

## Planning Committee

**Wednesday, 12 February 2025 at 2.15 pm**  
**Phoenix Chambers, Phoenix House, Tiverton**

**Next ordinary meeting**  
**Wednesday, 12 March 2025 at 2.15 pm**

**Please Note:** This meeting will take place at Phoenix House and members of the public and press are able to attend via Teams. If you are intending to attend in person please contact the committee clerk in advance, in order that numbers of people can be appropriately managed in physical meeting rooms.

The meeting will be hybrid and an audio recording made and published on the website after the meeting.

[Click here to join the meeting](#)

Meeting ID: 365 881 884 898  
Passcode: 7vRShW

## Membership

Cllr S J Clist  
Cllr G Cochran  
Cllr F J Colthorpe  
Cllr L J Cruwys  
Cllr G Czapiewski  
Cllr G Duchesne  
Cllr C Harrower  
Cllr B Holdman  
Cllr M Jenkins  
Cllr N Letch  
Cllr S Robinson

## A G E N D A

*Members are reminded of the need to make declarations of interest prior to any discussion which may take place*

- 1 APOLOGIES AND SUBSTITUTE MEMBERS**  
To receive any apologies for absence and notices of appointment of substitute.

- 2        **PUBLIC QUESTION TIME**  
To receive any questions relating to items on the agenda from members of the public and replies thereto.
- Note: A maximum of 30 minutes is allowed for this item.
- 3        **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT**  
To record any interests on agenda matters.
- 4        **MINUTES OF THE PREVIOUS MEETING** *(Pages 5 - 10)*  
To consider whether to approve the minutes as a correct record of the meeting held on 4<sup>th</sup> December 2024.
- 5        **CHAIR'S ANNOUNCEMENTS**  
To receive any announcements the Chair may wish to make.
- 6        **WITHDRAWALS FROM THE AGENDA**  
To report any items withdrawn from the agenda.
- 7        **THE PLANS LIST** *(Pages 11 - 90)*  
To consider the planning applications contained in the list.
- 8        **TREE PRESERVATION ORDER: 24/00009/TPO - 72 LANGLANDS ROAD, CULLOMPTON, DEVON.** *(Pages 91 - 96)*  
To consider a Tree Preservation Order for 2 Birch Trees, 72 Langlands Road, Cullompton, Devon EX15 1JB.
- 9        **MAJOR APPLICATIONS WITH NO DECISION** *(Pages 97 - 98)*  
To receive a list of major applications and potential site visits.
- 10       **APPEAL DECISIONS** *(Pages 99 - 100)*  
To receive a list of recent appeal decisions.

**Stephen Walford**  
Chief Executive  
Tuesday, 4 February 2025

## **Guidance notes for meetings of Mid Devon District Council**

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

If the Council experience technology difficulties at a committee meeting the Chairman may make the decision to continue the meeting 'in-person' only to conclude the business on the agenda.

### **1. Inspection of Papers**

Any person wishing to inspect minutes, reports, or the background papers for any item on the agenda should contact Democratic Services at [Committee@middevon.gov.uk](mailto:Committee@middevon.gov.uk)

They can also be accessed via the council's website [Click Here](#)

Printed agendas can also be viewed in reception at the Council offices at Phoenix House, Phoenix Lane, Tiverton, EX16 6PP.

### **2. Members' Code of Conduct requirements**

When considering the declaration of interests and their actions as a councillor, Members are reminded of the requirements of the Members' Code of Conduct and the underpinning Principles of Public Life: Honesty; Integrity; Selflessness; Objectivity; Accountability; Openness; Leadership.

The Code of Conduct can be [viewed here](#):

### **3. Minutes of the Meeting**

Details of the issues discussed, and recommendations made at the meeting will be set out in the minutes, which the Committee will be asked to approve as a correct record at its next meeting. Minutes of meetings are not verbatim.

### **4. Public Question Time**

If you want to ask a question or speak, email your full name to [Committee@middevon.gov.uk](mailto:Committee@middevon.gov.uk) by no later than 4pm on the day before the meeting. You must provide copies of questions to be asked no later than 4pm on the day before the meeting. Please refer to the Planning Committee Procedure Planning Committee Procedure ([middevon.gov.uk](http://middevon.gov.uk)). This will ensure that your name is on the list to speak and will help us ensure that you are not missed. Notification in this way will ensure the meeting runs as smoothly as possible.

### **5. Meeting Etiquette for participants**

- Only speak when invited to do so by the Chair.
- If you're referring to a specific page, mention the page number.

For those joining the meeting virtually:

- Mute your microphone when you are not talking.
- Switch off your camera if you are not speaking.
- Speak clearly (if you are not using camera then please state your name)

- Switch off your camera and microphone after you have spoken.
- There is a facility in Microsoft Teams under the ellipsis button called “turn on live captions” which provides subtitles on the screen.

## **6. Exclusion of Press & Public**

When considering an item on the agenda, the Committee may consider it appropriate to pass a resolution under Section 100A (4) Schedule 12A of the Local Government Act 1972 that the press and public be excluded from the meeting on the basis that if they were present during the business to be transacted there would be a likelihood of disclosure of exempt information, as defined under the terms of the Act. If there are members of the public and press listening to the open part of the meeting, then the Democratic Services Officer will, at the appropriate time, ask participants to leave the meeting when any exempt or confidential information is about to be discussed. They will be invited to return as soon as the meeting returns to open session.

