER 1981  
14/01469/FULL Erection of a dwelling - WITHDRAWN NOVEMBER 2014

### **DEVELOPMENT PLAN POLICIES**

#### **Mid Devon Core Strategy (Local Plan 1)**

COR2 - Local Distinctiveness  
COR13 - Tiverton

#### **Mid Devon Local Plan Part 3 (Development Management Policies)**

DM2 - High quality design  
DM8 - Parking  
DM14 - Design of housing  
DM15 - Dwelling sizes

### **CONSULTATIONS**

HIGHWAY AUTHORITY – 23rd December 2014 - Observations:

The Highway Authority are happy with the provision of the access off Pomeroy road set out in drawing PL/Block plan/01 and with the visibility splay provided on plan PL/Block/Highway/01 provided as a footway, should such a footway be provided it should be constructed under a section 38 legal agreement with the Highway Authority. However the Highway Authority has been in discussion with the applicants agent and is happy to accept the visibility splay as a grass verge provided the visibility splay is maintained with no obstruction greater than 600mm above the carriageway surface > It should be noted that all works adjacent to the highway should be carried out subsequent to applying for the appropriate licence from the Highway Authority.

Recommendation - no objection to the proposed development.

ENVIRONMENT AGENCY - 15th December 2014 - Operational development less than 1ha within Flood Zone 1 - No consultation required - see surface water management good practice advice - see standard comment.

TIVERTON TOWN COUNCIL - 21st January 2015 - Support

ENVIRONMENTAL HEALTH - 23rd December 2014

Contaminated Land - no objections to this proposal

Air Quality - no objections to this proposal

Drainage - no objections to this proposal

Noise & other nuisances - no objections to this proposal

Housing Standards - no objections to this proposal

Licensing - N/A

Food Hygiene - Not applicable

Private Water Supplies - Not applicable

Health and Safety - no objections to this proposal

## REPRESENTATIONS

5 objections summarised as follows:

1. The development is incompatible with the principles of the EUE masterplan which must also relate to existing development in the area (e.g. generous private gardens, appropriate densities, responsive to the character of the site and area, respecting existing dwellings). The proposal is out of scale and proportion to existing density, dwelling type and garden size.
2. The creation of an additional access onto Pomeroy Road in this position would generate additional traffic near a junction which is acknowledged as dangerous.
3. The development would set a precedent and it would be difficult to resist a similar application, e.g. at 9 Uplowman Road.
4. Additional parking on Pomeroy Road would cause problems for large vehicles, e.g. ambulances.
5. This is back garden development which is against Mid Devon's policy.
6. The existing dwelling will have no rear garden.

## MATERIAL CONSIDERATIONS AND OBSERVATIONS

The key issues in determination of this application are:

1. **Design, layout and density**
2. **Highway safety**
3. **Effect on neighbouring residents**

1. **Design, layout and density**

Concern has been raised that the proposed dwelling will be out of keeping with the existing development pattern in the area and with existing dwelling density, design and layouts in terms of garden sizes. Objectors refer to statements in the Tiverton Urban Extension Masterplan which sets out the vision for an urban extension to be developed on garden neighbourhood principles, including respecting the character of the surrounding area. Pomeroy Road is a development of red brick bungalows with private gardens. The existing dwellings are spaced relatively closely together but have good sized front and back gardens with off-street parking to the front.

The density in Pomeroy Road is approximately 11 dwellings per hectare. The density in Uplowman Road is lower but the density along Post Hill to the south of the site is higher. The Tiverton Urban Extension Masterplan sets densities for the urban extension of between 15 and 50 dwellings per hectare, with the

highest densities around the proposed neighbourhood centre and lower densities on the edges of the area, particularly towards Manley Lane. The average density across the masterplanned area is calculated at 37 dwellings per hectare, with the recommended densities in the area adjacent to Uplowman Road being between 15 and 40 dwellings per hectare. If the density of the proposed dwelling was calculated on a development of similar dwellings and plots, the density would be approximately 20 dwellings per hectare. However any consideration of density needs to consider the character of the surrounding area.

In terms of layout, the proposed dwelling would have a private drive off Pomeroy Road with two parking spaces to the front of the bungalow and a garden to the rear and side of the proposed dwelling. The layout is similar to other dwellings in Pomeroy Road and is considered to provide a good level of parking and amenity space (amenity space of 132 square metres, compared to the floorspace of the dwelling of 99 square metres), in accordance with policies DM8 of the Local Plan Part 3 (Development Management Policies) which requires an average of 1.7 parking spaces per dwelling, and policy DM14 of the Local Plan Part 3 (Development Management Policies) which seeks private amenity space that reflects the size, location, floorspace and orientation of the property.

Dwellings in Pomeroy Road are red brick with tiled roofs whilst dwellings in Uplowman Road, including 11 Uplowman Road, are predominantly rendered with slate roofs. It is proposed that the new dwelling would be rendered with an artificial slate roof which is not considered to be out of keeping with its surroundings. In general, it is considered that the design of the dwelling is consistent with policy DM2 of the Local Plan Part 3 (Development Management Policies) which seeks development that demonstrates an understanding of the site and the surrounding area, is well integrated with surrounding buildings, streets and landscapes and which makes efficient and effective use of the site. The proposal is also considered to be consistent with policy DM14 of the Local Plan Part 3 (Development Management Policies) which sets out a number of criteria in respect of the design of housing, including adequate levels of daylight, sunlight and privacy for future occupiers, suitably sized rooms and overall floorspace, and with policy DM15 of the Local Plan Part 3 (Development Management Policies) which sets out minimum dwelling sizes.

It is intended to retain the mature boundary planting which is considered to be important to the character of the area. In order to ensure that the landscaping retains that character, it is recommended that a landscaping scheme be submitted for approval before the dwelling is occupied, in accordance with policy DM2 of the Local Plan Part 3 (Development Management Policies) which seeks development that demonstrates an understanding of the site and the surrounding area, and is well integrated with surrounding buildings, streets and landscapes.

Concern has been raised that the proposal would be back garden development which is against Mid Devon's policy. Mid Devon does not have a policy against back garden development and each application is considered on its merits. The Government revised the definition of previously development land to exclude domestic gardens, but this does not mean that there can be no development on gardens. The existing character of the area should be considered when assessing a proposal. It is concluded that the proposed dwelling is in keeping with the character of the area, specifically that of existing housing in Pomeroy Road.

## **2. Highway safety**

Concern has been raised that the creation of the access onto Pomeroy Road would generate additional traffic near a junction which is acknowledged as being dangerous, and that additional parking on Pomeroy Road would cause problems for large vehicles, for example, ambulances. The Highway Authority has no objection to the development, provided the suggested improvements to provide a visibility splay along the frontage of 11 Uplowman Road by cutting back the existing vegetation along this frontage are implemented. It is recommended that these junction improvements are conditioned. The development is providing two parking spaces for the dwelling and there is no reason to assume that there will be a material increase in parking on Pomeroy Road that would affect access by emergency vehicles.

Overall, your officers do not consider that the application would affect highway safety to any material degree and the development is considered to be in accordance with policy DM2 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.

### **3. Effect on neighbouring and future residents**

The main windows in the proposed dwelling would look onto the road or onto the garden to the rear. Above ground level, there would be one window in the east elevation which would look onto the side wall of the neighbouring dwelling which has one window looking towards the site. The boundary between the two dwellings is a thick hedge and it is not considered that there will be a material loss of privacy or amenity for the occupiers of this dwelling.

In addition, there is one small window in the west elevation which looks towards 11 Pomeroy Road. 11 Pomeroy Road has a number of windows facing towards the proposed dwelling and there could potentially be a loss of privacy for the existing dwelling. It is therefore recommended that the first floor window in the west elevation of the proposed dwelling is obscure glazed. Subject to this condition, it is not considered that the development would have an unacceptable impact on the privacy and amenity of neighbouring occupiers, in accordance with policy DM2 of the Local Plan Part3 (Development Management Policies).

The proposed dwelling would reduce the amount of garden available for the existing dwelling. However, 11 Pomeroy Road is set well back from the road and has a large private garden to the front of the dwelling, as well as its own drive and parking spaces. It is considered that there would be an adequate level of private amenity space and parking retained for the use of the existing dwelling.

Parts of the existing dwelling (extensions to the rear and side) are to be demolished. The extensions to the rear are poor quality and there is no justification for these being retained. The dwelling to be retained provides a good level of accommodation for future residents and would accord with policies DM2 and DM14 of the Local Plan Part 3 (Development Management Policies) should planning permission be sought for a dwelling of this type in this location.

### **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. No development shall begin until there has been submitted to and approved in writing by the Local Planning Authority, a landscaping scheme, including details of all existing boundary planting to be retained and methods to protect the retained boundary planting, and details of any changes proposed to existing ground levels. All planting, seeding, turfing or earth reprofiling comprised in the approved details shall be carried out within 9 months of the substantial completion of the development and any trees or plants which, within a period of five years from 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, or alternative trees or plants as approved in writing by the Local Planning Authority.
4. The development shall not be occupied until the vehicular access, parking and turning areas shown on the approved plans have been provided, surfaced and drained, in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority.
5. The development shall not be occupied until the visibility splay along the frontage of 11 Uplowman Road shown on drawing number PL/BLOCK/HIGHWAYS/01 has been provided, in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority.
6. The development shall not be occupied until the first floor window in the west elevation has been glazed with translucent glass which glass shall be so retained.

## **REASONS FOR CONDITIONS**

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance Policy DM2 of Local Plan Part 3 (Development Management Policies).
4. In the interest of highway safety, and to ensure that adequate on-site facilities are available for traffic attracted to the site in accordance DM2 (criterion d) Local Plan Part 3 (Development Management Policies) and/or in accordance with guidance in the National Planning Policy Framework (NPPF).
5. In the interests of highway safety and to ensure adequate visibility for and of vehicles emerging from Pomeroy Road onto Uplowman Road in accordance with the National Planning Policy Framework.
6. To safeguard the privacy of the occupiers of 11 Uplowman Road in accordance with policy DM2 of the Local Plan Part 3 Development Management Policies.

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

The principle of a new dwelling in this location is considered to be acceptable, taking into account the density and character of the area. The layout, design and materials are considered to provide a good standard of accommodation and to respect the character of existing development in the area. Adequate accommodation, parking and amenity space is to be retained for the existing dwelling. Subject to conditions relating to visibility at the junction with Uplowman Road, and the requirement for translucent glazing in the west elevation, the development is not considered to have an unacceptable impact on highway safety or the privacy or amenity of neighbouring occupiers. The proposal is considered to comply with the relevant policies: COR2 and COR13 of the Mid Devon Core Strategy (Local Plan Part 1) and DM2, DM8, DM14 and DM15 of the Local Plan Part 3 (Development Management Policies).

**Grid Ref:** 296644 : 113493

**Applicant:** Mid Devon District Council

**Location:** Land at NGR 296643 113493  
Beech Road Tiverton

**Proposal:** Relocation of existing parking spaces with access and erection of 2 dwellings with altered access

**Date Valid:** 26th January 2015





## **Application No. 15/00062/FULL**

### **RECOMMENDATION**

Grant permission subject to conditions.

### **PROPOSED DEVELOPMENT**

The application is for the erection of two dwellings on a parcel of land in a residential area of Tiverton that is currently used for parking. The land is laid to grass with 3 tarmac parking spaces with turning and access from Beech Road.

The proposal is for the erection of two 3 bedroom semi-detached dwellings, each with parking for two cars to the front of the dwellings. Materials are to be brick walls, fibre cement slate roofs and double glazed UPVC windows.

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

Design and access statement  
Flood risk assessment

### **PLANNING HISTORY**

None

### **DEVELOPMENT PLAN POLICIES**

#### **Mid Devon Core Strategy (Local Plan 1)**

COR13 - Tiverton

#### **Mid Devon Local Plan Part 3 (Development Management Policies)**

DM2 - High quality design  
DM8 - Parking  
DM14 - Design of housing  
DM15 - Dwelling sizes

### **CONSULTATIONS**

HIGHWAY AUTHORITY - 29th January 2015 - Standing advice applies please see Devon County Council document <http://www.devon.gov.uk/highways-standingadvice.pdf>

ENVIRONMENT AGENCY - 16th January 2015 - Operational development less than 1 hectare within flood zone 1 - no consultation required - see surface water management good practice advice - see standard comment

TIVERTON TOWN COUNCIL - 18th February 2015

Whilst supporting the application for 2 dwellings the council is concerned about the proposed re-location of car parking spaces for residents and would suggest that present garden space be utilised rather than the proposal, which is feared could result in vandalism and increased crime. Tiverton Town Council respectfully requests that a site meeting be held to outline the problems and the possible solutions.

ENVIRONMENTAL HEALTH - 10th February 2015

Contaminated Land - no objections to this proposal

Air Quality - no objections to this proposal

Waste & Sustainability

Drainage - no objections to this proposal

Noise & other nuisances - no objections to this proposal

Housing Standards - no objections to this proposal  
Licensing - No comment  
Food Hygiene - Not applicable  
Private Water Supplies - Not applicable  
Health and Safety - no objections to this proposal

SOUTH WEST WATER - 6th February 2015 - The applicant/agent is advised to contact South West Water if they are unable to comply with our requirements as detailed below.

A plan showing the approximate location of a public water main in the vicinity. Please note that no development will be permitted within 3 metres of the water main, and ground cover should not be substantially altered.

Should the development encroach on the 3 metre easement, the water main will need to be diverted at the expense of the applicant. The applicant/agent is advised to contact the Developer Services Planning Team to discuss the matter further.

If further assistance is required to establish the exact location of the water main, the applicant/agent should call our Services helpline on 0344 346 2020.

South West Water will only allow foul drainage to be connected to the public foul or combined sewer. Permission will not be granted for the surface water from this site to return to the public combined or foul sewerage network. We will request that investigations are carried out to remove the surface water using a Sustainable Urban Drainage System, such as a soakaway. If this is not a viable solution to remove the surface water, please contact the Developer Services Planning Team for further information.

From 1st October 2011 ownership of private sewers transferred to South West Water under the Private Sewer Transfer Regulations.

12th February 2015 - Further to our letter dated 5 February 2015 I have reviewed the public sewerage records in relation to the proposed development.

It should be noted that public sewers are located within the boundary of this site. We will not grant permission for the sewers to be built over and we will require the following easements:

Public surface water sewer - 1200di = 5 metres  
Public foul sewer - 400di = 5 metres (due to depth of sewer: 6 metres)

Public surface water sewer - 100di - 3 metres  
Public foul sewer - 100di = 3 metres

As the development will encroach on these easements, the sewers will need to be diverted at the expense of the applicant. We would recommend the agent/applicant contacts South West Water to discuss our requirements.

## REPRESENTATIONS

1 objection summarised as follows:

1. No 43 Beech Road is entitled to use of a parking space and the proposal will move this space 100m further away from the house, near the bus stop, encouraging vandalism
2. There is a storm drain on the land which causes waterlogging and mains sewers run across the site
3. Rear access to the existing dwellings may be compromised.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The key issues in determination of this application are:

- 1. Design**
- 2. Parking and highway safety**
- 3. Effect on neighbouring residents**

### **1. Design**

Policy COR13 of the Mid Devon Core Strategy (Local Plan 1) permits new residential development in sustainable locations within the Tiverton settlement boundary. The proposal is for a pair of semi-detached 3 bedroom dwellings in an established residential area which would be set back from the road frontage by approximately 9 metres, in line with the adjoining terrace of houses. Surrounding development is either in small brick built terraces or as semi-detached dwellings. Materials are either red brick with light brick bands, slate roofs and canopy porches or lighter brick with tile hanging and tile roofs. It is proposed to use brick for the walls with a contrasting brick band and a fibre cement roof tile (samples to be agreed) and UPVC windows, also used on surrounding development.

Your officers consider that the proposed dwellings would fit well into the street scene. The materials and the use of small canopy porches to the front reflect adjacent development. Overall, the design of the development is considered to comply with policy DM2 of the Local Plan Part 3 (Development Management Policies) which seeks development that demonstrates an understanding of the site and the surrounding area, is well integrated with surrounding buildings, streets and landscapes and which makes efficient and effective use of the site.

Each dwelling would provide a reasonable level of accommodation and have a private garden to the rear providing adequate amenity space. The development is considered to comply with DM14 which sets out a number of criteria in respect of the design of housing, including adequate levels of daylight, sunlight and privacy for future occupiers, suitably sized rooms and overall floorspace, and with policy DM15 of the Local Plan Part 3 (Development Management Policies) which sets out minimum dwelling sizes.

### **2. Parking and highway safety**

Each dwelling will be provided with 2 parking spaces to the front accessible directly from Beech Road. The use of off-street parking to the front of the houses is a similar arrangement to the adjacent terrace. The existing 3 parking spaces on the site are available for use by 39, 41 and 43 Beech Road. 39 and 41 Beech Road now have off-street parking to the front of each dwelling. 43 Beech Road does not currently have off-street parking but the Council has confirmed that off-street parking will be provided to the front of 43 Beech Road and it is understood that the occupier of that dwelling is now happy with the arrangement.

Your officers consider that the level of parking is consistent with the requirements of policy DM8 of the Local Plan Part 3 (Development Management Policies) which requires 1.7 parking spaces to be provided for each new dwelling. The parking arrangement is similar to existing dwellings in the adjacent terrace. Accordingly, the proposal is not considered to have an unacceptable impact on highway safety, in accordance with the provisions of the National Planning Policy Framework.

### **3. Effect on neighbouring and future residents**

Windows in the front elevations of the dwellings would look onto Beech Road and there would be no windows in the side elevations. Windows in the rear would look towards or across the rear gardens of neighbouring dwellings. However, these rear gardens are already somewhat overlooked from other dwellings in the area and your officers do not consider that there would be a material loss of privacy for existing residents in respect of views from the first floor bedroom windows. New timber fences will screen at ground floor level. The proposal is considered to be in accordance with policy DM2 of the Local Plan Part 3 (Development Management Policies) in this respect.

Concern has been raised that mains sewers serving nearby dwellings cross the site. South West Water has identified these sewers and it is proposed that these are diverted. The diversion will be subject to agreement with South West Water. Surface water drainage will discharge to a soakaway on the site.

Concern has also been raised in respect of the loss of a right of way to the rear of the adjacent terrace. This is not a matter for the planning application but is between the parties. However, the Council has indicated that a right of way will be retained to the rear of the adjacent terrace.

## **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. No development shall begin until samples of the materials to be used for all the external surfaces of the building(s) have been submitted to, and approved in writing by, the Local Planning Authority. Such approved materials shall be so used and retained.

## **REASONS FOR CONDITIONS**

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. To ensure the use of materials appropriate to the development in order to safeguard the visual amenities of the area in accordance with: Local Plan Part 3 (Development Management Policies) DM2.

## **INFORMATIVE NOTE**

1. You are advised that South West Water has confirmed the presence of a public water main in the vicinity. Should the development encroach within 3 metres; the water main will need to be diverted. Please contact South West Water Developer Services Planning Team.

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

The current proposal is acceptable in that the development is in a sustainable location in an established residential area. The dwellings have been designed to respect the character and appearance of the surrounding development and provide a good level of accommodation and adequate parking and amenity space. Existing parking provision will be relocated. In addition, the development is not considered to have an unacceptable impact on the privacy and amenity of neighbouring residents. The development is considered to comply with the following policies: COR13 of the Mid Devon Core Strategy (Local Plan Part 1) and DM2, DM8, DM14 and DM15 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.

Jonathan Guscott  
Head of Planning and Regeneration



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**PLANNING COMMITTEE - 4 March 2015**

**REPORT OF HEAD OF PLANNING AND REGENERATION - APPLICATIONS DETERMINED UNDER DELEGATED POWERS**

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**PURPOSE OF REPORT**

To inform Members of those applications which have been determined under the officer delegation scheme since your last meeting. These decisions are made in accordance with the Authority's powers contained in the Town and Country Planning Act 1990 and have no financial implications.

**RECOMMENDATION**

That the report be noted.