## **7. Recording of meetings**

All media, including radio and TV journalists, and members of the public may attend Council, Cabinet, PDG and Committee meetings (apart from items Media and Social Media Policy - 2023 page 22 where the public is excluded) you can view our Media and Social Media Policy [here](#). They may record, film or use social media before, during or after the meeting, so long as this does not distract from or interfere unduly with the smooth running of the meeting. Anyone proposing to film during the meeting is requested to make this known to the Chairman in advance. The Council also makes audio recordings of meetings which are published on our website [Browse Meetings, 2024 - MIDDEVON.GOV.UK](#).

## **8. Fire Drill Procedure**

If you hear the fire alarm you should leave the building by the marked fire exits, follow the direction signs and assemble at the master point outside the entrance. Do not use the lifts or the main staircase. You must wait there until directed otherwise by a senior officer. If anybody present is likely to need assistance in exiting the building in the event of an emergency, please ensure you have let a member of Democratic Services know before the meeting begins and arrangements will be made should an emergency occur.

## **9. WIFI**

An open, publicly available Wi-Fi network is normally available for meetings held in the Phoenix Chambers at Phoenix House.

**MINUTES** of a **MEETING** of the **PLANNING COMMITTEE** held on 4 December 2024 at 2.15 pm

**Present**

**Councillors**

L J Cruwys (Chairman)  
G Cochran (Vice-Chair), F J Colthorpe,  
G Czapiewski, J M Downes, G Duchesne,  
C Harrower, B Holdman, M Jenkins,  
S Robinson and D Wulff

**Apologies**

**Councillor(s)**

S J Clist and N Letch

**Also Present**

**Councillor**

S Keable

**Also Present**

**Officer(s):**

Richard Marsh (Director of Place & Economy), John Hammond (Development Management Manager), Adrian Devereaux (Area Team Leader), Daniel Sims (Planning Officer), Holly Brimson (Planning Officer), Andrew Gunn (Planning Officer), Planning Officer and Angie Howell (Democratic Services Officer)

**Councillors**

**Online**

J Buczkowski and L Knight

**Officers Online**

Maria De Leburne (Director of Legal, People & Governance and Monitoring Officer) and Stephen Carr (Corporate Performance and Improvement Manager)

**62 APOLOGIES AND SUBSTITUTE MEMBERS (00:03:27)**

Apologies were received from Cllr S Clist with Cllr J Downes substituting and Cllr N Letch with Cllr D Wulff substituting.

**63 PUBLIC QUESTION TIME (00:03:51)**

There were no public questions.

**64 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (00:03:58)**

Members were reminded of the need to declare any interests where appropriate.

Cllr M Jenkins made a declaration of interest in accordance with Protocol of Good Practice for Councillors dealing with planning matters regarding planning application 24/01102/FULL (Creation of 2 parking spaces at Land at NGR 282699 102593, Crofts Estate, Sandford) in that he had received correspondence.

**65 MINUTES OF THE PREVIOUS MEETING (00:04:39)**

The minutes of the previous meeting held on 9 October 2024 were agreed as a true record and duly **SIGNED** by the Chair.

**66 CHAIR'S ANNOUNCEMENTS (00:04:58)**

The Chair wished to introduce to the Members of the Planning Committee 2 officers that they might not have met before Andrew Gunn, Planning Officer and Holly Brimson, Planning Officer. He welcomed them to their first Planning Committee.

**67 WITHDRAWALS FROM THE AGENDA (00:05:56)**

There were no withdrawals from the Agenda.

**68 PERFORMANCE DASHBOARD QUARTER 2 (00:06:07)**

The Group were presented with the \*Performance Dashboard for Quarter 2 2024/25. The following was highlighted within the report:-

- Since the dashboard was last presented to the Committee work had been ongoing to create a glossary which provided a fuller understanding of what was measured and how. This was available on the Council's website.
- The overall performance was presented in a pie chart and combined a RAG rating to indicate if the performance was on track or not.
- There were 2 corporate risks that related to this Committee.
- Planning Fees Income – Statutory was shown as amber and Planning Fees income – Discretionary was shown as red in the RAG rating. Performance was related to a depressed housing market.
- Major planning applications determined within 26 weeks was shown as red in the RAG rating and minor planning applications determined within 16 weeks was shown as amber both of which were set against an in-house target of 100% rather than national targets.
- An answer to a query received from a Member of the Committee in relation to planning applications determined within 13 weeks without a decision clarified an inaccuracy that this indicator referred to performance in the current quarter rather than in the year to date.
- There was a discrepancy in the dashboard which related to planning enforcement statistics. The total number of open cases was 319 and not 338, this had now been rectified.

Discussion took place regarding:

- Clarification was sought with regard to the corporate risk building control viability. It was explained that it was a small team that needed certain professional qualifications. There was real pressure nationally and in the South West to attract and retain those skills. Small changes in staff had meant the risk had increased. Further details were in the Corporate Risk Register report that had previously been presented to the Audit Committee and would be going to Cabinet in December 2024.
- The Committee asked what was meant by the Corporate Risk “Quality of planning committee decisions” and how were they measured? It was explained it was whether the Committee could defend decisions that had been made should they come before an appeal. Full details could also be found in the Corporate Risk Register.

Note: \* Performance Dashboard previously circulated.

## 69 THE PLANS LIST (00:14:39)

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

- 1) 24/01481/HOUSE - Installation of Air Source Heat Pump to East (rear) elevation at 30 Marshall Close, Tiverton, Devon.

The Planning Officer outlined the contents of the report by way of a presentation and highlighted the following:-

- There were no updates to the report.
- The Application was presented to the Committee today as the applicant was an employee of Mid Devon District Council.
- No objections had been received.
- The main issues raised were the residential amenity of adjoining residents and climate change.

Discussion took place regarding:-

- The decibel levels of the heat pumps and the level of noise expected. It was explained that the noise level was well within the boundaries set.

It was **RESOLVED** that planning permission be granted subject to conditions.

(Proposed by Cllr C Harrower and seconded by Cllr B Holdman)

Reason for the Decision – as set out in the report.

2) 24/01102/FULL - Creation of 2 parking spaces at Land at NGR 282699 102593, Crofts Estate, Sandford

The Planning Officer outlined the contents of the report by way of a presentation and highlighted the following:-

- The site was part of the Housing Revenue Account (HRA) and Mid Devon District Council were the applicant.
- The Application was for the creation of 2 parking spaces.
- The area of grass that would be replaced was just over 57sqm.
- The main issues raised related to whether the car parking spaces were disabled. However they were not proposed to be disabled car parking spaces and would be available for use by all residents of the Croft's Estate.
- The Biodiversity Net Gain (BNG) would see the loss of 29.04msq of grassland which would trigger the requirement for BNG. The retained grassland was proposed to be planted with flowering lawn mix to achieve a 23.6% BNG at the site.

Discussion took place regarding:-

- Whether the paving would be permeable? It was explained that there was a condition to say that permeable hardstanding should be incorporated.
- A request for grasscrete to be used was suggested as a condition however it was explained that the Committee could use an informative to indicate support for this as a solution rather than a condition being placed on the application.

It was **RESOLVED** that planning permission be granted subject to conditions. Members of the Planning Committee noted that grasscrete would be preferred.

(Proposed by Cllr J Downes and seconded by Cllr G Czapiewski)

Reason for the Decision – as set out in the report.

3) 24/01370/FULL - Sub-division of a dwelling to form two dwellings at 4 - 5 Higher Ley, Nymet Rowland, Crediton.

The Planning Officer outlined the contents of the report by way of a presentation and highlighted the following:-

- Mid Devon District Council were the applicants.
- The existing dwelling was formerly converted internally from 2 dwellings into 1. The dwelling was no longer required to be this size at this time.
- To the west was a car parking area in the Council's ownership.
- No changes were proposed to the exterior of the building as the front doors were retained when it was converted into 1 dwelling.
- As the conversion was simplistic there was an internal connecting door which would now be blocked up using a cavity wall and some lightweight internal stud partitions.



- For the first floor plans it was initially proposed to be 2 bedrooms per home however after assessing the size against the National Described Space Standards this would have been below requirement and the application was now for 1 bedroom plus a study space for each house.
- The main issues related to parking and technical housing standards.

Discussion took place regarding:-

- Whether there was a demand for housing of this size in that area. It was explained that Mid Devon Housing (MDH) would be aware of the demand requirements for housing across the district.
- The Cabinet Member for Planning and Economic Regeneration urged the applicant to look at improvements for car parking in the blue zone.

It was **RESOLVED** that planning permission be granted subject to conditions.

(Proposed by Cllr B Holdman and seconded by Cllr G DuChesne).

Reason for the Decision – as set out in the report.

4. 24/01596/NMA - Non-Material Amendment for 23/00126/FULL at 2 – 8 Beech Road Tiverton Devon

The Area Team Leader outlined the contents of the report by way of a presentation and highlighted the following:-

- The Application came before the Committee in April 2024 for the erection of 8 affordable dwellings following the demolition of 4 existing dwellings.
- The main issues raised when considering whether changes would be acceptable as being non material to the approved development.
- The approved plan showed parking arrangements with 2 spaces to the west side of the building and 7 spaces to the east side whereas the change would be for 1 parking space to the west and 8 to the east with the additional landscaping and pedestrian access from Beech Road.
- The communal bin store area and bicycle area would have improved access.
- There would be no change to the building itself apart from the external staircase.
- As a result of the changes to the parking areas there would be an increase to planting and an improvement to the Biodiversity Net Gain (BNG) being delivered to the site. From the last scheme to this new proposed scheme there would be an increase of 13.2sqm of mixed scrub habitat; an increase of 4.2sqm of native meadow and 8.5sqm increase on linear hedgerow and an additional 2 trees.
- The proposed scheme did not increase in the scale of the development and would not result in a detrimental impact visually.

Discussion took place regarding:-

- The fact that normally Non-Material Applications were delegated, however as it was a Mid Devon District Council application it had to come before the Committee.

It was **RESOLVED** that the Non-Material Amendment be approved.

(Proposed by Cllr G Cochran and seconded by Cllr M Jenkins)

Reason for the Decision – as set out in the report.

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

## 70 **MAJOR APPLICATIONS WITH NO DECISION (01:14:54)**

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

The Committee agreed the following:-

- (i) 24/01594/MFUL - Erection of a 3 storey 66 bed residential care home (Class C2) for the elderly with associated communal and care facilities; erection of a three storey 50-unit retirement living building (Class C3) with associated communal facilities; vehicular access from College View, internal access roads, car parking, substation, refuse stores and hard and soft landscaped grounds.  
To come before Planning Committee and for a site visit to be arranged.
- (ii) 24/01033/MFUL Erection of an agricultural dairy shed (1,007 sq.m) (Revised Scheme)  
To remain delegated as per the report.
- (iii) 24/01472/MARM Reserved matters for the erection of 200 dwellings including access, appearance, layout, scale and landscaping following outline approval.  
To be considered on the Majors Applications with no Decision at a future Planning Committee.

- Notes \* (i) List previously circulated, copy attached to the minutes.  
(ii) Cllr J Downes abstained from voting with regard to Application No. 24/01472.