**DETAILS OF DECISIONS**

<b>DATE RECEIVED</b>	<b>DATE DETERMINED/ DECISION</b>	<b>REF NUMBER</b>	<b>APPLICANT PROPOSED DEVELOPMENT</b>	<b>PARISH/AREA</b>
17.07.2013	09.02.2015 Grant permission	13/00993/FULL	Allonby Homes Ltd Land at NGR 303416 110418 (Silver Street) Willand Erection of 7 affordable dwellings and associated works	Willand 59
08.08.2013	27.01.2015 Grant permission	13/01149/OUT	Mr D Stephenson Land at NGR 296100 114106 (Moorhayes Triangle, off Hayne Court) Tiverton Outline for the erection of 8 dwellings	Tiverton 52

25.03.2014	09.02.2015 Grant permission	14/00452/CLU	Mr T Sweeney Coshes Cottage South Farm Certificate of lawfulness for the use of dwelling in breach of holiday occupancy condition in excess of a 10 year period	Uffculme 53
01.10.2014	26.01.2015 Refuse permission	14/01629/MFUL	Ms S McManus Land at NGR 304319 114213 (Tiverton Parkway) Sampford Peverell New surface car park and associated lighting	Sampford Peverell 42
24.10.2014	17.02.2015 Grant permission	14/01778/FULL	Mr P Cheetham Land and Buildings at NGR 308268 107308 Orway Crescent Change of use of land from agriculture to holiday caravan site	Kentisbeare 32
24.10.2014	16.02.2015 Grant permission	14/01780/MFUL	Mr P Cheetham Land and Buildings at NGR 308268 107308 Orway Crescent Farm Erection of replacement equestrian arena (1711sqm) and erection of extension to existing stable block	Kentisbeare 32
29.10.2014	12.02.2015 Grant permission	14/01814/LBC	Mrs L Bent Clare House Practice Clare House Listed Building Consent for the erection of metal car park gates and railings	Tiverton 52
13.11.2014	30.01.2015 Grant permission	14/01882/FULL	Mr & Mrs R J Parsons Tree Tops 1 The Avenue Erection of a dwelling	Tiverton 52



17.11.2014	05.02.2015 Grant permission	14/01910/CLU	Mr Christopher Bailey-Salter Shrubbery Cottage Burlescombe Certificate of Lawfulness for the existing use of building as a dwelling	Burlescombe 06
17.11.2014	22.01.2015 Grant permission	14/01912/FULL	Mrs J Whittaker 2 Silks Cottages Newton St Cyres Erection of single storey extension	Newton St Cyres 37
17.11.2014	22.01.2015 Grant permission	14/01914/LBC	Mrs J Whittaker 2 Silks Cottages Newton St Cyres Listed Building Consent for the erection of single storey extension	Newton St Cyres 37
18.11.2014	10.02.2015 Grant permission	14/01913/FULL	Mr John Myhill 9 Millway Gardens Bradninch Erection of timber summerhouse and installation of swimming pool	Bradninch 04
18.11.2014	28.01.2015 Grant permission	14/01922/FULL	Mrs S Searle The Oak Room 2C St Peter Street Change of use of church to mixed use for cafe/restaurant, art gallery, seminar/conference space, music venue, retail, internet cafe, wedding venue	Tiverton 52
18.11.2014	03.02.2015 Grant permission	14/01923/FULL	Mr R Davey Land and Buildings at NGR 295851 122319 (Rear Of Silver Street) Erection of 2 dwellings following demolition of existing garage block and outbuildings (Revised scheme)	Bampton 01
18.11.2014	28.01.2015 Grant permission	14/01942/FULL	Mr G Clements 32 The Brendons Sampford Peverell Erection of extension and	Sampford Peverell 42

			replacement garage following demolition of existing garage (Revised Scheme)	
19.11.2014	23.01.2015 Grant permission	14/01945/FULL	Mr J Hardy Land at NGR 291006 110697 (Coombeland) Pennymoor Creation of an outdoor equestrian arena	Cruwys Morchard 20
20.11.2014	09.02.2015 Refuse permission	14/01947/FULL	Ms Annette Moore West End Hall 5 West End Road Replacement of existing wooden single glazed windows and doors with uPVC double glazed units	Bradninch 04
24.11.2014	05.02.2015 Grant permission	14/01955/FULL	Mr & Mrs R Hotton The Linhay Higher Furzeland Conversion of former threshing barn to dwelling and erection of replacement extension	Sandford 43
24.11.2014	05.02.2015 Grant permission	14/01957/LBC	Mr & Mrs R Hotton The Linhay Higher Furzeland Listed Building Consent for conversion of former threshing barn to dwelling and erection of replacement extension	Sandford 43
25.11.2014	05.02.2015 Grant permission	14/01978/FULL	Mr K Marshall Land at NGR 277352 106132 Sidborough Hill Erection of a polytunnel	Morchard Bishop 35
25.11.2014	26.01.2015 Grant permission	14/01991/FULL	Mr & Mrs I Jarman 11 The Square Uffculme Change of Use of outbuilding to 1 bed	Uffculme 53

			flat and internal alterations to shop and flats	
25.11.2014	06.02.2015 Grant permission	14/01992/FULL	Mr A Palfrey Cherry Tree Cottage 2 Cowleymoor Road Sub-division of house into 2 semi-detached dwellings, erection of single storey front lobby/wc extension and 1 additional parking space	Tiverton 52
26.11.2014	29.01.2015 Grant permission	14/01960/TPO	Mrs Janet Peto 5 Rectory Close Willand Application to remove a limb from 1 Oak tree protected by Tree Preservation Order 09/00002/TPO	Willand 59
27.11.2014	30.01.2015 Grant permission	14/01968/FULL	Mr R White Rainbow Superstore Ltd Units 5 to 7 Formation of new access and car park, and alterations to existing building	Tiverton 52
27.11.2014	30.01.2015 Grant permission	14/01970/FULL	Mr Simon McCabe Park Lodge Westcott Alteration of 7 letting rooms to single dwellinghouse and erection of garage	Cullompton 21
27.11.2014	22.01.2015 Refusal of Prior Approval	14/01980/PNCOU	Mr A Philips Ridgeway Farm Cheriton Bishop Prior notification for the change of use of agricultural building to dwelling under Class MB(a)	Cheriton Bishop 11
27.11.2014	29.01.2015 Grant permission	14/01995/FULL	Mr Abdey West Green Langford Road Erection of first floor to dwelling	Newton St Cyres 37

			including raising and alteration of roof	
28.11.2014	09.02.2015 Grant permission	14/01996/FULL	Mrs C Stanbury The Grange Coldridge Application to allow existing commenced planning permission 06/02512/FULL for 4 dwellings to 3 dwellings (revised scheme)	Coldridge 16
01.12.2014	09.02.2015 Grant permission	14/01985/FULL	CR & JM Carr Land at NGR 287898 106070 (Orchard Hayes Farm) Variation of Condition 1 of Planning Permission 11/01080/FULL for the siting of a temporary agricultural worker's caravan to allow use to continue until on or before 7 December 2015	Cheriton Fitzpaine 12
01.12.2014	23.01.2015 Approval of Prior Approval	14/01986/PNCOU	Mr R Gurney Land and Building at NGR 285938 122539 Lower Swineham Farm Prior notification for the change of use of agricultural building to dwelling under Class MB(a)	Oakford 39
01.12.2014	23.01.2015 Approval of Prior Approval	14/01987/PNCOU	Mr R Gurney Land and Building at NGR 285968 122520 Lower Swineham Farm Prior notification for the change of use of agricultural building to dwelling under Class MB(a)	Oakford 39
01.12.2014	28.01.2015 Approval of Prior Approval	14/01988/PNCOU	Mr & Mrs Saunders Ash Bullayne Farm Coplestone Prior notification for the change of	Sandford 43

			use of agricultural building to dwelling under Class MB(a) & (b)	
01.12.2014	22.01.2015 Approval of Prior Approval	14/01989/PNCOU	Mr A Heard Land at NGR 290253 109653 (Road From Westridge Cross to Kingdoms Corner) Prior Notification for the change of use of agricultural building to dwelling under class MB(b)	Cadeleigh 09
01.12.2014	16.02.2015 Grant permission	14/01997/FULL	Fraser Anti-Static Techniques Fraser Anti-Static Techniques Ltd Unit C Erection of extension to business unit	Bampton 01
01.12.2014	06.02.2015 Withdrawn	14/01998/FULL	Mr & Mrs D Tucker Hampson Cottage Bow Erection of two-storey extension	Bow 03
01.12.2014	26.01.2015 Grant permission	14/02012/FULL	Mr M Rose Henley House Crediton Erection of replacement barn for garaging, garden machinery and general storage	Crediton Town 18
01.12.2014	26.01.2015 Grant permission	14/02013/LBC	Mr M Rose Henley House Crediton Listed Building Consent for the erection of replacement barn for garaging, garden machinery and general storage	Crediton Town 18
01.12.2014	03.02.2015 Grant permission	14/02015/FULL	Mr J Scott Great Hole Barton Lapford Erection of 1 cabin for holiday let, garage and workshop after demolition	Lapford 33

			of existing agricultural barn	
01.12.2014	26.01.2015 Grant permission	14/02018/FULL	Mr & Mrs C McMenamin 2 St Peter Street Tiverton Conversion of former Manse into 4 flats	Tiverton 52
01.12.2014	26.01.2015 Grant permission	14/02019/LBC	Mr & Mrs C McMenamin 2 St Peter Street Tiverton Listed Building Consent for conversion of former Manse into 4 flats	Tiverton 52
02.12.2014	28.01.2015 Grant permission	14/01990/FULL	Mr J Cookson Hamslade Cottage Bampton Retention of stables and store	Oakford 39
02.12.2014	05.02.2015 Grant permission	14/02014/TPO	Mrs D Carne 49 Popham Close Tiverton Application to prune one branch by 4 metres from 1 Horse Chestnut tree protected by Tree Preservation Order 02/00012/TPO	Tiverton 52
02.12.2014	26.01.2015 Grant permission	14/02021/FULL	Mrs M Phare 25 Parsonage Street Bradninch Erection of two-storey extension	Bradninch 04
03.12.2014	11.02.2015 Grant permission	14/02006/FULL	Miss P O'Sullivan Burrige Farm Sandford Variation of condition (4) of planning permission 14/00912/FULL in relation to the permission being restricted solely for the benefit of Crediton Care & Support Homes Ltd	Sandford 43

03.12.2014	11.02.2015 Grant permission	14/02007/FULL	Miss P O'Sullivan Burrige Farm Sandford Removal of Condition 4 of Planning Permission 13/00783/FULL in relation to the permission being restricted solely for the benefit of Crediton Care & Support Homes Ltd	Sandford 43
03.12.2014	28.01.2015 Refusal of Prior Approval	14/02008/PNCOU	Mr C Drake Land at NGR 276041 93648 (Southcombe) Cheriton Bishop Prior notification for the change of use of agricultural building to dwelling under Class MB (a)	Cheriton Bishop 11
03.12.2014	28.01.2015 Refusal of Prior Approval	14/02009/PNCOU	Mr C Drake Land at NGR 275264 93578 (Southcombe Cross Bungalow) Cheriton Bishop Prior notification for the change of use of agricultural building to dwelling under Class MB (a)	Cheriton Bishop 11
04.12.2014	05.02.2015 Grant permission	14/02017/FULL	Mr G Persey Land and Buildings at NGR 308417 112134 (Craddock Barn) Craddock Conversion of barn to form garages, creation of oil tank enclosure and erection of office/store	Uffculme 53
05.12.2014	22.01.2015 Grant permission	14/02038/TPO	Mr P Huda 1 Springfield Western Road Application to fell 1 Black Pine tree protected by Tree Preservation Order 14/00005/TPO	Crediton Town 18

08.12.2014	09.02.2015 Grant permission	14/02034/TPO	Mr Shepherd 1 Chains Road Sampford Peverell Application to pollard 1 Horse Chestnut protected by Tree Preservation Order 1958/3	Sampford Peverell 42
08.12.2014	05.02.2015 Grant permission	14/02035/TPO	Mr O'Leary Barnwell Jaycroft Application to crown reduce canopy by 1-2m and reduce 2 lateral limbs by 3-4 m of one Ash tree protected by Tree Preservation Order 97/00008/TPO	Willand 59
09.12.2014	02.02.2015 Grant permission	14/02036/FULL	Mrs J Trenaman Honey Cottage Poughill Erection of conservatory	Poughill 40
09.12.2014	04.02.2015 Grant permission	14/02045/FULL	Mr J Ayre Land at NGR 279922 111590 (Between Thelbridge Cross and Somermoor Cross) Witheridge Siting of a temporary agricultural worker's dwelling	Thelbridge 50
10.12.2014	06.02.2015 Not Permitted Development	14/02066/PNCOU	Mr J Persey Land and Buildings at NGR 304296 107112 (Newlands Farm) Prior notification for the change of use of agricultural buildings to 3 dwellings under Class MB(a)	Cullompton 21
11.12.2014	05.02.2015 Approval of Prior Approval	14/02054/PNCOU	Mr F Chanin Land and Buildings at NGR 293461 104995 Stone Farm Prior notification for the change of use of agricultural building to 2 dwellings	Thorverton 51



			under Class MB (b)	
11.12.2014	22.01.2015 No Objection	14/02060/CAT	Mr Marchmont Craddock Lodge Craddock Notification of intention to crown lift to 3m a Hornbeam hedge and fell 1 Cherry, 1 Beech and 2 Ash trees within a Conservation Area	Uffculme 53
11.12.2014	06.02.2015 Grant permission	14/02064/CLP	Mr N Arkell 31 Townlands Bradninch Certificate of lawfulness for the proposed conversion of loft space	Bradninch 04
11.12.2014	16.02.2015 Grant permission	14/02067/LBC	Mrs Deborah Rodway Mallards 3 - 4 Lowman Green Listed Building Consent for the installation of 3 replacement windows to the front elevation	Tiverton 52
11.12.2014	29.01.2015 Grant permission	14/02076/FULL	Mr N J Guscott Land and Buildings at NGR 287715 106509 (White Cross Farm) Erection of an office building (Revised Scheme)	Cheriton Fitzpaine 12
12.12.2014	29.01.2015 Grant permission	14/02090/FULL	Mrs Clarke 14 Higher Street Cullompton Replacement of 5 windows and front door	Cullompton 21
15.12.2014	10.02.2015 Approval of Prior Approval	14/02069/PNCOU	Mr R Bickley Three Corner Moor Neopardy Prior approval for the change of use of agricultural building to 2 dwellinghouses under use class	Crediton Hamlets 19

			MB(b)	
15.12.2014	02.02.2015 Not Permitted Development	14/02070/PNCOU	Mrs G Orchard Patcott Farm Bickleigh Prior approval for the change of use of agricultural building to dwellinghouse under use class MB(a)	Tiverton 52
15.12.2014	06.02.2015 Refusal of Prior Approval	14/02071/PNCOU	Mr & Mrs Farley Building Adj. to Pond View Uffculme Prior approval for the change of use of agricultural building to dwellinghouse under use class MB(a)	Uffculme 53
15.12.2014	06.02.2015 Refusal of Prior Approval	14/02072/PNCOU	Mr & Mrs Farley Building Adj. to Pond View Uffculme Prior approval for the change of use of agricultural building to dwellinghouse under use class MB(a)	Uffculme 53
15.12.2014	09.02.2015 Grant permission	14/02075/CLU	Mr & Mrs Ward Woodleigh Lodge Hemyock Certificate of Lawfulness for the existing use of a dwelling in non- compliance with agricultural occupancy condition (c) of planning permission 4/26/89/1357, for a period in excess of 10 years	Hemyock 26
15.12.2014	10.02.2015 Grant permission	14/02093/FULL	Mrs A Ward Rose Cottage Shute Erection of two-storey rear extension and single storey side extension	Shobrooke 44
15.12.2014	11.02.2015 Grant permission	14/02100/LBC	Mr & Mrs A Cameron Silver Street Farm Prescott	Culmstock 22

			Listed Building Consent for internal and external works including installation of replacement front door, 3 windows and 1 extended window	
16.12.2014	02.02.2015 Grant permission	14/02078/FULL	Shoe Zone Retail Ltd Shoe Zone Ltd 30 Fore Street Installation of new shop front	Tiverton 52
16.12.2014	02.02.2015 Grant permission	14/02079/ADVERT	Shoe Zone Retail Ltd Shoe Zone Ltd 30 Fore Street Advertisement Consent to display of 1 fascia sign and installation of new shop front	Tiverton 52
16.12.2014	13.02.2015 Development Acceptance	14/02088/PNCOU	Mr M Baker Land and Buildings at NGR 289518 107859 (Brindwell Hill) Cheriton Fitzpaine Prior notification for the change of use of agricultural building to dwelling under Class MB(a)	Cheriton Fitzpaine 12
16.12.2014	11.02.2015 Development Acceptance	14/02091/PNCOU	Mrs M Pipe Land and Buildings at NGR 310173 115170 (Woodgate) Culmstock Prior notification for the change of use of agricultural building to 2 dwellings under Class MB (a)	Culmstock 22
16.12.2014	10.02.2015 Refuse permission	14/02092/TPO	Mr Cavey 5 Higher Mead Hemyock Application to crown reduce 1 Oak tree by 3-4 metres, crown reduce 2 Oak trees by 2-3 metres and fell 1 Oak tree protected by Tree Preservation Order 00/00007/TPO	Hemyock 26

16.12.2014	09.02.2015 Refuse permission	14/02106/CLP	Mr A Price Land at NGR 278044 96596 (The Cleve) Woodland Head Certificate of lawfulness for a proposed development for the conversion of an existing barn to residential dwelling and associated building operations	Crediton Hamlets 19
17.12.2014	12.02.2015 Grant permission	14/02121/FULL	Mr Q Hitchcock 23 Olympian Way Cullompton Erection of two-storey rear extension	Cullompton 21
18.12.2014	12.02.2015 Approval of Prior Approval	14/02108/PNCOU	Mr R Venner Land at NGR 301333 116379 South West of Stoney Lane Cross Prior notification for the change of use of an agricultural building to dwellinghouse under use class MB(a)	Uplowman 54
18.12.2014	17.02.2015 Grant permission	14/02125/FULL	The Mid Devon Town & Country Show Society Land at NGR 296206 114223 (Chettiscombe) And Knightshayes Park Retention of the improvement to the existing access and formation of new access	Tiverton 52
19.12.2014	10.02.2015 Approval of Prior Approval	14/02105/PNCOU	Mr & Mrs Down and Mr & Mrs Lewis Land at NGR 288029 108621 West Upham Prior notification for the change of use of agricultural building to a dwelling under Class MB (a)	Cheriton Fitzpaine 12

19.12.2014	22.01.2015 No Objection	14/02111/CAT	Mrs Stella Denton Stockleigh House Stockleigh Pomeroy Notification of intention to reduce 2 Black Poplars by 30% and removal of dangerous branches within a Conservation Area	Stockleigh Pomeroy 47
19.12.2014	12.02.2015 Withdrawn	14/02129/FULL	Trinity Moor Ltd Land at NGR 296008 112954 (Former Hare & Hounds Car Park) 138 Chapel Street Erection of 2 dwellings and associated works	Tiverton 52
22.12.2014	16.02.2015 Refusal of Prior Approval	14/02112/PNCOU	Dr C A Kekwick Lower Burrow Coombe Stockleigh Pomeroy Prior notification for the change of use of an agricultural building to dwellinghouse under use class MB(a)	Cheriton Fitzpaine 12
22.12.2014	09.02.2015 Development Acceptance	14/02114/PNCOU	Mr S Blackmore Land and Buildings at NGR 292308 122024 (Wonham Farm) Bampton Prior notification for the change of use of an agricultural building to dwellinghouse under use class MB(a)	Bampton 01
22.12.2014	05.02.2015 Grant permission	14/02135/FULL	Mr Ben Kingsland Coombe House Lychgate Park Raising the roof of existing garage to create additional living accommodation	Copplestone 62
23.12.2014	11.02.2015 Grant permission	14/02138/ADVERT	Tesco Stores Ltd Tesco Express Unit 1 Advertisement Consent to display 1	Tiverton 52

			illuminated and 2 non-illuminated fascia signs, 1 illuminated projecting sign, 1 non-illuminated pole mounted sign, 5 window graphics/transfers and 1 other sign	
24.12.2014	17.02.2015 Refusal of Prior Approval	14/02142/PNCOU	Mrs B Cole The Devonshire Stud Preston Farm Prior notification for the change of use of agricultural building and machinery store to a dwelling under Class MB (a) & (b)	Sandford 43
06.01.2015	03.02.2015 Development Acceptance	15/00016/PNAG	Miss V J Greenfield Land at NGR 288570 115718 (Thorne Farm) Prior notification for the erection of a pole barn	Templeton 49
07.01.2015	11.02.2015 Withdrawn	15/00015/FULL	Mr R Bolt 6B Pippins Field Uffculme Erection of two storey extension and extension to side porch	Uffculme 53
07.01.2015	12.02.2015 Refuse permission	15/00018/HRN	Mr D Kimber Land at NGR 270818 104599 (Lower Newton) Zeal Monachorum Hedgerow Removal Notice for the removal of 158 metres of hedgerow	Zeal Monachorum 61
12.01.2015	05.02.2015 No Objection	15/00037/CAT	Mr Rice Bingwell Mead Withy Close Notification of intention to repollard to previous points 2 Lombardy Poplar trees within a conservation area	Tiverton 52

13.01.2015	18.02.2015 Grant permission	15/00047/LBC	Mr A Rose Whipples Farm Holcombe Rogus Listed Building Consent for installation of 2 replacement windows on North elevation	Holcombe Rogus 29
13.01.2015	17.02.2015 Grant permission	15/00051/HRN	Mr R Frankpitt Land at NGR 296618 114107 Chettiscombe Hedgerow Removal Notice for the removal of 12m of hedgerow	Tiverton 52
16.01.2015	17.02.2015 No Objection	15/00066/CAT	Mr K Jewess 1 Highland Terrace Barrington Street Notification of intention to remove 1 Eucalyptus tree within the Conservation Area	Tiverton 52
19.01.2015	17.02.2015 Withdrawn	15/00070/PNAG	Mr Gruncell Land at NGR 270930 107529 Road from West Barton Cross to Aller Bridge Prior notification for the erection of a fodder and machinery building	Nymet Rowland 38

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Background Papers: Contained in application files referred to.

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## Major Applications with no Decision

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 20th February 2013 that any ground mounted solar PV schemes recommended for approval will be brought to Planning Committee for determination.

Item No.	Weeks	TARGET DATE	REFVAL	PROPOSAL	LOCATION	NAME	Expected Decision Level	
							Delegated	Committee
1	3	28/04/2015	15/00108/MOUT	Outline application for up to 60 dwellings with access onto Uffculme Road, with all other matters reserved	Land at NGR 305658 112080 (West of The Harvesters) Uffculme Road Uffculme Devon	Mrs Alison Fish	DEL	
2	5	15/04/2015	14/02141/MFUL	Erection of 10 dwellings with associated infrastructure and parking (Revised Scheme)	Newcombes Resource Centre Newcombes Crediton Devon EX17 2AB	Mr Simon Trafford	DEL	
3	6	06/04/2015	14/02130/MFUL	Erection of 10 flats following demolition of existing building (Revised scheme)	47 Mill Street Crediton Devon EX17 3AA	Mr Daniel Rance	DEL	
4	9	18/03/2015	14/01938/MOUT	Outline application for up to 97 dwellings, to include the importation of inert waste to raise land, with details of access onto the public highway provided and with all other matters reserved for future consideration	Land at NGR 303843 111382 South View Road Willand Devon	Miss Thea Billeter	COMM	COMM
5	10	11/03/2015	14/02044/MFUL	Erection of new head office comprising offices, warehouse, country store, external storage area, parking, new access and associated works	Land at NGR 284608 99421 (Wellparks) Joseph Locke Way Crediton Devon	Mr Simon Trafford	DEL	
6	12	20/02/2015	14/01949/MFUL	Change of use of land from agriculture to the installation and operation of a solar PV park to generate up to 5MW of power (site area 12.26 hectares) to include associated infrastructure (Revised Scheme)	Land at NGR 302663 109953 (Stoneshill Farm) Willand Road Cullompton Devon	Miss Thea Billeter	COMM	COMM
7	14	09/02/2015	14/01847/MFUL	Erection of 44 apartments for older persons, including communal facilities, associated car parking including construction of parking deck and landscaping (Revised Scheme)	Land and Buildings at NGR 295350 112455 (Rear Of Town Hall) Angel Hill Tiverton Devon	Mrs Jenny Clifford	COMM	COMM

<i>Item</i> No.	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>	<i>Expected Decision Level</i>	
							<i>Delegated</i>	<i>Committee</i>
8	16	23/01/2015	14/01748/MARM	Reserved Matters for the erection of 112 dwellings, including garages, domestic outbuildings and structures, associated infrastructure, estate roads, footways, car parking courts, drainage, pumping station and landscaping, together with all other associated development, following Outline approval 13/00859/MOUT	Land and Buildings at NGR 302994 107178 (Former Cummings Nursery) Culm Lea Cullompton Devon	Mr Simon Trafford	COMM	COMM
9	25	27/11/2014	14/01310/MFUL	Change of use of agricultural buildings for B1/B2/B8 commercial use, the demolition of agricultural buildings and the erection of replacement B1/B2/B8 commercial buildings, the use of The Forge and Unit 11 for B1/B2 and B8 commercial use, the provision of associated landscaping, yard areas and infrastructure	Hitchcocks Farm Uffculme Devon	Miss Thea Billeter	COMM	COMM
10	25	27/11/2014	14/01452/MFUL	Installation of solar energy farm on 13.34 ha of land to generate 5.5 megawatts of energy (Revised scheme)	Land at NGR 299298 125070 (East of Bowdens Lane) Shillingford Devon	Ms Tina Maryan	COMM	COMM
11	28	04/11/2014	14/01332/MOUT	Outline for a mixed use development comprising of a primary school and pre-school with ancillary facilities including sports pitch and parking and turning area; erection of up to 25 dwellings with parking and open space	Land at NGR 288080 098230 East of Station Road Newton St Cyres Devon	Mr Simon Trafford	COMM	COMM
12	37	24/09/2014	14/00881/MOUT	Outline for a mixed use development comprising up to 700 dwellings, 22,000 square metres of B1/B8 employment land, care home, primary school and neighbourhood centre with associated access including a left in left out junction on the westbound A361 and access and egress onto Blundells Road	Land East of Tiverton, South of A361, and Both North and South of Blundells Road Uplowman Road Tiverton Devon	Miss Lucy Hodgson	COMM	COMM
13	38	27/08/2014	14/00830/MOUT	Outline for the erection of up to 185 dwellings and 1935m2 of employment uses (B1 and B8) together with structural landscaping, sustainable drainage and ancillary open and play space	Land at NGR 284242 99827 (Wellparks) Exeter Road Crediton Devon	Mr Simon Trafford	COMM	COMM
14	42	28/07/2014	14/00604/MFUL	Erection of care home and 12 apartments with associated access, parking and landscaping, following demolition of existing hospital buildings (Revised Scheme)	Post Hill Nursing Home 36 Post Hill Tiverton Devon EX16 4ND	Miss Lucy Hodgson	COMM	COMM
15	62	28/03/2014	13/01616/MOUT	Outline for the development of up to 330 dwellings together with public open space, associated infrastructure and other works including vehicular access, pedestrian/cycle links and highway improvements.	Land at NGR 298671 113603 Uplowman Road Tiverton Devon	Miss Lucy Hodgson	COMM	COMM

<i>Item No.</i>	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>	<i>Expected Decision Level</i>	
							<i>Delegated</i>	<i>Committee</i>
16	96	16/07/2013	13/00525/MFUL	Application to replace extant planning permission 09/01870/MFUL (to extend time limit). A mixed development of 13 open market eco-houses and 6 affordable eco-houses; new access and estate road; additional car parking facilities for the Village Hall; closure of the existing Parish Hall Car Park entrance; provision of a children's play area for the Parish Hall; highway improvements to Fanny's Lane; footpath link to Snows and Meadowside Road (Revised Scheme)	Land at NGR 282973 102485 (East of Oxford Terrace) Fanny's Lane Sandford Devon	Mr Simon Trafford	COMM	COMM
17	276	01/02/2010	09/01573/MOUT	Outline application for the erection of 12,000 sq m (164,000 sq ft) of industrial buildings (B1, B2, and B8 use), formation of new site access, estate roads, parking and associated landscaping (Revised scheme)	Land and Buildings at NGR 303161 108402 (Venn Farm) Cullompton Devon	Ms Tina Maryan	COMM	COMM



# Agenda Item 10

**Application No. 14/01847/MFUL**

**Agenda Item**

**Grid Ref:** 112455 : 295350

**Applicant:** McCarthy & Stone Retirement Lifestyles Ltd

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

**Proposal:** Erection of 44 apartments for older persons, including communal facilities, associated car parking including construction of parking deck and landscaping (Revised Scheme)

**Date Valid:** 10th November 2014



**4TH MARCH 2015**

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

**14/01847/MFUL - ERECTION OF 44 APARTMENTS FOR OLDER PERSONS, INCLUDING COMMUNAL FACILITIES, ASSOCIATED CAR PARKING INCLUDING CONSTRUCTION OF PARKING DECK AND LANDSCAPING (REVISED SCHEME) - LAND AND BUILDINGS AT NGR 295350 112455 (REAR OF TOWN HALL) ANGEL HILL TIVERTON**

**Reason for Report:**

To consider the above planning application.

**RECOMMENDATION**

**Grant permission with conditions.**

**Relationship to Corporate Plan:**

The Corporate Plan sets out the following long term visions:

- i) Ensure that the housing needs of residents are met through the provision of affordable homes and good quality housing in both the public and private sector.
- ii) Promote and protect our outstanding environment and beautiful countryside.

**Financial Implications:**

Viability issues have been raised by the applicant in relation to the payment of financial contributions towards public open space and off site affordable housing.

**Legal Implications:**

Parts of the application site are subject to a restrictive covenant and private rights of access. These are not matters that can be considered in the determination of this planning application.

**Risk Assessment:**

None.

**Consultation carried out with:**

See relevant section of the report.

**1.0 PROPOSED DEVELOPMENT**

This is a full planning application for the redevelopment of the land to the rear of Angel Hill, the Town Hall and part of St Andrews Street. The site is 0.42 ha in size and is bounded on its western side by the River Exe. The site is predominantly on two levels. The highest part is towards the eastern side and is currently occupied by existing parking and garage buildings to the rear of St Andrews Street. The lower part of the site lies further to the west and fronts onto the river. This was until recently cleared, overgrown and was last used as tennis courts. The site is located in Tiverton Town Centre, the Conservation Area and is located close to listed buildings including those in St Andrews Street, The Town Hall, The Royal British Legion building at Angel Hill and St George's Church.

The application seeks permission for 44 later living (retirement type) apartments. Planning permission has previously been granted for 45 new build units on the site under an earlier scheme by the same applicant (13/00298/MFUL). The applicant site excludes the properties in St Andrews Street / Ham Place which are currently undergoing renovation under separate permissions by the Council as landowner with the intention for them to be occupied as affordable dwellings. These 10 units therefore do not form part of the current planning application.

The current proposal seeks to:

1. Erect 44 apartments for older persons comprising 16 one bed and 28 two bed apartments. This compares with 25 one bed and 20 two bed apartments under the previous scheme. The accommodation is proposed to be arranged on the site as 2 mainly 3.5 storey buildings connected by a 2 storey link and set within a private landscaped garden area. This is to be constructed on the lower western area of the site.
2. The proposed buildings will also accommodate a communal resident's lounge, laundry, guest suite, refuse area and a manager's office.
3. Access to the apartment element of the site is to be gained from St Andrews Street through the demolition of numbers 1 and 2. This demolition work has already taken place. This access will serve an upper parking deck area providing 9 21 parking spaces. The size of this upper deck has been reduced from the previously approved scheme which sought to provide 21 parking spaces at this upper level.
4. The proposal also includes a lower parking area, accessible through the arch from Angel Hill. Parking and garages currently occupy this area. In this lower parking area, 21 parking spaces are proposed to serve the development. The majority of existing garages are proposed to be demolished in order to provide parking spaces,
5. A total of 28 parking spaces are therefore associated with the proposed development over the two levels. 5 parking spaces are also shown to the rear of the Town Hall, to be retained by the land owner.
6. Parking on the two levels are connected with the lower development area by a lift / stair tower rather than the upper area connecting with the entrance to the apartment building at the second floor.

The main differences between the current proposal and that granted under 13/00298/MFUL are as follows:

1. Parking arrangements as described above. The lower parking area is now proposed to be utilised by the scheme with access through the arch to the rear of the Town Hall.
2. A reduction of the number of apartments by 1, but an adjustment to the proportion of one and two bedroom apartments to increase the number of 2 beds.
3. The proposed building is no longer accessible from the parking levels, but has been pulled away slightly from the edge of the upper level towards the east of the site. A lift / stair tower arrangement now provides access between the accommodation and the parking areas /access.
4. The parking deck has been reduced in size by approx 1m from Memorial Cottage at its northern end and by 11m towards the south.
5. Part of the building has been slightly pulled away from the boundary with properties in Ham Place.
6. Elevational detailing and accommodation floor layout have been amended,
7. The red line application site has been reduced to exclude an area towards the southern end of the lower parking area. The existing garage in the ownership of 2a ham Place is now outside the application site. Part of the eastern garage block is proposed to be retained.

The site is allocated for development within the Allocations and Infrastructure Development Plan Document AL/TIV/12. This allocation covers 0.5ha and incorporates buildings in St Andrews Street and Ham Place that are not part of this current proposal. The policy refers to:

- 55 dwellings incorporating conversion of buildings adjoining St Andrew St, including 35% affordable housing.
- Design protecting the character of the adjoining Listed Buildings and enhances the setting of the River Exe.
- Archaeological investigation and appropriate mitigation.
- Ground floors to be raised and provision of flood evacuation / access routes.
- Provision of sustainable urban drainage scheme and arrangements for future maintenance.

The principle of the development of this site for housing and of later living / retirement type is well established, as is the broad form and arrangement of the scheme under the previous permission. The assessment of this application therefore concentrates on areas of difference from approved scheme 13/00298/MFUL.

## **2.0 APPLICANTS SUPPORTING INFORMATION**

Extensive supporting information has been submitted in support of the application:  
Planning statement.

Design and access statement including a sustainability statement.

Statement on the impact of the development upon heritage assets and their setting including the Conservation Area and nearby Listed Buildings.

Archaeological and cultural heritage desk based assessment.

Nesting birds check statement prior to site clearance

Tree survey.

Foul and surface water drainage strategy.



Transport statement.  
Traffic management statement.  
Construction method and waste audit statement.  
Ground conditions and contamination assessment.  
Flood risk assessment.

In addition, under the previous, similar 13/00298/MFUL scheme the following was also submitted and are still considered relevant:

Building for Life Assessment.  
Statement of community involvement.  
Extended phase 1 habitat survey together with additional reports in respect of protected species including bats, water vole, otter, reptiles.  
Viability / affordable housing statement.  
Archaeology report.  
Statements on public open space and amenity space provision in respect of the applicant's sheltered housing developments.

### **3.0 PLANNING HISTORY**

90/00065/OUT - Outline for the erection of offices and parking and construction of new and alteration to existing vehicular access - Granted July 1990.

04/02120/CAC - Conservation Area Consent for the demolition of a derelict pavilion - Granted January 2005.

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

08/00640/LBC - Listed building consent for internal and external alterations, 9 & 10 St Andrew Street - Granted August 2008.

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

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

12/00755/LBC - Listed Building Consent for internal and external alterations - Granted

12/00756/CAC - Conservation Area Consent for demolition of 1 and 2 St Andrew Street and garages, sheds, buildings and north/south retaining wall on land to rear – Granted

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

### **4.0 DEVELOPMENT PLAN POLICIES**

#### **Mid Devon Core Strategy (Local Plan Part 1)**

COR1 - Sustainable Communities

COR2 - Local Distinctiveness

COR6 - Town Centres  
COR7 - Previously Developed Land  
COR11 - Flooding  
COR13 - Tiverton

### **Mid Devon Allocations and Infrastructure Development Plan Document (Local Plan Part 2)**

AL/DE/3 - Affordable Housing Site Target  
AL/DE/4 - Occupation of Affordable Housing  
AL/DE/5 - Inclusive Design and Layout  
AL/IN/3 - Public Open Space  
AL/IN/6 - Carbon Footprint Reduction  
AL/TIV/12 - St Andrew Street

### **Mid Devon Local Plan Part 3 (Development Management Policies)**

DM/1 - Presumption in favour of sustainable development  
DM/2 - High quality design  
DM/3 - Sustainable design  
DM/4 - Waste management in major development  
DM/8 - Parking  
DM/14 - Design of housing  
DM/15 - Dwelling sizes  
DM/16 - Town centre development  
DM/27 - Development affecting heritage assets

## **5.0 CONSULTATIONS**

SOUTH WEST WATER - 5 December 2014 - South West Water has no objection

TIVERTON TOWN COUNCIL - 4th December 2014 - Further information required regarding whether the reduction of the parking deck will result in reduction in car parking facilities for the new development.

4th February 2015 - Some of the details shown on the new plans are incorrect. The Memorial Building is shown as being part of the Town Hall.

Tiverton Town Council remains very concerned that a full drainage plan has still not been provided. This is becoming very stressful for the residents of Ham Close. Concerns that this development will during periods of heavy rain, cause flooding to Ham Close.

We are still concerned that the quality of design of these properties does not compliment the two listed buildings beside it.

The new plans, whilst showing some improvements has reduced the amount of car parking space by 13 vehicles.

We are very concerned about the use of the archway for traffic. This is a very dangerous entrance with very poor visibility. We are surprised at the conditions suggested by highways, and indeed feel they will make the problem worse.

We remain concerned that it would seem that little regard has been taken to public opinion regarding this proposal and the severe impact that it is felt it will have on the area.

Concerns regarding how close the development will still be to the RBL club which often has entertainment. We can see a conflict between the new residents and the club regarding this. Whilst this may not be a pure planning matter it should be taken into consideration as an environmental issue.

NATURAL ENGLAND - 25th November 2014

Natural England's comments in relation to this application are provided in the following sections.

Statutory nature conservation sites - no objection

Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes.

Protected species

We have not assessed this application and associated documents for impacts on protected species. Natural England has published Standing Advice on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy. You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation. The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence is needed (which is the developer's responsibility) or may be granted. If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us with details at [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

Local sites

If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

Biodiversity enhancements

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the

National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

#### Landscape enhancements

This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green space provision and access to and contact with nature. Landscape characterisation and townscape assessments, and associated sensitivity and capacity assessments provide tools for planners and developers to consider new development and ensure that it makes a positive contribution in terms of design, form and location, to the character and functions of the landscape and avoids any unacceptable impacts.

#### Impact Risk Zones for Sites of Special Scientific Interest

Natural England has recently published a set of mapped Impact Risk Zones (IRZs) for Sites of Special Scientific Interest (SSSIs). This helpful GIS tool can be used by LPAs and developers to consider whether a proposed development is likely to affect a SSSI and determine whether they will need to consult Natural England to seek advice on the nature of any potential SSSI impacts and how they might be avoided or mitigated. Further information and guidance on how to access and use the IRZs is available on the Natural England website.

ENVIRONMENT AGENCY - 28th November 2014 - We have no in principle objections to the proposal as submitted, subject to your authority deeming that the Sequential and Exception Tests, as detailed within the National Planning Policy Framework, can be met.

Parts of the site lie within Flood Zone 3a of the River Exe, albeit that the site benefits from a flood defence scheme. The risk of flooding and presence of flood defences has dictated the form and layout of the development and we are pleased that the latest proposal incorporates the fundamental requirements in terms of high flood levels and surface water drainage strategy. It is also pleasing to see a firm intention to incorporate piling for the proposed new build and sewer diversion works as this will help safeguard future repairs/replacement of the existing flood defence wall that forms the western boundary of the site.

We advise that Conditions 9 and 10 associated with the planning permission 13/00298/MFUL be applied should your authority grant permission.

We take this opportunity to confirm that the prior written consent of the Environment Agency, under the terms of the 1986 Land Drainage Byelaws, is required for the sheet piling/sewer diversion, works given that they would lie within 7m of our flood defence wall. A fundamental part of an application for such a Flood Defence Consent of this nature will be a Method Statement.

HISTORIC ENVIRONMENT SERVICE - 8th December 2014 - Assessment of the Historic Environment Record (HER) and the details submitted by the applicant do not suggest that the scale and situation of this development will have a significant impact upon any known heritage assets. The Historic Environment Team has no comments to make on this planning application.

23rd February 2015 - I have just spoken to AC Archaeology, who undertook the archaeological investigations and historic building recording at the above development site. They have just submitted the report on the results of this work to the client, so I would anticipate receiving this soon. They have also informed me that the site archive will be deposited and, as such, I do not regard there to be a need to apply an archaeological condition to any new planning application for the development of this site.

No further archaeological mitigation is required, and the Historic Environment Team would have no comments to make on any new application for this site.

DEVON & CORNWALL POLICE AUTHORITY - 1st December 2014

Following a site inspection with the town centre Beat Manager Sarah Stevens I can comment as follows:

At the present moment there is no reported anti social or unacceptable behaviour in this car parking area, with very little crime reported.

It is the Police Town Centre Beat Managers and my own opinion that the proposal of covering a percentage of the car park will indeed encourage youths to gather as a dry area which is closer than the car park and bridge area which is currently used.

CCTV will do little to deter or prevent rowdy or noisy behaviour, and unlike to prevent crimes involving damage to vehicles or property, drug related abuse, and intimidating behaviour.

The only solution would appear to be a gate just prior to the covering which only authorised persons that have some form of electronic access. The other end is already gated, although I am not sure of its legality.

HIGHWAY AUTHORITY - 5th December 2014 - The Highway Authority has no objections subject to the off site highway works detailed as part of the application and previously conditioned being imposed on this application. The applicant is reminded of the need to enter into a section 278 legal agreement with the Highway Authority for the delivery of these works.

26th January 2015 - The Highway Authority has considered the revised plans and has no further observations to make and the previous off site highway works required by the highway Authority are relevant to the current submission.

ENVIRONMENTAL HEALTH - 9th February 2015 - Contaminated Land - No objections

Air Quality - No objections  
Drainage - No objections  
Noise & other nuisances - No objections  
Housing Standards - No objections  
Licensing - N/A  
Food Hygiene - N/A  
Private Water Supplies - N/A  
Health and Safety - No objections

ENGLISH HERITAGE - 3rd February 2015 -

We were last consulted on proposals for this site in March 2013, when my colleague David Stuart provided advice on a scheme which envisaged a neo-classical form of architecture, developed around a central piazza. We expressed some reservations about whether the architectural approach was too formal for the site, and advised that its success "will be heavily dependent on authenticity and attention to detail in its execution".

The current proposals for the site have moved away from the idea of a neoclassical composition, and are now based around the genre of Georgian-style townhouses. Perhaps articulating the design in the form of individual plots is more appropriate to the market town of Tiverton than the previous proposals, but our previous concerns about authenticity and attention to detail are not alleviated.

While Tiverton Conservation Area contains a number of detached Georgian villas, a grand terrace of relatively uniform appearance is not characteristic of the conservation area. The proposed design contains an uneasy mix of modern elements such as Juliet balconies, non-local features such as stone coping / water tabling, yet a lack of traditional features such as chimneys. This is despite your council having a commendable conservation area appraisal in place which gives a thorough analysis of the character and appearance, and could have been followed.

The loss of the central piazza detailed in the previous proposals has brought the building line against to the river, with the result that the bellcote of St George's Church is barely visible, and becomes merely an ornament above the proposed development's apologetic central entrance feature squatting between the two proposed white rendered properties. The view of the church is so restricted we question whether there is any point to the designed gap.

We suggest that if a traditional appearance to the development is preferred, much further work is necessary here to secure a design which truly reflects the local character and appearance, as per our previous advice. Replica architecture by volume housebuilders can be successful; for example you might consider an internet visit to the CABI review of the City of Durham's Highgate development. We would be happy to provide further advice on the subject, but strongly urge your council to consider the architectural shortcomings of the present proposals, and whether this really meets the good standard of design required by section 7 of the NPPF.

## Recommendation

We are unable to support this application at present, and recommend further revisions to achieve a design which successfully responds to the character and appearance of the conservation area and the setting of the Grade I listed St George's Church. We would be pleased to meet with your authority and the applicant to discuss means by which this could be achieved.

19th February 2015 - Further to my letter of 30 January 2015, it has been brought to my attention that a letter from my colleague David Stuart dated 27 March 2013 was not referring to the previous proposals shown in the design and access statement of the current application. My letter had built upon an assumption that the current proposals were a new scheme previously unseen by English Heritage and completely revised from the earlier scheme shown in the applicant's design and access statement. However, I have subsequently been made aware that David Stuart's letter was in fact referring to proposals with little difference to those tabled in the current application, which were granted planning permission last year. Given we previously expressed a view that the precedent for the proposed development has been established, I wish to withdraw my comments relating to the relationship between the proposed development and the bellcote of St George's Church. It is apparent that the scale, form, layout, and massing of the development has been previously agreed through detailed discussion and I would not wish to revisit our previous position on these aspects.

However, David Stuart's letter of 27 March 2013 noted that the success of the development will be heavily dependent on authenticity and attention to detail. We therefore continue to query whether the detailed design of the proposed development is of sufficient quality for this prominent site. As I noted in my letter of 30 January 2015, the proposed elevations comprise an uneasy mix of modern elements such as Juliet balconies, non-local features such as stone coping / water tabling, yet a lack of traditional features such as chimneys.

I apologise for any confusion caused by my initial response, and reiterate my willingness to take part in discussions regarding the proposals if you feel that would be useful.

## 6.0 REPRESENTATIONS

6 letters of objection have been received including from Tiverton Civic Society and are summarised as follows:

1. Memorial Cottage is incorrectly shown on Angel Hill. Misleading.
2. War Memorial Hall and Cottage are listed – this is not referred to.
3. The height of the buildings fronting the river have increased. It will obliterate the Royal British Legion and Memorial Hall building when viewed from across the river.
4. The security risk to Royal British Legion has not changed, but the applicant has agreed to improve the situation.
5. The applicant has not altered the deck at the Memorial Cottage end.
6. Why is the parking deck necessary? There are not enough parking spaces for the number of flats. Residents will use the area behind the club, creating problems especially over our busy weekends. There are two fire exits and

access from Memorial Cottage onto the car park. The only disabled entrance to the Club and Hall is through the cottage gate which is a collection /drop off point and must be kept clear. Contractors are already blocking our access and using our parking.

7. All deliveries and refuse are taken through the arch to Angel Hill.
8. Cracks are appearing in the Remembrance Hall and around the building since work started.
9. The tunnel (under the deck) will create vandalism and drug problems.
10. The Royal British Legion club has entertainment and music. Do not want complaints from our new neighbours. We do not currently get complaints from our neighbours.
11. The applicants stopped consulting us –many issues remain unresolved.
12. Previous objections on earlier schemes remain valid. The application must go before planning committee. There is chance to reverse the previous disastrous decision and give the town the innovative Angel Project scheme which a large majority preferred.
13. The St Andrews Street entrance is too near to a bend and narrow. It is dangerous and will lead to an accident. Demolition has left a gaping hole and damaged the Conservation Area. The bollard landing will further narrow the road.
14. New traffic islands will throw traffic leaving the arch or existing St Andrews St into the path of traffic coming up the hill.
15. The raised deck will cover the majority of the car park. It will still create a black hole of a tunnel, increase anti-social behaviour, drunkenness and rough sleepers. Concerns of the Police have not been addressed. There will be serious security and privacy implications of the deck for Ham Place and the Royal British Legion Club.
16. The buildings will dominate the river frontage which on this bank is green space.
17. Development of the site for green space (Angel Project) would reduce the town centre green space deficit and create a focal point for the regeneration of this part of the town centre. This will not happen with a block of flats.
18. In this WW1 centenary year the developer seeks to develop on land which has a covenant to safeguard the views, light and integrity of the listed War Memorial hall.
19. MDDC's strategic flood risk assessment states the site is vulnerable to flooding and not suitable for residential development. Raising development to create an island is unacceptable. Other recommendations of the report are being ignored.
20. Drainage and flooding proposals are laughable and have not been adequately addressed. The flap valves draining surface water to the river will not open when the river is in full spate. The two storage tank proposed will only have sufficient storage for 9 hours of rain. Given weather last winter and climate change this will be insufficient. Flooding of our property took place in January 2015.
21. Rerouting of the sewer is insufficient. It is too small and causes flooding of lower Ham Place. Even if the diameter were increased, there would be a restriction in Ham Place where it meets a smaller pipe increasing risk of flooding. The removal of surface water will not compensate for increased load on the sewer.