## 71 **APPEAL DECISIONS (01:25:16)**

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

Note: \*List previously circulated, copy attached to the minutes.

(The meeting ended at 3.42 pm)

**CHAIR**

## PLANNING COMMITTEE AGENDA - 12th February 2025

### Applications of a non-delegated nature

<u>Item No.</u>	<u>Description</u>
01.	<p>23/00394/MARM - Reserved matters for the erection of up to 122 dwellings, public open space, landscaping, drainage, pedestrian, cycle and vehicular links and associated infrastructure following outline approval 14/00881/MOUT at Land at NGR 298120 113015, Blundells Grange, Blundells Road.</p> <p><b>RECOMMENDATION</b> Grant permission subject to conditions</p>
02.	<p>24/01248/PNCOU - Prior notification for the change of use of 2 agricultural buildings to 4 dwellings under Class Q at Land at NGR 307810 108319, (Lower Moneysland), Kentisbeare.</p> <p><b>RECOMMENDATION</b> Prior approval required and approved</p>
03.	<p>24/01535/FULL - Installation of Pulse Smart Hub with integrated digital screens at 2 locations within Tiverton at Outside Beck Square; Market Walk, Bampton Street and Outside Lowman House, Lowman Green, Tiverton , , .</p> <p><b>RECOMMENDATION</b> Grant permission subject to conditions</p>
04.	<p>24/01539/ADVERT - Advertisement Consent for the installation of Pulse Smart Hub with integrated digital screens at 3 locations within Tiverton at Outside Beck Square; Market Walk, Bampton Street and Outside Lowman House, Lowman Green, Tiverton , , .</p> <p><b>RECOMMENDATION</b> Grant Advertisement Consent</p>

Application No. 23/00394/MARM

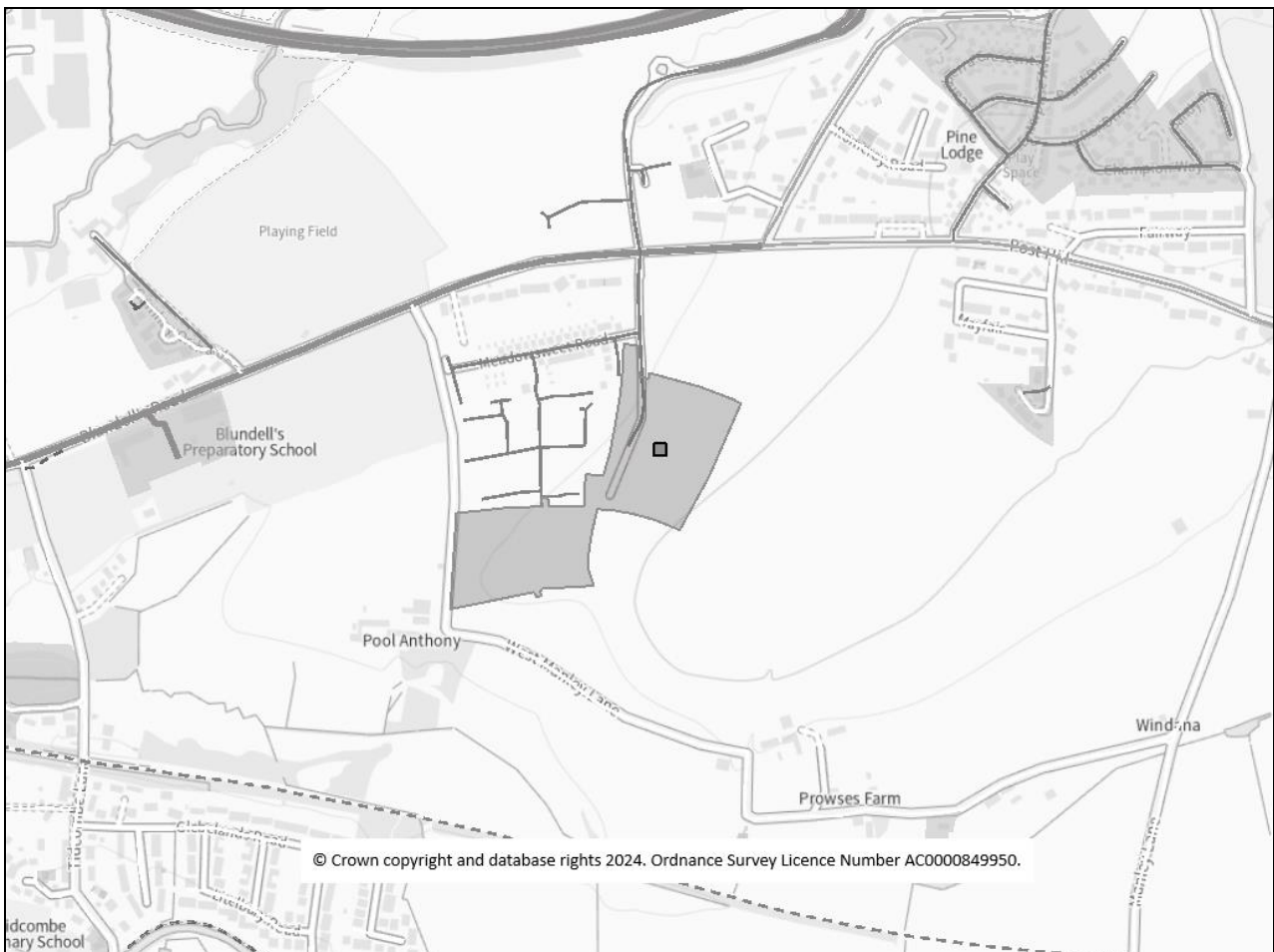
Grid Ref: 298120 : 113015

Applicant: Mr Paul Williams, Senior Planning Manager

Location: Land at NGR 298120 113015  
Blundells Grange  
Blundells Road  
Tiverton