22. During storms of less than 1 in 100 years, the surface water system will be surcharged and flood Ham Place, breaking the 1 in 100 year flood protection provided by the flood wall. The system should be designed for a 1 in 100 year storm with the river valve flaps closed (84mm over 12hrs rather than 4mm/hr). Attenuation tanks should be increased in size to ensure no manhole /gully covers are at a level lower than the top of the wall by re-routing the low level pipes through the plinth surrounding the building. This has not been addressed.
23. The foul sewer diversion is likely to collect ground water and lead it to Ham Place. Prevention measures should be included such as a puddle clay barrier at the end of the trench. This has not been addressed.
24. The proposal will not revitalise the town centre. Any benefits from the accommodation will be offset by additional services needed for the elderly residents
25. The scheme is a gross overdevelopment of the site shoe-horning a massive building into a small site and create a slum for tomorrow. If unconnected with the Council it would have been refused. A better scheme at Old Blundells was refused. The Council has turned a blind eye and wants to make a quick buck to pay for the St Andrew Street renovation works.
26. Economic benefits are small to none. Environmental benefits –none with greater flood risk, less open space, damage to Conservation Area and listed buildings. No need on this site – this accommodation type could go elsewhere.
27. Missed opportunity to create outstanding riverfront centrepiece.
28. No information on how surface water from the existing car park area will be drained. Surface water currently runs down Angel Yard as surface water drain blocked by MDDC.
29. Concern will block out light in winter to Riverside Mews basement flat. The height of the building will create this problem.
30. Parking arrangements for contractors during construction are inadequate – they will park near the site. The area and junction with St Andrews / Angel Hill /Fore Street will be congested and dangerous. Need to insist on off—site parking facilities or space rental in a car park. No construction traffic beyond this point sign should be placed in St Andrews Street after the entrance.
31. Details of adequate access for residents of Ham Place, for building maintenance and emergency vehicle access to Ham Place are unknown.

1 letters of support have been received and are summarised as follows:

1. Hope the changes will be viewed favourably.
2. The plans have been altered to be more sensitive to surrounding properties.
3. Wish to downsize to one of the apartments and stay in Tiverton. Will release their property for another family.

## **7.0 MATERIAL CONSIDERATIONS AND OBSERVATIONS**

The main issues in the determination of this application are:

- 1. History.**
- 2. Policy.**
- 3. Flood risk.**

4. Highways and parking.
5. Impact upon existing residential properties.
6. Impact upon the Listed Buildings, Conservation Area and townscape of Tiverton.
7. Other design and layout issues.
8. Other site issues including ecology, trees, archaeology, contamination, drainage.
9. Other issues.
10. Carbon reduction.
11. Financial considerations.

## 1. History

Planning permission has been granted on three separate occasions for the residential redevelopment on this site. The most recent application, 13/00298/MFUL was by the same applicant for a very similar scheme of 45 later living (retirement type) apartments.

Conservation Area Consent has already been granted under 12/00756/CAC for the demolition of 1 and 2 St Andrew Street and garages, sheds, buildings and north/south retaining wall on land to rear. These works are therefore already established as being acceptable.

## 2. Policy

The Allocations and Infrastructure Development Plan Document (Local Plan Part 2) allocates the site for residential development (55 dwellings) under policy AL/TIV/12. This allocation site as a whole has a policy target of 35% affordable housing.

**Local Plan Part 1: Mid Devon Core Strategy 2007** Policy COR1 promotes managed growth to meet sustainability objectives including meeting housing needs, efficient use of land with densities of 50-75 dwellings per hectare in town centre locations, accessible development and managing flood risk. Local distinctiveness is sought in policy COR2 through high quality sustainable design reinforcing the character and legibility of the built environment and creating attractive places. Tiverton town centre's vitality and viability is to be protected and enhanced under policy COR6. This promotes enhancement and regeneration and well-designed new homes and key town centre uses and traffic management measures. A sequential approach to development seeks the development of previously developed or underused land in policy COR7. Policy COR11 seeks to manage the impact of flooding to reduce the risk of flooding, guide development to sustainable locations with the lowest flood risk by applying the sequential test and locate development in areas of higher flood risk only where the benefits outweigh the risk of flooding and ensure the development does not increase the risk of flooding elsewhere. Policy COR13 sets out the framework for the development of Tiverton. High quality development is sought in order to manage the town centre for economic success and heritage promoting new homes and other uses contributing to vitality and viability and reduce the risk of flooding.

**Local Plan Part 2: Allocations and Infrastructure DPD.** The site is located in the settlement limits of Tiverton, the town centre and identified for residential development (55 dwellings) as an allocation within policy AL/TIV/12. There is therefore no objection in principle to the proposed redevelopment and the proposed use. 35% affordable housing is sought. Policies also make provision for inclusive design and layout of the market and affordable dwellings within a scheme (AL/DE/5), financial contributions towards public open space where not provided on site and carbon footprint reduction (AL/IN/6).

**Local Plan Part 3: Development Management policies** Relevant policies relate to the presumption in favour of sustainable development DM/1 and a positive approach to sustainable development which works positively to find solutions which allow proposals to be approved wherever possible and to secure development that improves the economic, social and environmental conditions of the area. Planning applications according with policies should be approved without unnecessary delay unless material considerations indicate otherwise.

Policy DM/2 requires high quality design that demonstrates a series of principles including an understanding of the characteristics of the site, its context and surrounding area; positive contribution to character safe and accessible places, visually attractive places that are well integrated and do not unacceptably effect privacy and amenity taking account of architecture, siting, scale, massing and scale, orientation and fenestration, materials, landscaping and green infrastructure. DM/3 requires that proposals demonstrate how sustainable design and construction methods will be incorporated with major housing schemes being required to meet level 3 of the Code for Sustainable Homes from 2013. DM/4 requires waste management in major applications.

Policy DM/8 requires appropriate levels of parking, taking into account the accessibility of the site including the availability of public transport and the type, mix and use of development. Class C3 residential schemes have a minimum car parking standard of 1.7 spaces per dwelling, together with a minimum cycles parking standard and 1 electric vehicle charging point per 10 units in Tiverton.

Housing design is addressed in policy DM/14 and seeks to deliver high quality local spaces, adequate daylight, sunlight and privacy to principal windows, suitably sized rooms and floorspace, adaptable accommodation, private amenity spaces reflecting aspects of the property, sustainable development forms and 20% of dwellings to be built to the lifetime homes standard. Minimum internal floorspace requirements are set out in DM/15.

DM/16 supports sustainable growth and regeneration of Tiverton and supports residential development in the town centre where the character, appearance, vitality and viability is retained or enhanced, sustains or enhances diverse town centre uses and customer choice and are accessible by public transport, walking and cycling.

Development affecting heritage assets is addressed in policy DM/27 which broadly reflects the requirements of the National Planning Policy Framework in this respect. Impact upon heritage assets and their setting

### **3. Flood risk**

The assessment of flood risk in relation to the current application remains the same as that at the time of consideration of 13/00298/MFUL. Policy COR11 Mid Devon Core Strategy 2007 and guidance in the National Planning Policy Statement (together with its technical annex) apply. The application has been supported by a Flood Risk Assessment. Most of the site is located within the flood plain of the River Exe. This area is categorised as being flood zone 3a 'high probability of flood' where flood risk is a 1 in 100 year (or greater) flood. National flood guidance advises that residential development is a 'more vulnerable' development type. The National Planning Policy Framework advises that for individual developments allocated in development plans through the sequential test, the applicants need not apply the sequential test. The allocation of this site for development within the Allocations and Infrastructure Development Plan Document incorporates the results of a strategic flood risk assessment and sequential test. An earlier application for dwellings on the site was assessed against both the sequential and exception tests and was considered to pass both. The Environment Agency previously advised that it was satisfied that the development is safe and provision is made for dry access / egress routes from each dwelling to higher dry land in the event of flooding. No objection to the residential allocation, previous or current scheme has been raised on flood risk grounds: neither in respect of the site itself nor increased flood risk elsewhere. The provisions of the Framework have been met in terms of flood risk.

The current application takes account of the findings of the submitted flood risk assessment which indicates that the site is unlikely to be flooded during a 1 in 100 year event due to the presence of the defence wall and concludes that the flood risk to people when the site is complete is low. Finished floor levels reflect the minimum advised in the flood risk assessment of 61.5m AOD. The consultation reply from the Environment Agency confirms that the proposal meets the policies within the Framework. A condition safeguards minimum floor levels and reflects the floor levels already incorporated into the scheme. The Agency have also indicated that it is now satisfied with the design in terms of proximity to the flood defence wall separating the site from the River Exe although prior formal written consent must be obtained from them for any works within 7m of this wall in order to safeguard it's structural integrity. This will be addressed by way of an informative note.

The proposal is therefore considered acceptable from a flood risk perspective and in compliance with policy COR11 Mid Devon Core Strategy 2007 and guidance in the National Planning Policy Statement.

### **4. Highways and parking**

Access to the development is now proposed from both St Andrews Street following the demolition of numbers 1 and 2 and via the arch adjacent to the Town Hall. Conservation Area Consent for the demolition works has already been granted and the suitability of this access was established under the previous planning permission. This new access is intended to serve the new build properties and will connect directly with a decked parking arrangement to the rear of the St Andrews Street properties.

The proposed parking deck accommodates 9 parking spaces to serve the proposed development. This is substantially reduced from the earlier scheme. Policy DM/8 of Local Plan Part 3 (Development Management Policies) Post Inspectors Report sets appropriate levels of parking. For residential schemes it sets a minimum standard of 1.7 spaces per dwelling, together with a minimum cycle parking standard and 1 electric vehicle charging point per 10 units in Tiverton. For this scheme, the standard would require 75 parking spaces instead of the 28 proposed for the use of this development. The parking associated with the scheme has increased from the 21 previously granted through the utilisation of parking at the lower level accessed through the Town Hall arch. However, the policy also allows for variation from the standard to be justified on a case by case basis and refers to taking into account the accessibility of the site including the availability of public transport and car parking; the type, mix and use of development. The applicant has sought to justify the lower parking provision and has submitted a transport statement identifying the accessibility of this town centre location in terms of proximity to facilities and services including public transport; comparative information on car ownership levels from other schemes operated by the applicant and likely traffic generation and vehicle trip levels. Average car ownership of 0.35 cars per 1 bed unit and 0.39 per 2 bed unit would equate to the need to provide approx 17 spaces to meet the expected car ownership levels of the occupants. Based on the nature of the accommodation, the comparative information submitted and the town centre location, the parking levels proposed are considered to have been justified in this instance and within the terms set out within policy DM/8. The current scheme also provides an additional 7 parking spaces over and above the previously approved scheme.

The proposal does not include cycle parking, but given the average age of entry into comparative developments of 76 years, it is not considered that this is grounds to refuse the application. The proposal also does not provide for electric vehicle charging points in the manner intended by policy DM/8. However it does include charging points for electric mobility scooters within a store. On this basis, this is not considered grounds to justify a refusal of the application given the nature of the accommodation proposed even though it is not fully compliant with this policy and associated parking Supplementary Planning Document.

The size, appearance and impact of the parking deck is considered elsewhere in this report. The area under the parking deck is proposed to retain its existing access from the yard to the rear of the Town Hall and associated arch from Angel Hill. Vehicular access to this area will not be provided from St Andrews Street and it is completely separate from the parking on top of the deck. The lower parking area comprises 21 spaces now associated with the development scheme. A further 3 garage spaces are proposed, intended to replace existing garaging which is to be demolished. 5 parking spaces are to be provided by reorganising the area immediately to the rear of the Town Hall. Parking on this lower level will therefore be provided to replace the 18 existing spaces and garaging currently existing.

The existing pavement in St Andrews Street (at a point immediately south of the new access) is proposed to be extended into the road and a crossing point formed. This will provide a road narrowing and reduce traffic speeds. The Highway Authority has requested this feature, checked the proposals and considers them to be acceptable in highway safety terms. This view also takes account of the revised access

arrangements to the site. The traffic generation from the proposed 44 apartments is set out on the transport report accompanying the application and is also accepted by the Highway Authority. Conditions will secure the provision of parking, access and pavement widening works. The pavement widening works remain as previously approved.

Supporting information has included a construction method statement and a traffic management plan which seeks to establish principles of construction traffic management. The Highway Authority has confirmed that in several respects that it is currently insufficiently detailed. Insufficient information included arrangements for pedestrian and vehicular access across the lower yard / parking area during construction or alternative measures. A full proposal should be submitted and approved by the Local Planning Authority. Notwithstanding the submitted details, a condition will secure this. It is understood that contractor parking is proposed to be granted at nearby public car parks.

Representations were received on the previous scheme relating to private rights of access and easements crossing the site in the area of the existing parking and garaging court, particularly as held by residents of Ham Place. These are not a material planning consideration to be taken into account in the determination of this application and would be addressed independently of the planning process in the event that it is implemented. The applicant is aware of these private rights and has taken them into account in the design of the proposal.

## **5. Impact upon existing residential properties**

The earlier application saw objections from residents of nearby properties in Ham Place, St Andrews Street and on the northern side of the site. Fewer objections have been received to the current scheme, but it is still important to consider the impact of the scheme as amended upon surrounding properties. The site is currently vacant, and apart from existing garage structures and temporary buildings on the top part, generally free from any buildings. Development on the site will by its nature have a marked impact upon surrounding dwellings, especially those in Ham Place which are located in close proximity to the site boundary and whose rear elevations and windows look towards the site. The small rear gardens to these dwellings also face the southern boundary of the site. These dwellings and gardens are set at a lower level than the application site. The impact upon the occupiers of existing residential properties can be best considered in four areas:

- i) Relationship between the proposed building and dwellings in Ham Place.
- ii) Relationships between the parking deck and dwellings in Ham Place and properties in St Andrews Street.
- iii) Relationship between the parking deck and Memorial Cottage (a dwelling) / Royal British Legion
- iv) Relationship between the proposed building and Memorial Cottage / Royal British Legion
- v) Relationship of the proposed building to dwellings to the north.

Dwellings in Ham Place are generally located approximately 3 – 5 metres from the boundary wall with the site although extensions reduce this distance in places. The

proposed building is mainly 3½ storeys in height, but this varies slightly between elements of the building. The wing closest to Ham Place has been reduced in height to 2½ storeys (11m high to ridge) in response to this being the closest point to the boundary with the properties in Ham Place (10.5m away). The gable end of this closest elevation is blank, without any windows or doors. This boundary distance is not constant, but increases in other areas to approximately 13 – 18m, at which point the building is 3½ storeys with a height of approx. 13.7m to ridge. Windows are located on all floors of the proposed building facing Ham Place with a window to window distances of approximately 20 – 22 metres. Amended plans have been received to remove balconies on the elevation facing Ham Place.

The main southern wing of the development building has been moved slightly further away from Ham Place in comparison with the previously approved scheme.

The relative level and height of the development in relation to existing dwellings must also be considered. The proposed sections indicate that the current scheme is approximately 8.4m higher (ridge to ridge) than the properties in Ham Place and at a distance where they are apart by 20m. The section showing the equivalent relationship close to the bottom of Ham Place shows this building height difference as being approximately 5.2 m due to the reduced storey height of the proposed building at this point. Finished floor levels within the proposed building are approximately 2m higher than the Ham Place dwellings. The differences in levels and height with Ham Place are therefore large.

The parking deck has been significantly reduced in size from that in the previous scheme. It's southern extent has been reduced by 11m and it is now is approximately 21.5 m long rather than 32.5 metres. It's width is some 19m. It decks over the parking area below which slopes down towards the south.

The height of the parking deck therefore varies from north the south. At its northern end it is approximately 3.3m high and at the southern end this increases to 4.8m due to the dropping of ground levels. As the deck has been pulled back from the south, its maximum height is now less than 5.4m at this end as previously approved. At this southern end the deck now is some 26 metres (rather than 15m) from properties in Ham Place. The relationship with the properties in Ham lace is therefore significantly improved from the approved scheme. Nevertheless, the southern end of the parking deck will still appear elevated in comparison with the properties in Ham Place, but the previous tightness and somewhat uncomfortable relationship between them is now improved.

The parking deck is also in close relationship with the rear of the St Andrews Street properties. These dwellings are set at a higher level than those further down into Ham Place. A range of temporary buildings at the rear have now been removed. The outlook and setting of these properties is currently compromised and they are unoccupied and undergoing renovation. The demolition of numbers 1 and 2 Ham Place will also improve the outlook by removing the high, rear projection of this building. The resultant improvement in outlook will to some extent also act to offset the impact of the parking deck. This impact has also improved as the southern extent of the parking deck has been significantly reduced.

Memorial Cottage is also located close to the application site being situated on the end of the Royal British Legion building. The distance between the gable end of this property and the parking deck was previously approved at approximately 2.5 metres and at a raised level at this point approximately 2.1 m higher than the yard immediately adjacent to the gable end of the cottage. Under the current scheme the parking deck has been pulled away from Memorial cottage by 1m in comparison with the previous approved scheme and is therefore a slight improvement in the relationship between them. The parking deck still partially projects across the gable end of Memorial Cottage. This gable end contains the fire exit staircase from the Royal British Legion Hall on the first floor, but also a kitchen and lounge window to Memorial Cottage. The deck is not considered to overlap either of these windows but will be in close and higher proximity to the kitchen window and yard area. The approach to Memorial Cottage will also be affected due to the proximity and height of the parking deck. Even with the modest improvement within the current proposal, the current scheme is considered to still have a detrimental impact upon the amenities of Memorial Cottage compared to the present situation due to the height and proximity of the parking deck which will appear overbearing. However this impact is to some extent reduced due to the presence of the fire exit staircase on the gable end closest to the deck and position of the windows on this side of the cottage.

Representations have expressed concern at the relationship between the rear of Memorial Cottage / the Royal British Legion Hall building and the proposed development. Extensive windows are located on the rear elevation of to the Cottage and hall together with a patio area. This is significantly raised in relation to the lower development site. The proposed building is located to the west with an intervening gap of some 11.6m to the retaining wall and 14m to the Hall / Cottage building itself. The height of the development to ridge is estimated to by some approx 9.5m above the floor level of the Hall / Cottage. The new building does not extend to the north across the full rear elevation of the Hall / Cottage building, but is estimated to overlap by some 3m beyond the main part of the building. The outlook from the rear windows of the Hall / Cottage are angled slightly north west and as such also look across land to the north of the application site in the vicinity of Angel Court rather than directly towards windows associated with upper floor accommodation in the application building. This reduces the impact of the scheme upon the outlook of the Hall / Cottage building. The relationship between them is considered acceptable taking into account relative site levels, distance and northerly extent of the proposed building. This relationship has not changed significantly from that within the previously approved scheme.

The proposed building is located in close proximity with the northern boundary of the site beyond which is located the garden to an existing property. Windows are located within the wide gable end of the proposed building at this point and serve living rooms and bedrooms. However this area of garden is at distance from the dwelling to which it relates and appears little used in comparison with the area closest to the dwelling. It is already overlooked from the rear windows of Angel Hill properties.

It is acknowledged that there will be a detrimental impact upon the occupiers of certain dwellings around the site as identified within preceding paragraphs. The degree of this impact has reduced in the current scheme in comparison with that previously approved. The degree of impact must still be taken into account in the



planning balance when considering the negative impacts of the development and whether they are outweighed by the scheme's planning benefits. Also to be taken into account is the previously approved scheme, which in many respects is very similar to that now submitted. In respect of the relationships with certain properties, the application still cannot be said to be in strict conformity with relevant Development Plan policies, but is an improvement over the previous scheme.

Conditions will be required to establish boundary treatment between the scheme and adjacent dwellings. Details submitted on the proposals are currently unclear regarding the nature and intended height of boundary treatment. Boundary details will also need to include the height and design of the edge of the parking deck for the same reasons.

## **6. Impact upon the Listed Buildings, Conservation Area and townscape of Tiverton, design approach.**

The site is located within Tiverton Conservation Area, close to Listed Buildings - Town Hall Grade II, St George's Church Grade I, Tiverton Museum Grade II\*, Memorial Hall and Cottage Grade II and other properties in St Andrews St further south are Grade II. The site also lies adjacent to two Grade II Listed Buildings at numbers 9 and 10 St Andrew Street. The site occupies a prominent waterfront location readily visible within the townscape of Tiverton from the river bridge to the north and south, from across the river and the northern part of the site forms part of the existing streetscene in St Andrews Street. The site is therefore sensitive and important in historic building, wider conservation and townscape terms.

Prior to the previous scheme, extensive pre-application discussions took place involving English Heritage and the Council's Conservation Officer. The impact of the proposal upon Tiverton Conservation Area, including the waterfront and associated views together with the setting of multiple listed buildings formed part of these discussions. The scheme has been supported by a comprehensive design and access statement together with a separate report examining the heritage assets providing the context of the site, the significance of these assets and the impact of the proposal upon them, together with the national policy context. The previous scheme established the approach to the site, general layout, massing, height and relationship between the proposed development and surrounding listing buildings including the inclusion of a lowered section of the building to retain a view to St George's Church from across the river.

The National Planning Policy Framework is of relevance. Of particular importance are the following paragraphs:

Core planning principles refer to securing high quality design.. take account of the different roles and character of different areas.. conserve heritage assets in a manner appropriate to their significance.

56 - Great importance is to be attached to good design which is a key aspect of sustainable development.

126 - It is desirable to sustain and enhance the significance of heritage assets and to put them to viable new uses consistent with their conservation. That new development should make a positive contribution to local character and

distinctiveness draw on the contribution made by the historic environment to the character of the place.

128 and 129 - These require the significance of the affected heritage asset to be assessed. The level of detail should be proportionate to the significance of the asset. When considering the impact of the proposal upon the heritage asset, its significance should be taken into account.

131 - In determining applications, account should be taken of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that the conservation of heritage assets can make to sustainable communities and that new development should make a positive contribution to local character and distinctiveness.

132 - When considering the impact of the proposed development upon the significance of a heritage asset, great weight should be given to its conservation. The more important the asset, the greater the weight. Any harm or loss should have clear and convincing justification.