Proposal: Reserved matters for the erection of up to 122 dwellings, public open space, landscaping, drainage, pedestrian, cycle and vehicular links and associated infrastructure following outline approval 14/00881/MOUT

Date Valid: 6th March 2023



## **APPLICATION NO: 23/00394/MARM**

**Site Visit: Yes**      **Date of Site Visit: 21<sup>st</sup> April 2023**

### **Advertisement of Application:**

*This planning application has been advertised by means of a site notice erected by a Mid Devon District Council Officer, by notifying immediately adjoining neighbours in writing and by advertising in a local newspaper in accordance with the legal requirements for publicity on planning applications, and the Council's Adopted Statement of Community Involvement (August 2020).*

**Decision Delayed Reason:** To allow applicant the opportunity to amend the application

**MEMBER CALL-IN:** 5<sup>th</sup> April 2023. Cllr Cruwys requested that the application be call-in as it affects his Ward. No site visit necessary.

### **RECOMMENDATION**

Grant permission subject to conditions.

### **SITE DESCRIPTION**

The site is located within the settlement limit of Tiverton, approximately 2.7km to the east of Tiverton's town centre.

The site comprises approximately 5.05ha of improved pasture land located to the south of Blundell's Road. It comprises of two broadly rectangular areas of land.

The most northerly land parcel is bound along its northern edge by a mature hedgerow (H41 and H35, Arboricultural Impact Assessment Nov 2024). Three trees grow within the hedgerow; two benefitting from Tree Preservation Orders (TPOs). Immediately beyond the hedgerow is the proposed neighbourhood centre. A community centre and primary school will adjoin the northern edge of the hedgerow. Hedgerow H43 forms the eastern boundary of the northern land parcel and has two mature trees within it. Beyond is pasture land forming part of the future phased development of Application 14/00881/MOUT. The southern boundary is defined by hedgerow (H44) and pasture land that benefits from planning permission through Application 14/00881/MOUT. The western boundary is bound by the first phase of development that benefits from reserved matters consent. (Application 21/00454/MARM).

The more southerly land parcel is defined along its northern edge by a mature hedgerow (H30 and H31, Arboricultural Impact Assessment November 2024). It contains two tree groups and an individual tree. One tree group benefits from a TPO. The first phase of development (application 21/00454/MARM) immediately adjoins this hedgerow to the north. The eastern edge of this land parcel has no landscape feature to define its boundary. Future phases of development are proposed to the east. The southern boundary again has no landscape feature to define its boundary. Whilst land to the south forms part of the Tiverton Eastern Urban Extension (EUE) and benefits from planning permission (Application 14/00881/MOUT) no built development is anticipated in this area, with its intended use being public open space and green infrastructure. West Manley Lane borders the public open space and comprises the southern boundary for built development within the wider allocation. The western boundary of the southerly land parcel is defined by mature hedgerow (H45 and 46), including two tree groups and an individual tree. Immediately beyond is West Manley Lane. No vehicular points of access are proposed (or will be permitted) on to West Manley Lane from the proposed development.

The site is gently undulating although it generally slopes downwards from north east to south west. Applications 21/00374/MARM and 22/00675/MARM for an arterial road (hereon referred to as the spine road) will provide the primary point of access for this application site to Blundell's Road and the new A361 road junction beyond. This application does not introduce any changes to the extent or alignment of the spine road.

The site has no Public Rights of Way (PROW) crossing it. The nearest being south of West Manley Lane; Sustrans route No. 3 (former railway line) located south of West Manley Lane and leading into Tiverton.

The site does not form part of a designated wildlife site and does not fall within a protected landscape. Tidcombe Fen and catchment does however lie immediately to the west of the application area.

Mapping indicates that the proposed development site is wholly located within Flood Zone 1. It has little likelihood of flooding and is generally at low to negligible risk of flooding from surface water runoff. The attenuation ponds granted planning consent under application 18/00978/MFUL were designed to make provision for the discharge from this application.

## **PROPOSED DEVELOPMENT**

Reserved matters consent is sought for the erection of up to 122 dwellings, public open space, landscaping, drainage, pedestrian, cycle and vehicular links and associated infrastructure. The application site forms part of the Tiverton Eastern Urban Extension which is allocated for mixed use development in the Adopted Mid Devon Local Plan 2013-2033.

This application forms part of the wider land parcel of application 14/00881/MOUT for the construction of a mixed-use development including 700 dwellings, 22,000msq of B1/B8 employment land, a care home, primary school and neighbourhood centre with associated access and egress onto Blundell's Road. Application 14/00881/MOUT was a hybrid application giving outline planning consent for all matters, except for access that was given detailed planning approval. Subsequent to the hybrid planning permission, Reserved Matters applications 21/00374/MARM and 22/00675MARM have approved details for the first phases of the spine road that will provide the main point of access from this application site to Blundell's Road. Reserved Matters Application 21/00454/MARM has also been approved giving planning consent for the first phases of residential development forming part of the hybrid application and will bound this application site.

This application is subject to Condition 2 of the hybrid planning permission and requires, prior to the submission of a Reserved Matters application, the submission and approval of the following strategy documents:

- an illustrated Urban Design & Architectural Principles document,
- a strategy for the management, maintenance and delivery of all Green Infrastructure, and
- a Low Emissions strategy.

An Urban Design & Architectural Principles document (UDAP) was approved by this Council in January 2023. It agrees a number of design and architectural principles. The Green Infrastructure (GI) and Low Emission Strategy were approved in March 2023.

This application for up to 122 houses would consist of 95 open market dwellings and 27 affordable dwellings. The proposed open market housing mix is 16, 3 bed homes; 72, 4 bed homes and 7, 5 bed homes. The proposed housing mix for the affordable units is 3, 1 bed apartments; 6, 2 bed apartments; 2, one bed flat; 3, one bed units; 4, 2 bed units; 7, 3 bed units and 2, 4 bed units. The majority of dwellings will be two-storey in height although elements of three storey are proposed.

Whilst the spine road benefits from detailed planning consent, it has been included in this reserved matters application. The alignment of the road has not been altered. Its inclusion has allowed for a shared cycle and pedestrian route to be provided through the central linear area of green infrastructure (GI) adjacent to the spine road. Traffic calming measures in the form of pedestrian priority design and shared streets to slow vehicle speeds is proposed within the residential blocks (General Arrangement Plan R439/21 Rev E).

The southern land parcel will be served by a vehicular access constructed through the first phase of development (Application 21/00454/MARM). This vehicular access will provide the point of access to the spine road for the 112 units approved through application 21/00454/MARM and for the 47 units proposed through this application that form the southern land parcel. . This is to the satisfaction of Devon County Council Highway Authority. Cycle and pedestrian links are to be provided throughout the application site.

A Planning Layout (Dwg No. 1100 Rev N) has been submitted setting out how the proposed development including GI corridors will be accessible to both new residents and the wider community. The GI corridors include a variety of activities comprising informal recreation, play, biodiversity enhancements and surface water drainage.

The NPPF (Para 138) encourages local planning authorities to improve the design of development through the use of Design Review Panels. This application was taken to the independent Creating Excellence Design Review Panel (DRP) on the 15 September 2021 and again on the 28 April 2022 as the details of the application were being worked up. A number of recommendations arose from it including some relating to design. Of concern was the need for character areas to be more 'nuanced and articulated'. This relating back to the centre-to-edge concept within the Tiverton EUE Design Guide and the function of character areas to reinforce a sense of place. The approved UDAP document divides this application into two area types:

- i) The Green Corridor – the main spine road corridor with integrated public open space; and
- ii) The Hinterland – the remaining area of homes and secondary streets.

The Design Guide divides the site into parkland edge and residential core.

In accordance with the requirements of the Environmental Impact Assessment Regulations 2017 (as amended), this application has been accompanied by a Planning Statement detailing compliance to the Environmental Statement pursuant to Application 14/00881/MOUT. This includes updates to the ecology baseline and an increase in climate change allowance from 30% to 40%.

## **APPLICANT'S SUPPORTING INFORMATION**

Completed application form  
Arboricultural Impact Assessment  
Habitat Assessment / Mitigation Plan  
Heritage Assessment  
Planning Statement  
Phasing Plan  
Tree Survey

Drainage Statement  
 Design Compliance Statement x3  
 Landscape Plans  
 Public Open Space Plans  
 Statement of Community Involvement  
 Materials Plan  
 Building Heights Plan  
 Housing Mix and Tenure  
 Enclosure Plan  
 Ownership Plan  
 Parking Plan  
 Refuse Plan  
 External Works Plan  
 Enclosure Details  
 Streetscenes and Site sections  
 Housing Type floor plans and elevations  
 Single and Double Garage Plans  
 Substation Plans  
 Landscape Strategy Plan  
 General Arrangement Plan  
 Levels Plan  
 Drainage Plan  
 Swept Path Analysis Plan  
 Longitudinal Sections x3  
 Adoptable Construction Details  
 Exceedance Flow Routes  
 SLP  
 Site Layout  
 Ecological Technical Note  
 Written Scheme of Archaeological Works  
 Surface Water Drainage Masterplan

## **RELEVANT PLANNING HISTORY**

13/00056/SCR - CLOSED date 1st March 2013 Request for scoping opinion in respect of a mixed use development (Eastern Urban Extension - Area 3)

14/00881/MOUT - PERCON date 12th June 2017 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. Non Material Amendment 20/00804/NMA - Granted 4/11/2020. Non Material Amendment - 20/01787/NMA - GRANTED 13/11/2020

21/00374/MARM - PERCON date 30th June 2021 Reserved Matters in respect of (appearance, landscaping, layout and scale) for infrastructure associated with initial phases of development, following Outline approval 14/00881/MOUT

21/00454/MARM - PERCON date 7th February 2022 Reserved Matters (appearance, landscaping, layout and scale) for 164 dwellings with the provision of public open space, vehicular and pedestrian access, landscaping, drainage and related infrastructure and engineering works following Outline approval 14/00881/MOUT

21/00765/PE - CLOSED date 27th July 2021 Regulation 5 of the Electronic Communications Code (Conditions and Restrictions) (Amendment) Regulations 2017 - Installation of 6 x 9m wooden poles (7.2m above ground) (Reference: WTC929WW)



22/00675/MARM - PERCON date 15th July 2022 Reserved matters in respect of (access, appearance, landscaping, layout, scale and drainage) for spine road connecting Phase 1 to Phase 2, following Outline approval 14/00881/MOUT

23/00394/MARM - PCO date Reserved matters for the erection of up to 122 dwellings, public open space, landscaping, drainage, pedestrian, cycle and vehicular links and associated infrastructure following outline approval 14/00881/MOUT

A site history showing the location of the various applications referred to above will be illustrated in the Committee presentation