134 - Where the development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including its optimum viable use

English Heritage commented on the previous scheme. It was seen as expanding upon basic principles established under the previous proposals in respect of scale, massing and form, and a design concept formulated on polite and formal traditional architectural principles. Their comments on the current scheme conform that the scale, form, layout and massing of the development has previously been established through detailed discussion. However, it is noted that the success of the scheme will be heavily dependent upon authenticity an attention to detail and query whether the detailed design is of sufficient quality. Reference is made to an uneasy mix of modern elements such as Juliet balconies with non-local features including water tabling and stone coping coupled with a lack of traditional elements such as chimneys. No fundamental concern has been raised in respect of impact upon the conservation area, Tiverton's townscape and views from the river, nor the impact upon listed buildings and their settings.

The Council's Conservation Officer has previously offered detailed views in respect of impact upon heritage assets and the design approach under application 13/00298/MFUL, some of which remains relevant to the current scheme:

*"This is a dominant site in the middle of Tiverton conservation area. There are very clear views towards it from a variety of positions, including the riverside walk and the two bridges over the River Exe. The setting of the conservation area and various listed buildings will be affected by any development on the site and therefore creating a quality development worthy of the character of the area is of paramount importance, as identified in the NPPF para. 17, 58, and section 12 (conserving and enhancing the historic environment) and also the EH guidance on setting 'The Setting of Heritage Assets' and the emerging local plan part 3 policies DM2, DM15 and DM28.*

*The current development pattern for the core area of Tiverton does not generally demonstrate river frontage development – the land by the river tends to be garden space, industrial (associated with the factory and milling) and back land or secondary structures associated with housing. The topography also slopes down from the town*

centre and the taller buildings along the ridge line of St Peter Street and St Andrew Street, towards the lowest point of the river and then to the flatter levels of Westexe. However, there is a current allocation for development on this site and an existing consent also in place and therefore the principle of development is accepted. It is the shape, heights and volumes of the structures that will define a successful and respectful scheme for the site.

The development proposed will change the development pattern and historic response to the topography by creating a tall building with a strong character and high massing next to the river frontage. In my response I have considered height, massing and volume, design detailing and the materials of the proposed development as well as the setting of the listed buildings and conservation area.

The application is very thorough in its analysis of the character of the surrounding area, its history and development and the setting of the site and heritage assets around it. The verifiable images are extremely helpful in understanding the impact of the development on views and visual context.

1. The proposed building is broken down into architectural sections which allow differing shapes, foot prints and detailing to be introduced to try and break up what is a building with a large mass and significant depth. The changes of materials and introduction of breaks in the roof all contribute to distracting from the size of the development overall.
2. The height of the development is substantial but given the context where many buildings are three storeys high, and the back drop of the tall town hall I think that the scheme will work without being overly dominant. The juxtaposition of the housing on Ham Place and the height of this proposal is likely to be somewhat discordant.
3. The break in the middle of the building to allow views from the river walk towards St George's church is good, although the detailing of the contemporary style joining section could potentially be rather institutional in appearance if not carefully detailed.
4. The long ridge line from the west to the east is dominant in views from the southern bridge and is at odds with the stepped nature of development down this slope towards the river. However, my feeling is that there is sufficient other housing and buildings in views towards this elevation that views are interrupted and therefore this will not be substantially harmful.
5. The landscaping for this scheme is going to be critical to its success at blending in with other green spaces along the river frontage. The specifics of planting are important and worth considering carefully.
6. The listed buildings on St Andrew Street will have a changed setting and views both to and from them. Their setting is however, currently poor with dilapidated and overgrown spaces and a variety of poor 20<sup>th</sup> century pre-fabricated structures. The buildings currently have a steep drop-off topographically to the west and the proposed new parking platform will bring parking and movement closer to them, but with gardens enclosed in high walls. I do not think that this is necessarily a bad thing though – the local area is compact already with lots of enclosed and tight-knit urban spaces and this change will not be unusual for the locality.

7. Views from the listed buildings will still be long distance given their height although they will be seen over the top of the modern and unusual roof shapes of the proposed development. This is change but not one that I would classify as being substantially harmful, especially given the poor quality of the space that they currently overlook.

The Conservation Officer has also commented on the current application:

*“The drawings have now reintroduced various features previously removed or altered, for example, rainwater goods, fan lights, parapet gable / water table detailing, lintels etc. The drawings remain poor with these details clearly just scribed over and therefore the accuracy is not entirely convincing. Other elements are not as good as the previous scheme – for example, the door designs, the expansion joint right down the front of the riverside elevation (with no attempt to hide it or locate it more sympathetically) but these could be refined easily.*

*The detailing for the scheme remains lacking – in order to achieve a cohesive design with good proportions, materials, detailing and overall impact there will need to be a much greater degree of information at least via condition. Appropriately scaled drawings of features such as windows, doors, parapet / water table features, rainwater goods, dormer windows etc. will be required to achieve a high quality scheme that preserves or enhances the conservation area and meets the criteria for our local policies, the NPPF and the guidance provided by EH in ‘The Setting of Heritage Assets’ and ‘Seeing the History in the View’.*

### Summary

*The scheme remains less than substantially harmful to the conservation area and setting of various listed buildings. These revised drawings go some way to recovering the mitigating elements of design that made the 2013 proposal acceptable. However, I believe that the erosion of quality and the lack of certainty regarding some details and materials do not tip the balance towards the scheme being acceptable. Unfortunately, therefore I remain of the opinion that the application should be refused.”*

The site is allocated for housing in the Local Plan, with an expectation that the lower and flatter land adjacent to the river would be developed. The proposed development concentrates development on the lower area of the site adjacent to the river and addresses the river frontage. It introduces 2 buildings, each of 3 ½ storeys, linked by a connecting 2 storey section. The buildings are higher than the majority of riverside development in this area as a result of the number of storeys and the minimum floor levels required for flood risk reasons. The height of the buildings is up to 15m to ridge along the river frontage elevation as measured from the bottom of the plinth. The height of the buildings echo those at the bottom of Angel Hill adjacent to the bridge and the higher, more formal scale of buildings in St Peter Street.

The Town Hall and St George’s Church occupy important and skyline positions in the Conservation Area as well as being Listed Buildings. Views of these buildings will change as a result of the development and from certain vantage points their elevation will not be as visible as present (or lost as in the case of the Town Hall),

particularly the view from directly across the river. However the scheme has sought to retain a view corridor to St George's Church through the height and positioning of the lower link between the 2 proposed buildings. The impact of the scheme upon this view and those from the two river bridges either side of the site has been illustrated through the submission of verifiable images. Whilst submitted in the context of the earlier scheme, due to the degree of similarity between the schemes, they remain relevant. The view of the Town Hall would be masked by the proposed buildings from directly opposite across the river, the images from the two river bridges show the retention of the prominence of the Town Hall from those points.

The scheme gives emphasis to the river front through the scale of the design and introduces a scheme that seeks to respect the form and character of Tiverton, its conservation area and nearby listed buildings whilst being a more contemporary approach than the previously approved scheme. The site is not considered to currently contribute positively to the character of the Conservation Area, being derelict and overgrown. The scheme addresses these issues and provides an opportunity to regenerate this area. The scale and height of the development has been justified in relation to other areas of the Conservation Area.

The scheme represents a significant change to the appearance of this part of the conservation area. The design and detailing of this scheme seeks to deal with the difficult constraints of the site in a way which is respectful of surrounding heritage assets. In concluding on the impact of the proposal upon these heritage assets in terms of the conservation area, listing buildings and their setting, the Conservation officer concludes that this impact will be less than substantially harmful. Paragraph 134 of the Framework establishes in such instances that this harm should be weighed against the public benefits of the proposal, including its optimum viable use. Accordingly the detrimental impact of the site upon these assets due to its condition and derelict state needs to be taken into account. The scheme will benefit the conservation area through regeneration.

Both English Heritage and the Conservation Officer have identified concerns over the quality of the scheme in terms of detailed design and architectural detailing. The conservation officer recommends refusal, but makes reference to addressing the greater level of design detail being needed via condition. The design quality and architectural detailing of the scheme has been watered down in relation to the previously approved scheme resulting in a less sympathetic elevational treatment. Whilst the applicant has sought to address this through the submission of amended plans, the elevational treatment remains less resolved and of poorer quality than previously. However it is intended that the necessary level of architectural detailing be addressed through the addition of a condition.

Taking all these matters into account, the scheme is seen as causing less than substantial harm and will deliver some benefit over and above the current appearance of the conservation area. The concerns raised by English Heritage and the Conservation Officer can be reduced through appropriate conditioning. On balance, the proposal is therefore considered acceptable in relation to heritage asset impact in accordance with the approach set out in the National Planning Policy Framework and DM/27 of the Local Plan Part 3 (Development Management policies).

The design approach to style, scale, massing and location of the buildings on the site is considered acceptable and has been addressed in detail within the design and access statement accompanying the application. This document considers the townscape context of the site, the local building traditions, form and materials and explains how the proposal has sought to be respectful of these aspects. There is no objection to these elements which remain very similar to the approved scheme. In respect of the overall approach to scale, massing and location, the proposal is considered in compliance with policies COR2, COR6, COR13 Core Strategy (Local Plan Part 1); AL/TIV/12 Allocations and Infrastructure Development Plan Document (Local Plan Part 2) and DM/1, DM/2, DM/14 and DM/16 Local Plan Part 3 (Development Management Policies).

## **7. Other design and layout issues**

The site is a challenging one and is heavily constrained in terms of access location and significant levels differences between the eastern and western areas need to be accommodated. The layout of the site places the proposed buildings within a landscaped private amenity area that fronts the River Exe with parking at a higher level to the east. Access to both parking levels is gained a lift / stair tower in order the address the levels differences across the site. The buildings have been positioned to take advantage of the river frontage, to be sited in the lower part of the site, whilst still achieving the minimum floor levels in order to meet the requirements of the Environment Agency. Areas around the buildings are to be laid out and landscaped as communal gardens. The lack of public open space within the scheme: either through on site provision or via off site financial contributions is considered later in this report.

Policy DM/14 assesses new housing design in the round. The current application seeks permission for a specialist form of residential accommodation that it designed to meet the needs of later life. All apartments will be built to lifetime homes standard and have been designed to take account of the accessibility needs of occupiers. The communal amenity space provided rather than private amenity space per apartment reflects the nature of the accommodation. Internal floorspace standards set out within policy DM/15 are met. The layout of the scheme and detailing are considered acceptable, but issues such as materials, surfacing and boundary features will need to be controlled by condition.

Representations have previously been received regarding fear of crime and anti-social behaviour in association with the parking area under the proposed deck. They have been repeated on the current application, although the size of the deck has now been significantly reduced. The Police Architectural Liaison Officer has been consulted and has suggested that some form of controlled access to this area may be appropriate. However, any such scheme will need to have regard to existing access rights and easements. A lighting scheme will also be required for the site, including the area under the parking deck in order to balance the need to add to security without disturbing the amenities of the occupiers of nearby residential properties or bats. The issue of crime prevention / reduction measures was previously addressed by condition and it is proposed to do so again.

## **8. Other site issues including ecology, trees, archaeology, contamination,**

## **noise, drainage**

A phase 1 habitat survey together with protected species reports were undertaken in 2011 / 2012. The assessment for protected species and ecological importance found little of significance. Natural England confirms that the proposal is unlikely to affect protected species and the site has recently been cleared. The proposals are not considered to have a detrimental impact upon protected species and complies with policy ENV16 Mid Devon Local Plan (LDF) and the National Planning Policy Framework. The few trees on site were of low quality and value use as they were vegetation arising from the disuse of the site and had had no management. The scheme is an opportunity to enhance the arboricultural value of the site through a landscaping scheme.

The County Archaeologist now confirms that the scale and situation of the development will not have a significant impact upon any known heritage assets and have no further comments to make. Archaeological investigation has taken place. The County Archaeologist confirms that no archaeology condition is required.

Contamination and geotechnical investigation has taken place as evidenced by the report submitted with the application. Contamination potential is thought to be low and the conditioning of the approach in case of unexpected contamination coming to light during construction and mitigation (if required) is an acceptable approach in this instance and is recommended by Environmental Health.

As part of sustainable construction and energy efficiency air source heat pumps are proposed. There is no objection in principle to their use and they are not expected to cause a noise nuisance to nearby residents, however Environmental Health recommends the submission and approved of details.

A foul and surface water drainage strategy has been provided. A combined sewer running through the site will require diversion and will once diverted will accept foul drainage from the site. South West Water has confirmed capacity to deal with this. The buildings on the site have been designed to accommodate the relocated combined sewer. Surface water flows are to be discharged through two outfall discharge points into the River Exe, as agreed with the Environment Agency. These discharge points are to be designed to prevent flows from the River Exe into the site. Underground surface water storage is to be provided as part of the proposed scheme to accommodate flows whilst the river is high and surface water is unable to be discharged through the flood wall. This arrangement is as previously approved and as fully discussed and agreed by the Environment Agency.

Objections received raise concern at the drainage arrangements and fear that the scheme will increase flooding for the residents at the lower end of Ham Place. Surface water flows from the site previously entered the combined sewer running across it. This surface water element is now to be diverted to the river. Even having regard to the additional foul flows associated with the development, the diversion of the surface water represents an improvement over the previous sewer flows.

## **9. Other issues: viability and impact upon the provision of affordable housing and public open space.**

Policies AL/DE/3 and AL/TIV/12 set out the requirements for the provision of affordable housing. The size of the site and number of houses proposed dictate that 35% affordable housing is sought subject to maintaining a viable development and achieving other planning objectives. 35% across the whole allocation site would equate to a total of 19 units. 10 (18%) are to be provided on land now outside this application site through the conversion of properties in St Andrews Street / Ham Place. None are proposed as part of this application, nor a financial contribution towards off site provision due to viability concerns. It is understood that the capital receipt to the landowner from this development will be used to convert the adjacent properties to affordable housing. However this is a separate matter and not secured under this application.

The planning statement submitted with the current application confirms that the previous arguments justifying the lack of affordable housing provision remain relevant to this revised scheme. This is based upon economic conditions and scheme viability taking into account the costs associated with developing this site. The need to take account of market conditions and scheme viability is recognised in national and local policy. Affordable housing would render the development unviable. Abnormal development costs are claimed and listed as including site clearance and demolition to form the access, sewer diversion, archaeology works and investigation and empty property costs. The latter relates to costs associated with empty apartments during the longer sales period associated with specialist accommodation of this type. The design of the scheme has also incorporated a bespoke parking solution with the building of the parking deck.

It is agreed that this is a highly constrained site necessitating a bespoke development and approach to access and parking. These constraints and abnormalities have a significant effect on viability and increase developer risk. As previously, it is accepted that the scheme cannot support an affordable housing. A variation to policies AL/DE/3 and AL/TIV/12 is therefore justified.

Public open space is not provided on site, requiring an off-site financial contribution under policy AL/IN/3 Allocations and Infrastructure DPD and Supplementary Planning Guidance. It is considered that in principle this type of accommodation is not automatically exempted from this requirement. In order to comply with section 122 of the CIL Regulations, such contributions must be necessary, directly related to the development and fairly related in scale and kind. The applicant argues that it would not be in compliance with these tests to request public open space contributions towards children's play provision or sport pitches. This argument is considered reasonable given the nature of the prospective occupiers and would result in a contribution only towards informal open space including parks. As already covered above, the information has been submitted to demonstrate that the scheme is unviable with any additional financial contributions. The scheme provides communal private open space.

## **10. Carbon reduction and waste.**

Policy AL/IN/6 of the Allocations and Infrastructure DPD currently requires that 15% of the energy to be used on site to come from decentralised on site renewable or low



carbon sources. Information contained with the Design and Access Statement seeks to address this requirement, but refers to a 10% need. The measures indicated in order to ensure that the policy is met involve improvements to the fabric of the building together with low carbon technology. Building fabric measures include insulation specification, increasing window and door U values, incorporating ventilation with heat recovery and reducing air permeability rates. Low carbon technology to be incorporated includes energy and water efficiency together with air source heat pumps. A condition will be needed to require a carbon reduction strategy to demonstrate in more detail the necessary measures to achieve this.

Site waste management plan will be compiled based upon sustainable waste management principles as set out in the policy DM/4 of the Local Plan Part 3 (Development Management Policies).

## **11. Financial considerations**

The Localism Act has introduced financial considerations as a material planning consideration. At present it is only the money received under the New Homes Bonus that can be taken into account under this provision. For New Homes Bonus purposes, each apartment is treated as a market house. If New Homes Bonus is distributed across the Council Tax bands in the same way as last year, the award for each apartment is estimated to be £1,028 per year, paid for a period of 6 years. The amount of New Homes Bonus that would be generated from this proposal over a period of 6 years is therefore estimated to be £271,392. Members are advised that this consideration has little weight in the overall assessment of the issues on this application.

## **12. Rights of way.**

Private rights of way exist through the existing car park to the rear of the Town Hall and garage forecourt area. These rights of way are not material planning considerations, but relate to private legal issues between the owner of the land and the holder of the right of way. Their presence does not prevent planning permission being granted for the scheme and will need to be addressed separately from the consideration of this application.

### **The planning balance.**

In coming to a recommendation on this application, its impacts must be considered and whether they are outweighed by the benefits. Detrimental impacts have been identified including its relationship with heritage assets (setting on listing buildings and conservation area), but this is considered to be less than substantial harm by the Conservation Officer. However the design quality of the scheme including architectural detailing has been identified as poor by Conservation Officer and English Heritage. Amended plans are not considered sufficient to fully address this. Accordingly a conditions requiring approved details of architectural features is proposed. The scheme will bring a marked benefit in the redevelopment of this currently derelict and untidy waterfront site that is currently detracting from the character and appearance of the conservation area and setting of surrounding listed buildings. The site has remained undeveloped for a considerable period of time and is identified as suitable for residential development through the allocation process.

Other negative impacts include to the amenities of the occupiers of Ham Place and certain other surrounding properties. Their amenity would significantly change as a result of any scheme for this site that delivered the level of development for which it has been allocated. It is acknowledged that the impact of this proposal will be detrimental upon these dwellings. However the current scheme represents an improvement over that previously approved as a result of the reduction in the size of the parking deck, particularly to the south. The scheme also seeks to mitigate by a lower building element on the southern end of the scheme and by pulling back from the previously approved building line.

The scheme does not deliver the degree of affordable housing or public open space that would normally be sought. However viability information has been submitted that demonstrates the cost of the scheme, abnormal construction costs and that with the addition of these requirements the scheme will not be viable. It is also understood that the capital receipt arising from this scheme will be used to deliver the conversion of the St Andrews Street / Ham Place properties for affordable housing. Some of these properties are listed and all are currently detracting from the conservation area due to their dilapidated condition. This is to be secured separately from this application.

The proposal will deliver a specialised form of accommodation suited to later life and located in a suitable location within the town centre, close to the associated range of facilities, services and public transport. There are few such sites available and little equivalent accommodation within the Tiverton area to assist meeting the needs of an aging population.

Within the National Planning Policy Framework, Local Planning Authorities are urged to deliver growth in the form of sustainable economic development and every effort should be made to objectively meet the housing, business and other development needs of an area. It states that significant weight should be placed on the need to support economic growth through the planning system. The planning issues in this case remain finely balanced and the current scheme is very similar that previously approved. Taking into account all the material considerations, it is recommended that planning permission is granted subject to conditions.

### **Summary.**

The site is allocated for residential development in the Allocations and Infrastructure Development Plan Document and has previously been granted planning permission. The scheme will secure the regeneration and environmental enhancement of a semi-derelict and mainly vacant site in a prominent waterfront location within Tiverton Conservation Area. The impact of the development upon the Conservation Area has been justified using examples from the local area and regional tradition and the layout, design style, scale and appearance of the scheme are considered to have a significant but less than substantial impact upon the character and appearance of the Conservation Area and the character, appearance and setting of nearby Listed Buildings including St George's Church and the Town Hall. This analysis has had regard to the impact of the scheme upon principal views of the Conservation Area, these buildings and the townscape of Tiverton. The creation of the new vehicular access has previously been found to be acceptable and the associated buildings have been demolished under previous permissions. The impact of the development

upon highway safety is acceptable and although less than standard, sufficient parking is provided taking into account its location in the town centre within walking distance of a range of facilities and services and type of accommodation. The lack of provision of affordable housing and other planning contributions has been financially justified. The site is located in flood zone 3a, the Local Planning Authority and Environment Agency have assessed it against the requirements of the National Planning Policy Framework and are satisfied that it is safe and does not increase the risk of flooding elsewhere. The impact of the scheme upon certain nearby existing residential properties has been assessed. Whilst there will be a loss of amenity due to the relative height and proximity of the development, this loss has been in part mitigated through reductions to the size of the parking deck and is not considered so severe as to warrant refusing permission in this instance having regard to the balance of material planning considerations. The scheme provides for a type of accommodation that will meet the needs of an aging population where little other equivalent provision currently exists within the local area and on a suitable site within the town centre. The application has been assessed against development plan policies and guidance and the grant of planning permission whilst finely balanced is warranted. The proposal is considered acceptable and to be in broad compliance with policies COR1, COR2, COR6, COR7, COR11 and COR13 of the Mid Devon Core Strategy (Local Plan Part 1); AL/IN/6 and AL/TIV/12 Allocations and Infrastructure Development Plan Document (Local Plan Part 2); DM/1, DM/2, DM/3, DM/4, DM/8, DM/14, DM/15, DM/16, DM/27 Development Management Policies (Local Plan Part 3) and the National Planning Policy Framework.

## **1.0 CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. The development shall take place in accordance with the contents of a phasing scheme which shall first have been submitted to and approved in writing by the Local Planning Authority. Such scheme shall include details of access arrangements both pedestrian and vehicular across the car park area / yard during construction or such alternative arrangements.
4. No development shall begin within each phase of the development until samples of the materials including colour to be used for all external surfaces of the buildings, boundary treatment and hard landscaping relating to that phase have been submitted to and approved in writing by the Local Planning Authority. No other materials or colour shall be used.
5. Notwithstanding the submitted details, no development shall begin within each phase of the development until details of the treatment of the boundaries (including height, design and materials) of the application site relating to that phase have been submitted to and approved in writing by the Local Planning Authority. Boundary treatment shall be in accordance with the agreed details and so retained.

6. No development shall begin within each phase of the development until details of proposed external lighting relating to that phase have been submitted to and approved in writing by the Local Planning Authority. Installation shall be in accordance with the submitted details and so retained.

7. Landscaping scheme shall be carried out in accordance with the submitted scheme. All planting, seeding, turfing or earth reprofiling comprised in the approved details of landscaping shall be carried out within 9 months of the substantial completion of that phase of the development and shall be retained. Any trees or plants which, within a period of five years from the completion of that phase of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size or species.

8. None of the apartments shall be first occupied until the parking and turning facilities on the parking deck have been provided, laid out and are available for use in accordance with the approved plans together with the lift / stair access to it. The approved parking shall be retained for that purpose at all times.

9. Finished floor levels shall be no lower than 62.7m AOD.

10. Foul and surface water drainage shall be provided in accordance with the approved details prior to first occupation of each residential unit to which it relates and thereafter shall be so retained.

11. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme together with time scale for their completion must be prepared which is subject to the prior approval in writing of the Local Planning Authority. The measures shall be completed in accordance with the approved remediation scheme. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

12. No development shall begin within each phase of the development until a Carbon Reduction Strategy for the development of that phase has been submitted to and approved in writing by the Local Planning Authority. Such strategy shall identify means by which the carbon footprint of the development shall be reduced and shall include measures to reduce the energy use of the development in accordance with the requirements of policy AL/IN/6 of the Mid Devon Allocations and Infrastructure Development Plan Document (Local Plan Part 2). Such measures shall be implemented in the development in accordance with the strategy.

13. Notwithstanding the submitted details, no part of the development hereby approved shall begin until:

(1) The offsite highway works on St Andrews Street and Angel Hill (to include build-outs, a footway crossover and all associated works) have been provided and

maintained in accordance with details that shall have been submitted to, and agreed in writing by, the Local Planning Authority, and

(2) A Construction Management Plan, to include details of:

- (a) parking for vehicles of site personnel, operatives and visitors
- (b) loading and unloading of plant and materials
- (c) storage of plant and materials
- (d) programme of works (including measures for traffic management)
- (e) provision of boundary hoarding behind any visibility zones
- (f) hours of operation
- (g) measures to control dust and mud
- (h) protective fencing

shall have been submitted to, and agreed in writing by, the Local Planning Authority. Only the approved details shall be implemented during the construction period.

14. Prior to the commencement of the phase in which it relates, details of crime prevention and security measures in relation to the lower parking area shall be submitted to and approved in writing by the Local Planning Authority. Works shall take place in accordance with the approved details.

15. Prior to their first installation, details of any air source heat pumps including the noise generation from them shall be submitted to and approved in writing by the Local Planning Authority.

16. Prior to the commencement of the construction of the apartment accommodation hereby granted, scaled working details including sections, mouldings and profiles of architectural features of the external elevations shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include windows and fan lights, reveals, doors, frames, parapet / water table features, rainwater goods, dormer windows, lintels, balconies and ironwork, corbels, coping and plinth. Work shall be in accordance with the approved plans.

## **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. In the interests of safeguarding the amenities of the site and surrounding area due to the constrained nature of the site and sensitive location.
4. To ensure the use of materials appropriate to the development in order to safeguard the visual amenities of this important riverfront location, the character and appearance of the Conservation Area and setting of nearby Listed Buildings in accordance with Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1), DM2 Mid Devon Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.

5. In the interests of reducing the impact of the scheme upon the privacy and amenities of the occupiers of the adjacent dwellings in accordance with policy DM2 Mid Devon Local Plan Part 3 (Development Management Policies).
6. To reduce the impact of the development upon the amenities of the occupiers of nearby dwellings, to reduce the impact of the scheme upon the bat population in the area and in the interests to preventing crime and creating safe places in accordance with policies COR1 Mid Devon Core Strategy and DM2 Mid Devon Local Plan Part 3 (Development Management Policies)
7. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with policy DM2 Mid Devon Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.
8. To ensure that adequate facilities are available for the traffic attracted to the site in accordance with policy DM8 Mid Devon Local Plan Part 3 (Development Management Policies)
9. In the interests of reducing the risk of inundation by flood waters and to ensure the safety of the occupiers of the proposed development in the event of flooding in accordance with the National Planning Policy Framework.
10. In the interests of ensuring that adequate drainage is provided to serve the development and to reduce the risk of pollution in accordance with policy DM2 Mid Devon Local Plan Part 3 (Development Management Policies)
11. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies)
12. In the interests of reducing the carbon footprint of the development and in order to incorporate measures that to meet the requirements of Policy AL/IN/6 of the Mid Devon Allocations and Infrastructure Development Plan Document (Local Plan Part 2).
13. To provide an adequate site access, and to minimise any disruption and inconvenience on the local highway network and to nearby residents during the construction period in accordance with, COR1 Mid Devon Core Strategy, DM2 Mid Devon Local Plan Part 3 (Development Management Policies)
14. In the interests to preventing crime and creating safe places in accordance with policies COR1 Mid Devon Core Strategy and DM2 Mid Devon Local Plan Part 3 (Development Management Policies)
15. In the interests of safeguarding the amenities of nearby dwellings in accordance with policy DM2 Mid Devon Local Plan Part 3 (Development Management Policies).

16. To ensure detailing appropriate to the development/works, in order to safeguard the visual amenities of the area, character and appearance of the conservation area and setting of listed buildings in accordance with Mid Devon Core Strategy (Local Plan part 1) policy COR2 and policies DM2, DM14 and DM27 Mid Devon Local Plan Part 3 (Development Management Policies).

## **INFORMATIVE NOTES**

1. You are advised that a Section 278 Agreement will be required for works on the highway. More information may be gained from the Highway Authority (Devon County Council).

2. You are advised that prior written consent must be gained from the Environment Agency for any works with 7 metres of the existing flood defence wall. This includes the sewer diversion and associated sheet piling works and piled foundations to the buildings. You are advised that this is a statutory requirement, the purpose of which is to safeguard the structural integrity of and thus function of the existing flood defence wall during and after the construction of the development.

<b>Contact for any more information</b>	Mrs Jenny Clifford, Professional Services Manager 01884 234346
<b>Background Papers</b>	None
<b>File Reference</b>	13/00298/MFUL
<b>Circulation of the Report</b>	Cllrs Richard Chesterton Members of Planning Committee

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**PLANNING COMMITTEE  
4TH MARCH 2015**

**AGENDA ITEM:**

**COMMITTEE DECISIONS DURING 2014 WHICH WERE NOT IN AGREEMENT WITH OFFICER RECOMMENDATION.**

**Portfolio Holder** Cllr R J Chesterton  
**Responsible Officer** Head of Planning and Regeneration

**Reason for Report:** To provide information where the Planning Committee has made decisions not in agreement with officer recommendation.

**RECOMMENDATION:** That the report be noted.

**Relationship to Corporate Plan:** Planning decision making is relevant to achieving corporate priorities: thriving economy, better homes, empowering our communities and caring for our environment.

**Financial Implications:** Risk of award of costs against the Council at appeal. See below.

**Legal Implications:** Planning authorities are not bound to accept the recommendations of their officers. However if officer's professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority at appeal.

**Risk Assessment:** Risks associated with decisions proposed to be made contrary to officer recommendation are set out in an implications report that is brought before Planning Committee before the final decision is made. Local Planning Authority decision making must be robust, justified and capable of being defended at appeal.

1.0 Attached is a summary of applications where the Planning Committee have made decisions not in agreement with officer recommendations. The report covers the period from 1<sup>st</sup> January 2014 to 31<sup>st</sup> December 2014.

2.0 The number of cases is 3 during the whole of 2014 and is considered very low. 2 of the 3 were Ward Member call ins. It is of interest to note comparison with the figures for previous years:

2009	2010	2011	2012	2013	2014
8	10	6	11	12	3

3.0 The 3 cases in 2014 were as follows:

- 14/00009/FULL Reconstruction of barn to form dwelling (revised scheme) – Bolts Farm, Coleford.

- 14/00952/FULL Conversion of redundant workshop (B2) to a dwelling and work unit including art gallery with alterations to existing access (revised scheme) – Rixey Lane, Morchard Bishop.
- 14/01207/FULL Erection of a two storey dwelling and conversion of timber garage to ancillary accommodation –revised scheme – Rose Cottage, Uplowman

All 3 were granted planning permission with conditions contrary to officer recommendation of refusal.

4.0 In accordance with the protocol agreed at the meeting of Planning Committee on 17th July 2013, cases involving Members wishing to make a decision contrary to Officer recommendation requires a deferral of the item for the receipt of a report setting out the implications of the proposed decision and the reasons given with Members indicating the decision that they are minded to make.

5.0 The accompanying appeal performance report for 2014 also identifies a series of applications determined by Planning Committee contrary to officer recommendation where the appeal was either allowed or dismissed. Members should note that the decision on many of these cases was made in 2013, with time being needed for them to work their way through the appeal process. They therefore do not form part of this report which deals with decisions made by this authority in 2014.

**Contact for Information:** Jenny Clifford, Professional Services Manager  
01884 234346

**Circulation of the Report:** Cabinet Member, Members of Planning Committee

**List of Background Papers:** Planning Committee agendas and minutes 2014.  
Planning Committee 17th July 2013 - Protocol for decision making and subsequent handling of any appeal when Planning Committee's decision is not in accordance with officer recommendation.  
Planning Practice Guidance

**PLANNING COMMITTEE  
4TH MARCH 2015**

**AGENDA ITEM 12**

## **ANNUAL APPEAL DECISIONS: 2014**

**Portfolio Holder** Cllr R J Chesterton  
**Responsible Officer** Head of Planning and Regeneration

**Reason for Report:** To provide information on the outcome of planning appeals for 2014.

**RECOMMENDATION:** That the report be noted.

**Relationship to Corporate Plan:** Planning decision making is relevant to achieving corporate priorities: thriving economy, better homes, empowering our communities and caring for our environment.

### **Financial Implications:**

Planning appeals can prove expensive to the Council in terms of: Staff resources both within the Planning Service and other sections such as Legal, Financially if specialist consultant assistance, expert witnesses and external legal advocacy are required. This is more likely at public inquiry. There are also financial implications for the Council at appeal if an appellant can prove the Council has acted unreasonably. If so, the Planning Inspectorate can require that the Council pay the appellant's appeal costs.

### **Legal Implications:**

By their nature appeals involve independent assessment by the Planning Inspectorate of the case and the Council's decision. The Council needs to ensure that its Planning decision making is robust in order to reduce risk of challenge, maximise appeal success and reduce the impact of appeals on budgets.

### **Risk Assessment:**

Appeal statistics provide a useful check on decision making by comparing appeal outcomes with those nationally, the number of appeals and outcomes with previous years and whether any costs have been awarded against the council on the basis of unreasonable behaviour.

### **Consultation carried out with:**

None.

1.0 Attached is a summary of all planning appeals determined between 1<sup>st</sup> January - 31<sup>st</sup> December 2014. 42 appeals were determined or withdrawn within that period.

3	(7.1%)	Withdrawn
11	(26.2%)	Allowed
1	(2.4%)	Allowed in part
27	(64.3%)	Dismissed

2.0 The total number of appeals is slightly higher than the last few years, but not significantly so. Planning Inspectorate statistics for the whole of 2014 are not yet available. Those issued to date indicate the percentage of appeals allowed nationally (England) at an average of between 32% - 41% depending on the appeal type. The figure for all appeals in Mid Devon in 2014 is 26% with a further 2.4% allowed in part. This indicates overall that a robust approach being taken to decision making.

3.0 Of the 11 appeals allowed, 4 of these were refused by Planning Committee contrary to officer recommendation:

- Nether Mill Farm, Willand – solar scheme
- Edgeworthy Farm, Nomansland – AD scheme
- Duval Barton, Bampton – function hall
- Littleborough Cross, Black Dog – wind turbine

Costs were awarded to the appellant against the Council by the Planning Inspectorate on the basis of unreasonable behaviour in 2 of these cases. This is likely to cost the Council in the order of £21,677.

It is also to be noted that 7 of the cases where appeals were allowed were refused by Officers under delegated powers.

In addition, of the appeals dismissed, 3 were where Planning Committee had overturned an officer recommendation of approval:

- Hornbeam Gardens, Bradninch – 2 dwellings
- Durban works, Willand – 36 dwellings
- Rifton Barton, Stoodleigh – wind turbine

4.0 Comparison with the last reports on this subject giving appeal figures recorded is as follows:

- Period 1<sup>st</sup> January - 31<sup>st</sup> December 2009 37 appeals, 23 (62%) dismissed.
- Period 1<sup>st</sup> January - 31<sup>st</sup> December 2010 28 appeals, 22 (78%) dismissed.
- Period 1<sup>st</sup> January – 31<sup>st</sup> December 2011 37 appeals, 22 (60%) dismissed
- Period 1<sup>st</sup> January – 31<sup>st</sup> December 2012 33 appeals, 16 (48.5%) dismissed
- Period 1<sup>st</sup> January – 31<sup>st</sup> December 2013 37 appeals, 20 (54%) dismissed
- Period 1<sup>st</sup> January – 31<sup>st</sup> December 2014 42 appeals, 27 (64%) dismissed

The percentage of appeals dismissed has returned to levels a couple of years ago having dipped in 2012 and 2013.

5.0 The Government seeks to improve the speed and quality of planning decision making. In the event that the Secretary of State views that a Local Planning Authority is not adequately performing its function of determining applications it will be designated for special measures. The performance of each authority in terms of speed and quality of decision making is monitored. The measure to be used to assess the quality of decision making is the average percentage of decisions on applications for major development that have been overturned on appeal. The threshold for inadequate performance by a Local Planning Authority

is currently 20% or more major application decisions made over the previous two years being overturned at appeal.

6 out of 10 major application appeals during the period 1st January 2012 – 31st December 2014 were allowed and were as follows:

12/01625/MFUL Scotts Business Park, Woodland close, Bampton – Erection of 18 new dwellings and 6 industrial units.

11/02007/MFUL, 12/00045/MFUL and 12/00107/MFUL Greenham Reach, Holcombe Rogus – Use of land for siting of temporary agricultural worker's dwelling for a period of 5 years.

12/01659/MFUL Menchine Farm, Nomansland - Erection of anaerobic digestion facility

12/01518/MFUL Nether Mill Farm, Willand – Change of use from agriculture to solar farm with agriculture to generate up to 3.08MW of power.

3 of these related to the same scheme at Greenham Reach.

6.0(Special measures include granting applicants a choice over whom to submit their application to. It introduces the ability to apply for planning permission directly to the Planning Inspectorate as an alternative to applying to the Local Planning Authority. Application assessment and decision making is therefore removed from the local level. In these circumstances the Local Planning Authority does not receive an application fee, but is still responsible for certain administration functions associated with the applications.)

7.0The attached report at **Appendix 1** provides a brief summary of the appeal decisions in 2014.

**Contact for Information:** Jenny Clifford, Professional Services Manager  
01884 234346

**Circulation of the Report:** Cllr Richard Chesterton  
Members of Planning Committee

**List of Background Papers:** Planning Committee agendas and minutes 2013.  
DCLG Improving planning performance – Criteria for designation. June 2014  
DCLG Planning performance and the planning guarantee –Government response to consultation. June 2013  
Growth and Infrastructure Act 2013  
Planning Inspectorate Statistical Report: England 2014/15, Quarters 1, 2 and 3

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## List of Appeal Decisions from 01/01/2014 to 31/12/2014

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
13/00383/FULL	Erection of 2 dwellings, alterations to access and front boundary wall and extension to car park - APPEAL DISMISSED	Land at NGR 272315 101785 (land Between Sutherlands and Car Park) Bow Devon	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed
<b>Summary of Inspector's Comments</b>							
<p>The scheme was for the erection of 2 dwellings with alterations to an existing access and to a front boundary wall together with an extension to the village car park, on the edge of Bow and outside of the settlement boundary. The two main issues for consideration are firstly, the effect of the proposed development upon the settlement structure of the area, having regard to planning policy governing the location of new residential development, and secondly its effect on the character and appearance of the Bow Conservation. On the first issue the Inspector concluded that the application scheme would not constitute an isolated form of housing development in the countryside, but that it would result in countryside encroachment and did not represent a form of sustainable development. In addition the Inspector considered the design of the two houses would be at odds with the local vernacular and therefore would not represent high quality design. Whilst he recognised the benefits associated with the improvements to the car park those benefits would not outweigh the harm that the development would cause to the character and appearance of the Conservation Area.</p>							
13/00385/CAC	Conservation Area Consent for the part demolition of front boundary wall - APPEAL DISMISSED	Land at NGR 272315 101785 (land Between Sutherland and Car Park) Bow Devon	Refuse Conservation Area Consent	Delegated	Refuse permission	Written Representations	Appeal Dismissed

### Summary of Inspector's Comments

Consent was required for the proposed demolition of part of a front boundary wall in order to improve visibility for the village car park. The application was submitted in tandem with a planning application for 2 houses on land adjacent to the car park. The impact of the works was considered harmful to the overall character and appearance of the Conservation Area.

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
13/01133/FULL	Conversion of redundant commercial unit (B1/B8) to dwelling (C3) (APPEAL DISMISSED 6.2.14)	Land and Buildings at NGR 269016 111043 (NW of Eggesford Barton) Eggesford Devon	Refuse permission	Accepted	Refuse permission	Written Representations	Appeal Dismissed
<b>Summary of Inspector's Comments</b>							
<p>The main issues were: appropriateness of conversion of the building to a dwelling in relation to policy, whether living conditions would be adequate for future occupants &amp; suitability in light of policies protecting employment land. DM11 requires buildings for conversion to contribute positively to the area's rural character. This policy requirement does not conflict with the NPPF which also seeks good design. The appeal property is not of architectural merit and its contribution to rural character is neutral. The proposal would not overcome this requirement of DM11; the building is not suitable for residential conversion. The proposed dwelling would not afford adequate living conditions for future occupiers due to level of natural light, especially to bedrooms. this could not be adequately overcome by rooflights. DM21 requires demonstration that there is no reasonable prospect of the site being used for employment by showing sufficient range of employment sites in the area, no commercial interest for employment &amp; a sequential viability test for mixed use followed by non-employment use. There was no evidence of these. No existing business would be displaced &amp; some employment uses could be compatible with the surroundings. 6 month marketing produced some commercial interest. It had not been demonstrated that there is no reasonable prospect of commercial interest in the site. The conversion scheme conflicts with DM21. The benefits of the scheme did not outweigh the harm.</p>							
13/01030/ADVER	Advertisement consent to display 2 non-illuminated fascia signs, 1 illuminated fascia sign, 1 illuminated free standing post mounted sign and 1 illuminated entrance sign (Revised scheme) (APPEAL ALLOWED -18.02.14)	Land and Buildings at NGR 302020 106958 (Aldi) Exeter Road Cullompton Devon	Grant Advertisement Consent	Delegated	Application Part Granted/Part Refused	Written Representations	Appeal Allowed
<b>Summary of Inspector's Comments</b>							
<p>The application related to 2 adverts to the front of the main building and car park. The main appeal issue was the impact of the adverts on visual amenity and the setting of the adjacent Conservation Area. The Inspector found that there is more commercial character in this part of Exeter Road. At this point it becomes more open and so has a different character to the more enclosed terracing in the Conservation Area to the north and more residential character to the south. The adverts would be read in the context of the car park and other Aldi signage and would not appear out of keeping with its immediate surroundings. Most properties in the Conservation Area are relatively distant and whilst views of the church tower would be obscured from some perspectives, this is limited to a small part of Exeter Road outside the site. There is no adverse impact upon the setting of the Conservation Area. The sign as proposed is acceptable. A smaller sign would not help mitigate any harm. The sign would be unlikely to lead to significant driver distraction and there is no objection from the highway consultee.</p>							



Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
12/00791/OUT	Outline for the erection of an agricultural worker's dwelling (Revised scheme) (APPEAL ALLOWED WITH CONDITIONS 19-2-14)	Land at NGR 279862 101140 (North Hollacombe) Barnstaple Cross Devon	Allowed on appeal	Delegated	Grant permission	Informal Hearing	Allow with Conditions

#### Summary of Inspector's Comments

The Inspector concluded that there was an essential need for the proposed rural workers dwelling to which this Authority were not disputing. But that the approval should be granted without a planning obligation which would prevent disposal of the dwelling separately from the land holding. The appellants argued that the proposed obligation would have an effect on the operation of the business by restricting the ability to buy and sell land to respond to any business opportunities and that there were implications for VAT exemption and the ability of the business to borrow money. The council explained the number of previous agricultural workers dwellings already approved for the main farm along with the sale of 4 barns which have been sold and converted to dwellings. The inspector recognised our concerns but considered that it does not follow that further splits will occur in the future. It was also argued that the dwelling could easily be separated from the holding due to its location on the entrance to the farm. The Inspector turned to Circular 11/95 The use of conditions in planning permission advises that it should not be necessary to tie occupation of rural worker's dwellings to workers engaged in one specific farm, even though the needs of the business justifies the dwelling. The Inspector therefore considered that the use of an obligation was not proved in order to make the development acceptable in planning terms.

12/01518/MFUL	Change of use from agriculture to solar farm with agriculture to generate up to 3.08MW of power (Site area 9.41 hectares) (APPEAL ALLOWED WITH CONDITIONS 19-2-14) - NON MATERIAL AMENDMENT GRANTED 1ST MAY 2014	Land at NGR 302039 111983 (Nether Mill Farm) Willand Devon	Grant permission subject to conditions.	Overtured	Refuse permission	Written Representations	Allow with Conditions
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#### Summary of Inspector's Comments

The Inspector found that although the provision of the solar array would change the character of the field and erode its rural quality between the settlements of Willand and Halberton, there would be little change to its topography and it is proposed to reinforce the existing field boundaries with new planting. This increase in the number of trees and the growth of hedgerows would accord with the characteristics of the landscape area and help integrate the development with its surroundings, resulting in a less than moderate impact overall. Through the appellant's submission of an agricultural soil appraisal, a small portion of the appeal site was found to be grade 3a agricultural land, with the majority being 3b. The Inspector found that the site would not be lost to agriculture in the long term as the land would be reinstated after 25 years and that furthermore sheep would continue to be grazed which would give the land some continuing agricultural value. The appeal site would be seen against a backdrop of hills so they would not be viewed starkly against the sky. With the separation between the nearest dwellings and the solar panels, together with the new planting, it was found that the scheme would not be likely to make the nearby dwellings such an unattractive place to live that the majority of people would not wish to live there and therefore there would be no significant harm to living conditions. The Inspector considered the cumulative impact of the development in relation to the operational solar array at Ayshford, near J27. It was found that the distance between the sites and the changing topography and intervening vegetation and buildings would mean that the two sites would appear as unrelated and there would be no harmful cumulative impact. There would be no significant traffic noise or safety issues arising from the proposal.

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
13/00825/FULL	Removal of Condition (d) of planning permission 90/01838/FULL to allow for the garage, workshop and gamesroom to be used as a separate residential dwelling (APPEAL DISMISSED 27.02.14)	Stable Barn Collipriest Tiverton Devon EX16 4PT	Refuse permission	Accepted	Refuse permission	Written Representations	Appeal Dismissed

#### Summary of Inspector's Comments

The application was to remove a condition restricting the use of a building to ancillary uses, and allow it to be used as a separate dwelling. The main issue was whether the development would be acceptable and sustainable within the countryside. The Inspector considered that residential use within rural areas has to be strictly controlled to ensure sustainability and protect the countryside, and the personal circumstances of the applicants did not outweigh these well established planning principles and policy objectives.