## **OTHER HISTORY**

19/01757/PREAPP - CLO date 31st August 2021. PROTECT: Proposed residential development at Phase 1 (following Outline approval 14/00881/MOUT)

19/01775/PREAPP - CLO date 22nd October 2019. Proposed residential development - Duplicate 19/01757/PREAPP

## **DEVELOPMENT PLAN POLICIES**

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

S1 Sustainable Development Priorities

S2 Amount and Distribution of Development

S3 Meeting Housing Needs

S4 Ensuring Housing delivery

S5 Public Open Space

S8 Infrastructure

S9 Environment

S10 Tiverton

TIV1 Eastern Urban Extension

TIV2 Eastern Urban Extension transport provision

TIV3 Eastern Urban Extension environmental protection and green infrastructure

TIV4 Eastern Urban Extension community facilities

TIV5 Eastern Urban Extension phasing

TIV15 Tiverton Infrastructure

DM1 High quality design

DM2 renewable and low carbon energy

DM3 Transport and air quality

DM4 Pollution

DM5 Parking

DM23 Community facilities

DM25 Development affecting heritage assets

DM26 Green infrastructure in major development

DM28 Other Protected Sites

### **Tiverton Neighbourhood Plan 2020-2033**

T1 Location and scale of development in Tiverton

T2 Meeting local housing needs

T3 Providing lifetime affordable housing

T4 Character of development

T5 Design of development  
T6 Energy efficiency and design  
T7 Minimising the risk of flooding  
T8 Local Buildings and Structures of Merit and Heritage assets at risk  
T9 Network of green and blue infrastructure  
T10 Local Green Spaces  
T11 Locally significant views  
T13 Provision for leisure and recreation facilities  
T15 Allotments and community growing spaces  
T16 Encouraging safe and sustainable movement

### **Devon Waste Plan 2011 – 2031**

W2: sustainable waste management  
W4: Waste prevention  
W5: Reuse, recycle and materials recovery  
W8: waste water treatment

National Planning Policy Framework 2024  
National Planning Policy Guidance

### **OTHER DEVELOPMENT PLAN DOCUMENTS AND MATERIAL CONSIDERATIONS**

Site allocation under the Adopted Local Plan 2013-2030  
Masterplanned under the Tiverton Eastern Urban Extension Masterplan Supplementary Planning Document (2018)  
Tiverton EUE Design Guide (2016)  
Refuse Storage for New Residential Properties SPD  
Parking SPD  
Meeting Housing Needs SPD  
Open Space SPD  
Non-Statutory Interim Planning Policy Statement: Climate Emergency

### **CONSULTATIONS**

#### **Historic Environment Team: 20 November 2024**

I refer to the Written Scheme of Investigation (WSI) recently submitted in support of this application. This document sets out the scope of the archaeological work to be undertaken in mitigation for the impact of the proposed development upon the archaeological resource and is acceptable to the Historic Environment Team. I would therefore advise that any consent that may be granted by the Planning Authority should be conditional upon the following worded conditions:

The development shall proceed in accordance with the Written Scheme of Investigation prepared by Isca Archaeology (document ref: R01-0050-1, dated March 2024) and submitted in support of this planning application. The development shall be carried out at all times in accordance with the approved scheme.

Reason: To ensure, in accordance with Policy DM25 of the Mid Devon Local Plan and paragraph 211 of the National Planning Policy Framework (2023), that an appropriate record is made of archaeological evidence that may be affected by the development.

In addition, the Historic Environment Team would advise that the following condition is applied to ensure that the required post-excavation works are undertaken and completed to an agreed timeframe:

The development shall not be occupied use until (i) the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation and (ii) that the provision made for analysis, publication and dissemination of results, and archive deposition, has been confirmed in writing to, and approved by, the Local Planning Authority.

Reason: To comply with Paragraph 211 of the NPPF (2023), which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.

#### **Historic Environment Team: 21 April 2023**

I can confirm that the programme of archaeological works as described in the Written Scheme of Investigation (WSI) as required by Condition 15 on the consent granted for outline consent 14/00881/MOUT prepared and submitted by your organisation – Isca Archaeology - (document ref: R01- 0050-1 and dated: March 2023) is acceptable to the Historic Environment Team. The applicant should ensure that the archaeological works are implemented as described in order to avoid breach of the above Condition.

#### **Historic Environment Team: 14 March 2023**

The consent granted for the outline application 14/00881/MOUT is conditional upon the following worded condition:

*"No development shall take place on the relevant phase 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."*

The supporting information for this reserved matters application does not include the written scheme of investigation required by the above condition for this phase of the development.

In the absence of this document I would therefore recommend that this planning application is not determined until a written scheme of investigation setting out the scope of archaeological works required is submitted for approval by the Local Planning Authority.

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

#### **South West Water: 3 December 2024**

##### Surface Water Services

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

1. Water re-use (smart water butts, rainwater harvesting, grey flushing toilets)
2. Discharge into the ground (infiltration); or where not reasonably practicable,
3. Discharge to a surface waterbody; or where not reasonably practicable,
4. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,

5. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

Discharge to surface water body

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

It is noted that surface water from this Phase (2) will be piped and connect to the surface water drainage system provided in Phase 1, finally discharging to detention basins as detailed in drawing no. R439/23 Rev C and R402/06 Rev 1.

For Highway run off please contact the Highway Authority to agree disposal method.

South West Water response relates to surface water discharge to our network, where the discharge is from buildings and yards belonging to buildings. Where the applicant has highlighted that the surface water does not connect to South West Water network, we are not commenting on this as it is not our responsibility.