12/01528/FULL	Proposed siting of a temporary caravan (mobile cabin), erection of extension to stables and retention of touring caravan for storage of tack plus removal of existing caravan (APPEAL PART ALLOWED/PART DISMISSED 5.3.14)	Land at NGR 299681 107033 (The Paddocks) Knowle Cullompton Devon	Refuse permission	Delegated	Refuse permission	Informal Hearing	Allowed in Part
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#### Summary of Inspector's Comments

The appellant has not yet established a business on the site and so the primary issue was whether or not there is a firm intention to establish an equine therapy business on a sound financial basis. The Inspector found that the appellant has had a qualification to carry out equine therapy for a number of years and it would be reasonable to have expected the off-site element of the business to have been established. The Inspector also expressed concerns that there was not a demand for equine therapy and that insufficient market research had been carried out to prove otherwise. Concerns with the financial soundness of the business were raised as a number of outgoings and other costs were omitted from the business plan. The Inspector concluded that the evidence did not demonstrate that there is a firm intention and ability to establish an equine therapy business based on sound financial planning and that the proposal for a temporary workers dwelling is in conflict with Local Plan Part 3 (DMP) policy DM10. The LPA did not object to the erection of the extension to the stables or the siting of a caravan for the storage of tack and the Inspector found no reason to disagree with this conclusion and allowed this part of the appeal.

13/00645/FULL	Erection of a 275kW wind turbine with maximum blade tip height of 71m, hub height of 55m, and formation of new vehicular access track and associated infrastructure (APPEAL WITHDRAWN)	Land at NGR 270511 109020 (Hawkridge Farm) Coldridge Devon	Refuse permission	Delegated	Refuse permission	Informal Hearing	Appeal Withdrawn
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#### Summary of Inspector's Comments

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
12/01632/FULL	Erection of a dwelling and associated works (Revised scheme) APPEAL DISMISSED 27.03.14	Land and Buildings at NGR 308031 108426 (Stoford Water Farm) Blackborough Devon	Refuse permission	Accepted	Refuse permission	Written Representations	Appeal Dismissed

#### Summary of Inspector's Comments

The Inspector considered that the hamlet of Stoford Water comprises relatively few properties surrounded by open countryside and that the site is isolated from the range of facilities and services necessary to meet the daily requirements of future occupiers. Unrestricted housing development in this location would be contrary to paragraph of the NPPF and the core principle to manage patterns of growth to make the fullest possible use of sustainable modes of transport. No evidence was provided to demonstrate that the application would meet with paragraph 55 of the NPPF. The Inspector did not find that the hamlet is a rural settlement in the context of the Government's Planning Practice Guidance and the proposed dwelling would therefore constitute a new isolated home.

12/01741/OUT	Outline for the erection of 3 dwellings following demolition of former office building - APPEAL DISMISSED 15/04/14	Devon Valley Paper Mill Station Road Hele Exeter Devon EX5 4PL	Refuse permission	Delegated	Refuse permission	Informal Hearing	Appeal Dismissed
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#### Summary of Inspector's Comments

Appeal dismissed for the demolition of a former office building and replacement with three new houses. Application was made in outline with approval of layout, scale and access sought at this stage. Appearance and landscaping were reserved matters. Two main issues - 1st - whether the proposed dwellings would be in a sustainable location for new residential development. 2nd - whether the demolition of the present buildings is justified having regard to relevant local and national planning policies. Site on edge of Devon Valley Mill site adjacent to road through Hele. COR18 - site in countryside and no evidence that accommodation needed for employees of the Mill site in accordance with DM10 of LP3. However, as LPA have granted a prior notification for conversion of the office to 3 dwellings, this is a compelling fall back position. Taking this into account and proximity to Bradninch services and bus stops, these outweigh any objection based on unsustainable location and that this element of the appeal should be determined otherwise than in accordance with COR18. Existing office building is a historic C19 building and LPA states it is a heritage asset and on local list. Its traditional cottage form has been retained with attractive period features. Inspector found the building made a valuable contribution in its focal position to the character of Hele. Scheme for replacement of building with 3 new houses is less attractive than existing building albeit the proposed scheme would provide off street parking and better amenity spaces. Inspector concluded not all alternative uses of the building had been investigated to retain current building - including potential sale or letting through market testing or retention of interesting and more important frontage of the building. Total loss of non-designated heritage asset would not be justified therefore contrary to LP3 policy DM27. Financial contributions toward Air Quality and POS were found to meet 122 tests.

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
13/01170/FULL	Erection of an anaerobic digester, associated equipment and infrastructure (APPEAL ALLOWED WITH CONDITIONS 23.5.14)	Land at NGR 284927 114041 (Edgeworthy Farm) Nomansland Devon	Grant permission subject to conditions.	Overtumed	Refuse permission	Written Representations	Allow with Conditions

#### Summary of Inspector's Comments

The main issues related to the effect of the proposal on nearby residential properties, loss of productive agricultural land and whether the scheme would result in a loss of biodiversity. The Inspector considered that the controls required under the Environmental Permit would address any potential odour concerns and that these controls should negate the risk of unacceptable odours arising. Having considered the objections, the Inspector found nothing to outweigh the advice of the Local Highway Authority that the proposal would be acceptable and there was no evidence to substantiate concerns with regard to pedestrian, cyclist or horse rider safety. The Inspector considered that changes to crops grown would not need planning permission and growing crops for the digester would not amount to a significant change to overall crop levels grown. The Inspector also considered that as there are no controls over the types of crops grown on farms, it is very difficult to substantiate how the scheme could adversely affect biodiversity. Natural England did not object and DCC's Biosphere Officer had visited the site and did not object. The Inspector also concluded that if each of the Menchine Farm, Edgeworthy and Crossparks AD plants were considered to be acceptable in their own right, there is little basis for harm arising from cumulative effects. The development would not detract from the rural character of the area. Costs were awarded against the Council for acting unreasonably in refusing the application on reasons for refusal which did not stand up to scrutiny.

13/00730/FULL	Erection of 2 dwellings (APPEAL DISMISSED 27.5.14)	Land at NGR 300056 104060 Hornbeam Gardens Bradninch Devon	Subject to the provision of a S106 Del	Overtumed	Refuse permission	Written Representations	Appeal Dismissed
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#### Summary of Inspector's Comments

The main issues are the effect of the proposal on the character and appearance of the area and on the living conditions of neighbouring residents in terms of overshadowing and outlook. The Inspector considered that although the proposal would be an improvement on the visual quality of the site at present, the design of the houses was bland and would fall short of the high standard of design required of new development in general and would not enhance the character and appearance of the conservation area. In addition, the Inspector considered that the bulk and height of the dwellings would result in overshadowing of the neighbouring property to the extent that there would be an unacceptable reduction in the amount of sunlight and daylight within the bungalow. The Inspector also considered that the dwellings would have an overbearing impact on the outlook to the south from the kitchen window of the bungalow, despite the main outlook from the building being to the north.

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
13/01618/FULL	Conversion of barn to dwelling (APPEAL DISMISSED 2.6.14)	Land and Buildings at NGR 278148 96863 (Rock Park Farm) Woodland Head Yeoford Devon	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed

#### Summary of Inspector's Comments

The development proposed related to the conversion of a barn to dwelling: the Inspector noted that the main issue was whether the building was appropriate for conversion having regard to local and national policies relating to re-use of redundant or disused buildings in rural areas. It was noted that there was no dispute between the parties that the building was redundant for agricultural purposes, nor that it was of substantial and permanent construction. In this case, the building's suitability for conversion, the Inspector opined, turned on its contribution to the area's character and due regard was given to the LPA policy DM11 which requires that any such building positively contribute to the rural character of the area, not merely reflect that character: this policy, in the Inspector's opinion, "significantly raises the bar" in terms of such requirements. The Inspector found that, in this instance, the structure was of a fairly typical, timber-framed, agricultural building equivalent to 2-storeys in height. The Inspector found that, despite being well constructed and finished externally with timber cladding, it had no particular architectural merit; little weight too was attached to arguments by the appellant that the proposal would lead to an enhancement of the area by removing a single-storey extension to the rear of the building and other works. Little attention, too, was given to an earlier separate decision by the LPA in relation to another scheme referred to by the appellant: the Inspector had no further details of this scheme and in determined that it would not affect his findings, given that each case must be determined on its own merits and in light of up to date development plan and national planning policy guidance. It was therefore concluded that this agricultural building was one that merely reflected the rural character of the local area rather than being one that would make a positive contribution to it.

13/00446/FULL	Conversion of barn to dwelling (APPEAL DISMISSED 5.6.14)	Land and Buildings at NGR 303182 109827 (Tanyard Farm) Willand Devon	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed
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#### Summary of Inspector's Comments

The Inspector considered the proposed conversion with regard to the local development plan and national planning policies. The Inspector first considered, the building, a typical modern style agricultural shed, to be an inappropriate building for conversion to a dwelling, contrary to the first test of policy DM11 of the development plan. Where the proposal was considered to fail under the primary test of DM11, the Inspector secondly considered if there were other material considerations which would allow the application to succeed. He concluded there was insufficient evidence provided, with regard to the appellant's argument of an essential need, to demonstrate that the application would meet paragraph 55 of the National Planning Policy Framework. Thirdly, the Inspector considered if there was a fall back position for the change of use of the building through Class MB of the General Permitted Development Order 2014. The Inspector stated from the available evidence that the site was not used solely for an agricultural use, as part of an established agricultural unit, on 20 March 2013 and the proposed change of use would not therefore appear to be permitted development under Class MB. It was also stated that a developer is required to apply to the local planning authority for a determination as to whether prior approval will be required in respect of certain specified matters. The Inspector concluded there are not material considerations that would outweigh the conflict of the development with Policy DM11 of the Council's DMP and national planning policies. The appeal building was therefore considered to be inappropriate for conversion to a residential dwelling and the appeal dismissed.

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
14/00003/NUCU	Change of use of agricultural building to function hall	Duvale Priory Bampton Tiverton Devon EX16 9EG		Delegated		Written Representations	Appeal Allowed

#### Summary of Inspector's Comments

Appeal Allowed - Planning Permission Granted 9th June 2014. Please see summary of comments below.

13/00701/FULL	Retention of change of use from agricultural building to function hall for sole use by occupiers of the existing holiday accommodation at Duvale Priory - APPEAL ALLOWED 09/06/2014 - PLANNING PERMISSION GRANTED	Land and Buildings at NGR 294462 120501 (Duvale Barton) Bampton Devon	Grant permission subject to conditions.	Overtaken	Refuse permission	Written Representations	Appeal Allowed
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#### Summary of Inspector's Comments

The main issues were the effect of the development on the living conditions of local residents in respect of noise and disturbance, whether the development presents an unacceptable flood risk and highway safety concerns arising from the use of the proposed emergency exit route. The Inspector considered that subject to appropriate conditions, there was no reason to conclude that the proposed use would give rise to unacceptable noise exposure to local residents, although the area was noted for its tranquility. He noted that Environmental Health had no objections. The Inspector noted the Environment Agency's comments that in the event of flooding, the depth of water in the building would be a very low hazard, but the depth and velocities around the building were potentially hazardous. However, there would only be a small proportion of the proposed egress route that would be at risk from flooding to the same depth. Users of the function hall would in any event be staying at the holiday accommodation which is at greater risk of flooding than the hall. The Inspector considered that safe means of escape could be provided using either of the proposed alternative emergency routes. In respect of a potential dam break, there would be sufficient warning to evacuate. The Inspector considered that despite the more vulnerable classification, the use would be intermittent and there were adequate escape routes, including a wheelchair route. Although the emergency route would lead directly onto the A396 with no pavements and restricted visibility, a section of the highway not in the immediate vicinity would also be flooded with significant traffic likely to use the road at that time and not travelling at speed. The Environment Agency and Highway Authority had not objected. Costs were awarded against the Council for acting unreasonably in refusing the application with no evidence to support the refusal, and contrary to the recommendation of its officers.

13/00022/NUDU	Timber door replaced with UPVC door - Cullompton Article 4 Direction - APPEAL ALLOWED	15 New Street Cullompton Devon EX15 1HA		Delegated		Written Representations	Appeal Allowed
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#### Summary of Inspector's Comments

APP/Y1138/C/14/2215268 15 New Street, Cullompton, Devon, EX15 decision dated 24/6/14.; Appeal ALLOWED + planning permission granted. The street facing elevations of nearly every house along New Street have had their doors and windows replaced. The vast majority of those are in uPVC. The retention of the appeal front door now would not have any noticeable cumulative impact on the street scene or the character and appearance of the conservation area as a whole.

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
13/00670/FULL	Erection of 2 dwellings - APPEAL DISMISSED	1 Claypitt Cottages Tiverton Devon EX16 5NY	Refuse permission	Accepted	Refuse permission	Written Representations	Appeal Dismissed

**Summary of Inspector's Comments**

The main issues were the effects on the living conditions of future occupiers of the houses with regard to outlook and noise, whether the appeal site is at risk of flooding and the potential effects of land contamination. The Inspector considered that internal noise could be attenuated to provide a reasonable internal noise level during the day and a good standard at night, however, factory noise could unduly compromise the enjoyment of the gardens. The Inspector considered there was insufficient information with regard to flood risk or drainage to ensure the development would be free of flood risk. In addition, the Inspector considered that the pollution potential of the site could not be understood due to the fact that a land contamination site investigation had not been carried out. The economic benefits of building more homes and the site's accessible location did not outweigh poor living conditions that would be provided for future occupiers of the dwellings.

13/00710/FULL	Conversion of redundant barn to form holiday let (APPEAL DISMISSED 30.06.14)	Land and Buildings at NGR 301338 117206 (Hill Farm) Uplowman Devon	Refuse permission	Accepted	Refuse permission	Written Representations	Appeal Dismissed
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**Summary of Inspector's Comments**

The Inspector found that despite there being broad support for the use of buildings for the diversification of the rural economy this was not supported by the evidence required by the development plan. In respect of the curtilage listed building itself and in respect of the setting of the Grade II listed farmhouse, it was found that the proposed works and development would fail to preserve either. Given a lack of justification for the proposed tourism use, it was therefore concluded that the proposals would fail to preserve the curtilage listed building or the setting of the adjacent listed farmhouse. The overarching statutory duty to preserve both building and setting were given considerable importance and weight; and the appeals were thereby dismissed.

13/00711/LBC	Listed Building Consent for conversion of redundant barn to form holiday let (APPEAL DISMISSED 30.06.14)	Land and Buildings at NGR 301338 117206 (Hill Farm) Uplowman Devon	Refuse Listed Building Consent	Accepted	Refuse permission	Written Representations	Appeal Dismissed
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**Summary of Inspector's Comments**

The Inspector found that despite there being broad support for the use of buildings for the diversification of the rural economy this was not supported by the evidence required by the development plan. In respect of the curtilage listed building itself and in respect of the setting of the Grade II listed farmhouse, it was found that the proposed works and development would fail to preserve either. Given a lack of justification for the proposed tourism use, it was therefore concluded that the proposals would fail to preserve the curtilage listed building or the setting of the adjacent listed farmhouse. The overarching statutory duty to preserve both building and setting were given considerable importance and weight; and the appeals were thereby dismissed.

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
13/00872/FULL	Conversion of redundant building to 2 dwellings (APPEAL DISMISSED 4.7.14)	Building at NGR 299128 113030 Hartnoll Business Centre Tiverton Devon	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed

#### Summary of Inspector's Comments

The main issue was the effect of the conversion on the character and appearance of the building and its surrounding area. The Inspector found that the conversion would detract from the partly open character of the building and the new openings in the currently blank east elevation would significantly affect the original character of the building and its surroundings. The business park has a range of uses but still has the character of a large rural farmyard and the introduction of a residential use in a largely rural setting would adversely affect the building's character and that of its surroundings. In addition, the proposal would necessitate significant alterations and rebuilding. It was concluded that the proposal would adversely affect the character and appearance of the existing rural building and its surrounding area.

12/01522/MFUL	Change of use of land from agriculture to the installation and operation of a solar PV farm to generate up to 5.7 MW of energy (site area 18.14 hectares) to include mounted solar panels, underground cables, 6 inverters, substation, fencing and security system with a temporary track and construction compound (APPEAL DISMISSED 08.07.14)	Land at NGR 295936 124571 (Keens Farm) Morebath Devon	Refuse permission	Accepted	Refuse permission	Written Representations	Appeal Dismissed
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#### Summary of Inspector's Comments

Appeal against refusal for a 16.03 hectare/5.15 MW solar panel installation on land at Keens Farm, Morebath. Inspector stated that national and local planning policies require a balance to be struck between the effects on, for example, sensitive landscape and visual receptors and the benefits of the proposed development. The balanced approach is further confirmed by the Minister in the statements supporting the NPPG. Main issue is landscape and visual effect and while field size and pattern would remain the same and hedgerow pattern would be unaltered, the landscape appearance and character would be fundamentally changed from fields under crop to a hard surface that would be unchanging over 25 year period. Mitigation proposed would introduce uncharacteristic features. Views from local footpaths, public points in Morebath, from local roads and from some private receptors could be affected. Development would have a significant adverse impact upon way the local community appreciate the character and visual quality of the landscape. Would conflict with local planning policy. Planning balance concluded: the harm to the local community's appreciation of the landscape in which they live and work and the enjoyment of it by visitors when passing through to the national Park, outweighs, in this case, the renewable energy benefit of the proposal. Appeal dismissed. Costs appeal was upheld and a partial award of costs to the Appellant as the Landscape Sensitivity Statement information was not available until late in the appeal process and due to the cumulative impact reason for refusal not being withdrawn by the LPA sooner.



Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
13/00185/MFUL	Installation of ground mounted photovoltaic solar array to generate up to 6MW of power (site area of 15.16Ha), power inverter system, transformer station, sub-station, internal access track, security fencing, landscaping and associated access gate (APPEAL DISMISSED 14/07/14)	Land at NGR 297705 120536 (Buckhayes Farm) Cove Devon	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed

#### Summary of Inspector's Comments

The main issue considered at the appeal was whether any harmful impacts, having particular regard to the effect on the proposal of the area, outweigh the benefits of the scheme. The Inspector considered that as a result of the planting strategy it is likely that most close views of the development would be largely screened. However, the solid structures of the arrays would form a strong physical presence of industrial appearance which would change the character of the rural fields in which they are located. In particular, the arrays on the upper west facing slope would be prominent and the screening would have little impact on long distance views of these. The scheme would result in substantial harm to the rural character of the area. Whilst the mitigation planting would do much to provide screening of the eastern and part of the southern side of the site, development on the upper west facing slope would be visible from publicly accessible areas nearby and in wider views. The scheme would form an incongruous expanse of metal structures out of keeping with the open and rural character of the area. The proposal would provide a valuable contribution to cutting greenhouse gas emissions but this is outweighed by the harm identified.

13/00304/MOUT	Outline for the erection of 36 dwellings following demolition of existing buildings, site clearance and remediation (APPEAL DISMISSED 15.07.14)	Durban Works & Former West Country Private Ambulance Services South View Road Willand Devon	Refuse permission	Overtuned	Refuse permission	Informal Hearing	Appeal Dismissed
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#### Summary of Inspector's Comments

The main issues were (1). The viability of the scheme and its impact upon affordable housing provision, 2. the proposed density of the scheme and 3. the adequacy of living conditions of future occupiers of the development in respect of the provision of outdoor space. On point 1 the Inspector found that the level of information provided regarding the costs of decontamination of the site was inadequate in that further site investigations were required in order to refine the estimate of the costs. The provision of affordable housing is a high priority in Mid Devon's development plan and any deviation from the 35% site target needs to be justified. It was found that the evidence regarding decontamination costs was not clear properly evidenced and therefore the proposal made inadequate provision for affordable housing having regard to the viability of the scheme. (2). The Inspector considered that the existing mix of architectural styles in the locality and the nature of the surrounding area meant that the development of the site would not necessarily undermine the street scene or character of the surrounding area. Density is only one variable affecting character and appearance and it was found that there was little which would conclusively indicate that a good quality development could not be achieved at the proposed density. (3). The Inspector found that the nearest park was within adequate walking distance to provide open space provision and on-site provision would not be necessary. There was inadequate evidence to conclude that it would be impossible to provide adequate levels of private amenity space within the site and the Council would have grounds to refuse detailed proposals if they would not have adequate private outdoor space. The Inspector concluded that the concerns regarding affordable housing provision outweigh the finding that the proposal would be acceptable in terms of its effect on character and appearance and living conditions.

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
13/01017/MFUL	Erection of an anaerobic digestion facility - APPEAL WITHDRAWN 16/07/2014	Land at NGR 286602 114760 (Crossparks Farm) Nomansland Devon	Refuse permission	Varied	Refuse permission	Written Representations	Application Withdrawn

**Summary of Inspector's Comments**

13/01205/CAC	Conservation Area Consent for the demolition of double garage (APPEAL DISMISSED 22.7.14)	Land and Buildings at NGR 273129 108148 Opposite The Old School House Lapford Devon	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed
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**Summary of Inspector's Comments**

The scale, elevational composition & architectural detailing of the proposed dwelling is not sensitive to the defining characteristics of the area and its long, narrow footprint, steeply pitched roof with numerous velux windows would be at odds with the character of this part of the village, particularly is this prominent position. It would fall short of the high standard of design required of new development and fail to preserve or, with the removal of the garage, take advantage of the opportunity to enhance the character and appearance of the Conservation Area (CA). The harm to the CA would be less than substantial but the proposal would provide little economic benefit. The demolition of the garage forming part of the CA would be regrettable and inappropriate in the absence of an acceptable redevelopment scheme. The proposal would fail to preserve or enhance the character of appearance of the CA contrary to policy and the NPPF. Overshadowing of Kimberly Cottage would be limited, but the proposed dwelling would be clearly visible from it, appear overbearing and cause a loss of outlook. The proposal would reduce the garden area for The Old School House and Flat resulting in limited external space. Personal preference over acceptable outdoor space varies widely and no locally adopted outdoor space standards have been provided. As the applicant is willing to amend the garden layout, suitable garden space could be conditioned. The proposed dwelling would also introduce more direct and closer views of the neighbouring property (Kimberly Cottage) resulting in significant harm to privacy contrary to the living conditions of the occupiers.

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
13/01203/FULL	Erection of a dwelling after demolition of garage (APPEAL DISMISSED 22.07.14)	Land and Buildings at NGR 273129 108148 Opposite The Old School House Lapford Devon	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed

#### Summary of Inspector's Comments

The scale, elevational composition and architectural detailing of the proposed dwelling is not sensitive to the defining characteristics of the area and its long, narrow footprint, steeply pitched roof with numerous velux windows would be at odds with the character of this part of the village, particularly in this prominent position. It would fall short of the high standard of design required of new development and fail to preserve or, with the removal of the garage, take advantage of the opportunity to enhance the character and appearance of the Conservation Area (CA). The harm to the CA would be less than substantial but the proposal would provide little economic benefit. The demolition of the garage forming part of the CA would be regrettable and inappropriate in the absence of an acceptable redevelopment scheme. The proposal would fail to preserve or enhance the character of appearance of the CA contrary to policy and the NPPF. Overshadowing of Kimberly Cottage would be limited, but the proposed dwelling would be clearly visible from it, appear overbearing and cause a loss of outlook. The proposal would reduce the garden area for The Old School House and Flat resulting in limited external space. Personal preference over acceptable outdoor space varies widely and no locally adopted outdoor space standards have been provided. As the applicant is willing to amend the garden layout, suitable garden space could be conditioned. The proposed dwelling would also introduce more direct and closer views of the neighbouring property resulting in significant harm to privacy contrary to the living conditions of the occupiers. It is likely that future occupiers of the proposed development would have more than 1 vehicle, leading to on street parking. To encourage more on street parking in this location could potentially be dangerous and reduce visibility for road users and pedestrians. The removal of the garage would slightly improve visibility but would not overcome the harm.

13/00865/FULL	Erection of a 225kW wind turbine with maximum blade tip height of 45.5 m, hub height of 32.0 m, and associated infrastructure (APPEAL ALLOWED 4.8.14 - PLANNING PERMISSION GRANTED)	Land at NGR 282310 110937 (North of Littleborough Cross) Black Dog Devon	Grant permission subject to conditions.	Overtaken	Refuse permission	Written Representations	Allow with Conditions
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#### Summary of Inspector's Comments

The application sought permission for a 45.5m high wind turbine recommended for approval at committee and overturned. The inspector has considered the issues being a) the impact of the proposal on the character and visual amenities of the surrounding rural area and b) whether any impact is outweighed by the benefits of the proposal. The Inspector considers the landscape characteristic of the area character is not homogenous and although there are common characteristics, some areas have a less than medium to high sensitivity. In particular the application site. A simplistic landscape which is not always apparent in this character type. Thus the sensitivity of this area is medium. Within 1km the turbine is considered to diminish with distance quite quickly and so the impact would be limited. The magnitude of effect therefore would be of slight to moderate moderate, adverse. Visual impact if passing close by it will be of high sensitivity, however views will be interrupted by vegetation. As such the magnitude of the impact would therefore be moderate. The relation to residential properties views will be possible but limited and have no greater than moderate impact. The views will not make the property unsuitable or unattractive place to live. There is only minor significance with regard to cumulative impact. There is national support for renewable energy and the benefits of the proposal are greater than the moderate harm. Other matters no substantive harm to ecology, tourism, TV reception, living conditions relating to noise and flicker or heritage assets. Conclusion is for approval subject to conditions.

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
13/00253/FULL	Erection of a 500 kW wind turbine with maximum blade tip height of 77m, hub height of 50m, and formation of new vehicular access track and associated infrastructure (APPEAL DISMISSED 4.8.14)	Land at NGR 289399 117950 (Rifton Barton) Stoodleigh Devon	Grant permission subject to conditions.	Overtumed	Refuse permission	Written Representations	Appeal Dismissed

#### Summary of Inspector's Comments

The Inspector found the main issues are; a)The impact of the proposal on the character and appearance of the surrounding rural area; b)The impact of the proposal on the living conditions of nearby residents; c)Whether any negative impacts identified are outweighed by benefits of the proposed development. With regard to a) the Inspector found that the area exhibits a deeply rural character with rounded rolling hills deeply incised by valleys which often contain semi hidden farmsteads, the character is unspoilt in every direction. The turbine would be a strident vertical element in an otherwise rolling landscape which (apart from Stoodleigh Beacon) has nothing of similar character within it. The Inspector regarded the landscape as having a high value landscape character and sensitive to change. The impact of the turbine would be mainly within 1.5km of the site. The Inspector concluded that there would be significant and adverse impacts on both the character and appearance of the surrounding rural area. With regard to b), the Inspector noted that the turbine would be visible from a number of local dwellings however he concluded that the effect of the turbine would not be dominant, overbearing or create oppressive living conditions. The Inspector noted that whilst there may be some perception of noise, the level would be reasonable and therefore the Inspector concluded that there would be no unacceptable harm to living conditions of nearby residents. In reaching a planning balance the Inspector concluded that the harm caused would clearly outweigh the benefits in terms of renewable energy and carbon emissions savings, the appeal was therefore dismissed. The application for award of costs was refused as the Inspector found that no unnecessary expense had been incurred by the applicant despite the Council acting unreasonably in not substantiating the reason for refusal.

13/01442/LBC	Listed Building Consent for the conversion of redundant building to dwelling (APPEAL DISMISSED 4.8.14)	Dairy Cottage Crazelowman Tiverton Devon EX16 7DG	Refuse Listed Building Consent	Delegated	Refuse permission	Written Representations	Appeal Dismissed
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#### Summary of Inspector's Comments

The main issue is whether the proposed development and works would preserve the Grade II listed building or any features of special architectural or historic interest. The Inspector stated that Dairy Cottage harbours many internal structural architectural attributes that define it as a former farmhouse or considerable architectural and historic interest and the incidence of a farmhouse without functionally differentiated farm buildings is exceptional in Devon. The application building is a linear adjunct to the former farmhouse and expresses the key attributes of an historic farm building, characterised as a late variant of the linhay. The Inspector concluded that although some of the works sought to retain the agrarian character of the building, these limited references are overpowered by a range of other details and interventions that give the proposals an overwhelming sense of domestication, some almost suburban in character. The works and development would fail to preserve the listed building and would be contrary to policy, although the harm would be less than substantial. Although the Inspector agreed that there would be public benefit in the proposal, this benefit did not outweigh the harm.

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
13/01440/FULL	Conversion of redundant building to dwelling (APPEAL DISMISSED 4.8.14)	Dairy Cottage Crazelowman Tiverton Devon EX16 7DG	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed

#### Summary of Inspector's Comments

The main issue is whether the proposed development and works would preserve the Grade II listed building or any features of special architectural or historic interest. The Inspector stated that Dairy Cottage harbours many internal structural architectural attributes that define it as a former farmhouse or considerable architectural and historic interest and the incidence of a farmhouse without functionally differentiated farm buildings is exceptional in Devon. The application building is a linear adjunct to the former farmhouse and expresses the key attributes of an historic farm building, characterised as a late variant of the lynchay. The Inspector concluded that although some of the works sought to retain the agrarian character of the building, these limited references are overpowered by a range of other details and interventions that give the proposals an overwhelming sense of domestication, some almost suburban in character. The works and development would fail to preserve the listed building and would be contrary to policy, although the harm would be less than substantial. Although the Inspector agreed that there would be public benefit in the proposal, this benefit did not outweigh the harm. The second reason for refusal in respect of non-payment of the public open space contribution was not considered to be necessary in that as the Council had not stated specifically where the money would be spent, the Inspector was unable to confirm that the contribution would be directly related to the proposal.

13/01672/FULL	Conversion of domestic garage to dwelling (APPEAL DISMISSED 5.8.14)	9 Mercers Close Tiverton Devon EX16 6AE	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed
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#### Summary of Inspector's Comments

The main issues in this appeal are the effect of the proposed development on the character and appearance of the area; and its effect on the living conditions of the occupiers of neighbouring properties. The Inspector considered that as the cul-de-sac comprises of properties of a variety of designs and forms and that the density of the development is fairly high, vertical development of the garage was considered of a sufficiently high quality design and would not be detrimental to the areas character and appearance. However, all the dwellings in the Close have gardens of a shape, size and position that are practical for use and contribute to the area's character and appearance; the proposed dwelling would be served by a small area of garden part of which will steeply sloping and thus of more limited use, resulting in the detached dwelling appearing cramped within its small curtilage, failing to accord with the characteristics of the site's surroundings therefore not well integrated into the existing development. The development was also considered to adversely affect the living conditions of the neighbours due to the vertical increase causing an unacceptable loss of sunlight and daylight, and severely restricting the properties outlook to the detriment of the living conditions of the occupants of No 74, and the proximity to No 9 would result in a significant reduction in privacy of the dwellinghouse and garden.

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
13/00777/FULL	Change of use of agricultural land to gypsy and traveller site to provide 1 pitch (APPEAL. ALLOWED 14.8.14)	Land at NGR 304301 110193 (The Paddocks) Willand Devon	Refuse permission	Delegated	Refuse permission	Informal Hearing	Allow with Conditions

**Summary of Inspector's Comments**

The Inspector found that the Council no longer has an up to date Gypsy and Traveller Accommodation Assessment and therefore the current and future need is not known. There are no other Council or privately owned sites available to the applicant and the Inspector questioned whether or not the Council has a five year supply of sites. The appeal site lies within flood zone 3 and is therefore at a high risk of flood. There was evidence that the whole site flooded in 1968 and there has also been flooding in the locality and of part of the site in more recent years. A previous appeal on the site for two pitches by the same applicant was dismissed with the Inspector finding that the site would not be safe in a flood event, particularly for the current applicant's parents. Whilst national planning guidance states that caravans should not be permitted in areas at risk of flood, the Inspector found that the need for the applicant to have a pitch on which to reside, outweighed the potential harm and a personal 5 year temporary planning permission was granted, subject to a number of conditions so as to minimise the potential risk during a flood event.

14/00258/FULL	Erection of front porch (APPEAL DISMISSED 19.08.14)	26 Iter Park Bow CREDITON Devon EX17 6BY	Refuse permission	Delegated	Refuse permission	Householder Appeal	Appeal Dismissed
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**Summary of Inspector's Comments**

This appeal related to the erection of a porch, the main issue is the effect of the proposal on the character and appearance of the area. The inspector considered that the proposed porch would disrupt the balance of these dwellings by altering the ground floor fenestration and appearance on one side of the pair. The inspector concluded that the proposal would have a harmful effect on the character and appearance of the area and the appeal was dismissed on this basis.

13/01336/CLU	Certificate of Lawfulness for existing use of toilet block, office and general purpose agricultural use as granted under planning approval 09/01347/FULL together with former mobile home site as a single dwellinghouse	Land and Buildings at NGR 275327 93819 (Southcombe Hill Farm) Cheriton Bishop Devon	Refuse Certificate of Lawful Use	Delegated	Refuse permission	Public Inquiry	Application Withdrawn
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**Summary of Inspector's Comments**

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
14/00361/PNCO	Prior Notification for the change of use of office (Use Class B1) to flat (Use Class C3) - APPEAL DISMISSED	Masters Brewery Unit 8 Greenham Business Park Whiteball Devon TA21 0LR	Refusal of Prior Approval	Delegated	Refusal of Prior Approval	Written Representations	Appeal Dismissed

#### Summary of Inspector's Comments

Permitted development rights exist for a change of use of a building and any land within its curtilage to a dwellinghouse from an office use falling within Use Class B1(a). In order to benefit from these provisions the building must have been in an office use immediately before 30th May 2013 or, if the building was not in use immediately before that date, when it was last in use. The Council contended that not all of the floor space applied for existed on 30th May 2013 but the Inspector found that even if it had existed and was being used for office purposes, these were for purposes ancillary to the main use of the building as a brewery, which falls within Use Class B2 and therefore the proposal does not benefit from the permitted development rights and the appeal was dismissed.

14/00423/FULL	Erection of single storey and two storey extensions, conversion of garage to study, erection of a double garage and alteration to existing access (APPEAL ALLOWED WITH CONDITIONS 12.11.14 - PLANNING PERMISSION GRANTED)	35 Tidcombe Lane Tiverton Devon EX16 4DZ	Refuse permission	Delegated	Refuse permission	Householder Appeal	Allow with Conditions
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#### Summary of Inspector's Comments

The main issue was the effect of the proposal on the character and appearance of the building and the area. The Inspector considered the materials would be at odds with the existing dwelling but these could be conditioned. The garage would be large and its design unusual in the area, but it would not be prominent. Again, the materials would be incongruous with the house but could be conditioned. The Inspector considered that the harmful effects of the proposal would be outweighed by the benefits of improving the accommodation. While there would be some minor conflict with development plan policy, the marginal departure would not undermine the aims of the development plan or set an undesirable precedent given the specific circumstances of the proposal.

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
14/00781/FULL	Variation of condition (2) of planning permission 12/01204/FULL to permit use of hardstanding for parking of a caravan and boat (APPEAL DISMISSED 12.11.14)	The Coach House 8 Silver Street Willand Cullompton Devon EX15 2RG	Refuse permission	Delegated	Refuse permission	Householder Appeal	Appeal Dismissed

#### Summary of Inspector's Comments

Appeal against refusal to grant planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted. Application sought retention of single garage and hardstanding for one vehicle without complying with a condition imposed on the grant of planning permission that required the garage and hardstanding to be kept available for parking in order to safeguard the amenity of nearby residential properties. Main issue is effect that varying the condition would have on parking arrangements and highway safety in Silver Street. History of the condition requiring provision of parking for this property being amended. Current variation proposed to enable parking of a boat or caravan on hardstanding. On street parking in Silver Street would prevent two way flow of traffic. Policy DM8 requires two parking spaces per dwelling and removal of the hardstanding would result in one space, with the area in front of the garage not being able to be used due to the shared access with neighbouring property. Garage does not meet the 6m x 3m requirements of SPD on provision of parking in new development. Bus route nearby unlikely to reduce parking requirement. Variation of condition would result in deficiency of off street parking, leading to overspill onto a road not suitable to accommodate more parked vehicles, to detriment of free flow of traffic and highway safety. Variation would be contrary to the development plan and the NPPF. Appeal dismissed.

14/00609/PNCO	Prior notification of change of use of agricultural building to a dwelling house and associated operational development (24.8sq mtrs) - APPEAL DISMISSED 01/12/2014	Agricultural Buildings at NGR 308087 112770 (Ratsash Lane) Uffculme Devon	Not Permitted Development	Delegated	Not Permitted Development	Written Representations	Appeal Dismissed
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#### Summary of Inspector's Comments

The Inspector found that the proposed change of use, and associated building operations to convert the building to a C3 dwellinghouse, would be undesirable, due to the building's proximity to two oak trees (subject to a TPO). The proposal was therefore found to be contrary to MB.2 (1) (e) of the 2014 amendment to the CPDO. In addition the building works reasonably necessary to enable the change of use were found to go beyond the works set out under MB.1 (i), including installation or replacement of the foundations and overall structure. The appeal was dismissed on this basis.

10/00010/NUCU	Unauthorised material change of use from agriculture to a mixed use of agriculture and use for human habitation - Appeal dismissed and Enforcement Notice upheld 16th December 2014.	Southcombe Hill Farm Southcombe Hill Cheriton Bishop Exeter Devon EX6 6JX		Delegated		Public Inquiry	Appeal Dismissed
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#### Summary of Inspector's Comments

Appeal decision issued 16th December 2014. The Inspector looked at the main issue in this Ground (d) appeal (that at the time the Notice was issued, it was too late to take action) and decided that the structure enforced against was not substantially complete at the time of her appeal site visit, so could not have been considered to be substantially complete for more than four years at the time the notice was issued. The planning history was largely disregarded as having no bearing on the matter at hand.



Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
14/01285/FULL	Erection of extensions to rear (APPEAL ALLOWED 17.12.14)	Little Orchard Lower Town Sampford Peverell Tiverton Devon EX16 7EG	Refuse permission	Delegated	Refuse permission	Householder Appeal	Allow with Conditions

**Summary of Inspector's Comments**

The main issue was the effect of the proposed extension on the character and appearance of the area. The inspector considered that although the ridge height of the larger of the two extensions would be above the ridge to the main part of the dwelling, the dwelling already displays some variation in ridge height, and that the new extension would merely add a further step change to the buildings height that would not be excessive and would be in scale and proportion to the building overall. The inspector considered any impact on the street scene was mitigated by the properties recessed and elevated position on its plot, due to the extension being situated well beyond the properties existing main ridge and because the roof would be pitched and tiled to match the existing. Concluding the extension adequately respects the character scale setting and design of the existing dwelling without any harm to the character and appearance of the area in accordance with policy.



## PLANNING COMMITTEE

## AGENDA ITEM

4TH MARCH 2015

### REPORT OF THE HEAD OF PLANNING AND REGENERATION

#### SCHEME OF DELEGATION TO THE HEAD OF PLANNING AND REGENERATION

**Cabinet Holder** Cllr Richard Chesterton  
**Responsible Officer** Professional Services Manager

**Reason for Report:** To update the current scheme of delegation to the Head of Planning and Regeneration in light of the restructuring of the Planning Service, specifically the deletion of the post of Professional Services Manager from 1st April 2015.

#### **RECOMMENDATION:**

**That the scheme of delegation to the Head of Planning and Regeneration be amended as follows from 1st April 2015:**

**In the case of all Applications:**

1. **In the opinion of the Head of Planning or the Area Planning Officer, the application is of a significant, controversial or sensitive nature.**

**Relationship to Corporate Plan:** Planning decision making is relevant to key objectives within the Corporate Plan.

**Financial Implications:** None.

**Legal Implications:** Updating and clarification of authority in the manner suggested will reduce the risk of legal challenge based on the decision making process.

**Risk Assessment:** Clarification of delegated authority through the changes recommended will reduce risk of challenge.

**Consultation carried out with:** None.

#### 1.0 INTRODUCTION.

- 1.1 The current scheme of delegation to the Head of Planning and Regeneration was agreed by Planning Committee at the meeting of 2<sup>nd</sup> April 2003, was amended at later meetings and most recently in April 2014. It sets out the powers of the Local Planning Authority that are delegated to the Head of Planning and Regeneration. These powers can be exercised by the postholder and are authorised by the Planning Committee. A copy of the current scheme of delegation is attached at **Appendix 1** to this report.
- 1.2 Changes are proposed to the scheme of delegation are as a result of the restructure of the Development Management part of the Planning Service. Specifically, the post of Professional Services Manager is removed from 1st

April 2015. This requires a minor change to the scheme where it covers the referral of applications to Planning Committee.

## 2.0 THE PROPOSED CHANGE.

2.1 The scheme of delegation currently includes the following provision:

*In the case of all Applications:*

1. *In the opinion of the Head of Planning or the Professional Services Manager, the application is of a significant, controversial or sensitive nature.*

With the removal of the Professional Services Manager post, the following amendment is proposed:

*In the case of all Applications:*

2. *In the opinion of the Head of Planning or the Area Planning Officer, the application is of a significant, controversial or sensitive nature.*

2.2 Ward Members, the Chairman and the Vice-Chairman of Planning Committee may still require committee consideration of an application having given clear planning reasons. Still remains unchanged from the current scheme of delegation.

<b>Contact for any more information</b>	Professional Services Manager Mrs Jenny Clifford 01884 234346
<b>Background Papers</b>	Scheme of delegation to the Head of Planning and Regeneration Community Infrastructure Levy Regulations Planning Committee 2nd April 2014
<b>File Reference</b>	None.
<b>Circulation of the Report</b>	Cllr Richard Chesterton. Members of Planning Committee

## **PLANNING SERVICES**

### **Scheme of Delegation to the Head of Planning and Regeneration**

To exercise all powers of the Council as Local Planning Authority (including the conduct of appeals and enquiries) under the Planning Acts, the Localism Act, the Enterprise and Regulatory Reform Act and the Growth and Infrastructure Act together with any associated secondary legislation and regulations (unless expressly delegated to another officer) and to assess and determine nominations for local heritage assets and maintain a register except where:

#### **In the case of all Applications;**

1. In the opinion of the Head of Planning or the Professional Services Manager, the application is of a significant controversial or sensitive nature;
2. The application has been submitted by or on behalf of the Council;
3. The application is from an Elected Member or Officer
4. The application is accompanied by an Environment Impact Assessment (EIA);
5. The application is a significant or major departure and is recommended for approval;
6. The Ward Member; Chairman or Vice-Chairman of Planning Committee requires that the Committee consider an application having given clear planning reasons;
7. Applications will be delegated to the Head of Planning to refuse if Section 106 Agreements are not signed and completed within 8 or 13 week time-scale.

#### **In the case of re-negotiations on a planning obligation (S106 Agreements and Undertakings);**

1. Is submitted under Section 106 BA of the Town and Country Planning Act 1990, if Committee consideration would be outside the date of determination delegated authority is given to the Head of Planning and Regeneration to agree amendments in consultation with the Head of Housing, the Cabinet Member of Housing and the Chair of Planning Committee.
2. In the case of renegotiations on another planning obligation issues the Ward Member or Chair or Vice Chair of Planning requires that the Committee consider the proposed changes having given clear planning reasons otherwise they be delegated to the Head of Planning and Regeneration

#### **In the case of Enforcement:**

1. Formal enforcement action is proposed other than a Breach of Condition Notice or in the case where urgent action is required to commence enforcement proceedings, consisting of the service of a Temporary Stop Notice, Enforcement Notice, Stop Notice or commence Injunction proceedings. These proceedings to only be instigated in consultation with one or more of the following: Planning Chairman, Vice Chairman, Ward Member.
2. Other than in consultation with the Legal Services Manager prosecution proceedings regarding any unauthorised advertising/fly posting.

### **In the case of the Community Infrastructure Levy Regulations (CIL) and associated enforcement**

1. Formal CIL enforcement action comprising CIL Stop Notice or in the case where urgent action is required to commence enforcement proceedings consisting of the service of a CIL Stop Notice or commence CIL Injunction proceedings. These proceedings only to be instigated in consultation with one or more of the following: Planning Chairman, Vice Chairman, Ward Member.

### **In the case of Conservation:**

1. It involves the designation of new, or amendment of existing Conservation Area boundaries
2. It requires the issue of repair and urgent work notices
3. It involves the submission of funding bids or schemes that have budgetary implications

### **In the case of the Local Plan:**

Local Plan proposals and policies with reasoned justification for publication and consultation or adoption at the following stages (other than where minor modifications and other minor changes are made)

- Local Plan options consultation
- Publication and consultation of the 'submission' Local Plan
- Local Plan adoption

(or the equivalent stages of processes of successors to Local Plans).

### **In the case of Planning Policy:**

- Representations to strategic plans and policies at a larger than District scale are to be made.
- Supplementary Planning Documents dealing with Mid Devon wide guidance and sites/areas for publication prior to consultation and for adoption (other than where minor modifications and other minor changes are made).

(Not including updating any contributions sought through S106 Agreements to reflect changes in the cost of provision of facilities).

### **BUILDING CONTROL AND SAFETY:**

To exercise all the Council's powers under the Building Act 1984 or regulations made there under except where:-

#### In the case of charges

- The annual review of charge results in increases greater than the rate of inflation.

### **OTHER PROVISIONS**

1. To authorise caravan rallies in accordance with the requirements of CS and C of DA 1960.
2. To make representations where appropriate and with the agreement of the Chairman and/or Vice Chairman of the Committee and Ward Member's (as appropriate) in respect of new Applications for Goods Vehicles Operators' Licenses, or when a significant variation of an existing licence is proposed.
3. To caution offender where there was evidence of a criminal offence and the offender admitted the commission of the offence but the public interest did not require a prosecution.