South West Water has no duty to accept land drainage runoff, flows from natural watercourses or groundwater to the public sewer system, and this is not permitted to discharge to the South West Water network. The applicant should make alternative arrangements to deal with this separately during the development and once the construction work is complete.

South West Water are not responsible for Highway Drainage and our comments do not relate to accepting any of these flows. The applicant should discuss and agree with the Highway Authority, where the highway water connects to.

If the applicant wishes to connect this development to the South West Water network, they should engage with us separately to see if we can accommodate this. No highway drainage will be permitted to be discharged to SWW foul or combined public sewer network either directly or indirectly.

If the applicant is looking to have their sewers adopted (surface and foul), they should design and construction the sewers to the current version of the Design and Construction Guidance. The process for doing this can be found on South West Water's website at Adoption of new sewers | Building & Development | South West Water  
[www.southwestwater.co.uk/building-and-development/services/pre-development-services](http://www.southwestwater.co.uk/building-and-development/services/pre-development-services)

Clean Potable Water

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

Foul Sewerage Services

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

The treatment works for this site is Tiverton STW which has capacity. The spill performance at the pump stations downstream will receive investment as part of the storm overflow plan. The

applicant can apply to South West Water for clarification of the point of connection for either clean potable water services and/or foul sewerage services.

**South West Water 17 March 2023 (Excluding comments reiterated in the December 2024 observations.)**

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that method proposed to discharge via a surface water sewerage network into a surface water body is acceptable and meets with the Run-off Destination Hierarchy. With respect to the proposed adoption of sewers, please note that sewers cannot be adopted until the sewers downstream are already adopted as public assets. Until such time as the downstream sewers are public assets, the sewers within this site will remain in the private domain.

**MDDC Arboriculture Officer: 20 March 2023**

The site is currently agricultural land. In the southern section of the site, there is a banked hedgerow with semi-mature and mature trees to its northern side. The northern part of the site has a tree line along its northern edge. The southern boundary of the northern section of the site is formed by a hedgerow as is the western boundary of the southern part of the site. There are several trees within the site that are subject to Tree Preservation Orders. The trees protected by Mid Devon District Council TPO 14/00007/TPO are, T43 and T45 (oak) and G2, (ash). This Order was served in 2014. The trees provide significant landscape benefit and should be incorporated within the overall proposed layout design.

The Arboricultural Impact Assessment informs one tree, an ash requires removal as part of the proposed development. The tree loss can be compensated for by new planting as proposed in the open space plans and landscape plans proposed by EDP.

In general, in reviewing the tree protection plan, trees being retained can be suitably protected during construction. I would request photo evidence of tree protection of notices when put up.

Where this is accidental damage to trees on site this is to be reported immediately to the contracted Arboriculturalist and the local planning authority. I would also request that all Tree Protective Fencing (TPF) is checked by the appointed contracted Arboriculturalist and signed off.

A copy of this and any associated recommendation to be provided to the local planning authority.

Similarly, where TPF is removed and adjusted. This is checked by the appointed contracted Arboriculturalist and signed off. A copy of this and any associated recommendation to be provided to the local planning authority. Also, any ad hoc inspection carried out by the appointed contracted Arboriculturalist with associated recommendation. A copy of this to be made available to the local planning authority.

There is potential for long-term pressure on retained tree T45, a high quality nature oak tree. The canopy of the tree appears to overhang the garden of plot 183 by c.50%. Similarly applies to T43 another oak and T44 an ash or be the canopy overhang is not as severe as T45.

In reviewing the landscape plan the tree species diversity is poor. Magnolia tree planting represent c.67% of new proposed trees in the garden space. Much greater tree species diversity needs to be established. There are also a number of front garden plots with suitable space for tree planning that is not utilised. Plots noted are 242, 250, 251, 260, 261, 262, 279 and 280. There is also no tree planting proposed in any rear gardens.

In reviewing the open space plan there is limited tree planting. 18 trees in total. There appears to be potential for further tree planting along the green belt that buffers the western aspect of the northern fields and eastern and southern aspect of the south field.

**Devon, Cornwall & Dorset Police: 20 March 2023 & 19 November 2024**

The police have no objections in principle to the overall design and layout proposed, which will on the whole, provide both active frontages and good overlooking to the new internal streets and open spaces. The predominate use of back to back rear gardens is noted and supported.

However, as there appears to be no mention within the Compliance Statement of security or crime

prevention measures per se, it is not known if these key matters have been considered for the scheme or where they have been implemented. Therefore, to assist from a designing out crime, fear of crime and disorder perspective please find the following information, advice and recommendations:-

To assist with this requirement and to ensure compliance with ADQ it is recommended that all doors and windows are sourced from a Secured by Design (SBD) member company. SBD requires that doors and windows are not only tested to meet PAS 24 2022 standard by the product manufacturer, but independent third-party certification from a UKAS accredited independent third party certification authority is also in place, thus reducing much time and effort in establishing the provenance of non SBD approved products.

SBD is a crime prevention initiative managed by Police Crime Prevention Initiatives Ltd (PCPI) on behalf of the UK police services which aims to improve the security of buildings and their immediate surroundings in order to provide safer places and sustainable communities. When considered in conjunction with the following attributes of Crime Prevention through Environmental Design (CPTED), the principles and practices of SBD help provide a safe and sustainable development and community.

CPTED with regards to:

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

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

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

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

Physical protection: Places that include necessary, well-designed security features as laid out in SBD Homes 2023 and ADQ

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

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

The boundary and plot separation treatments are noted.

Play areas should ideally be designed so that they can be secured at night. This is to reduce the amount of damage and graffiti that occurs after dark. The type of fencing and security measures will need to vary to suit the particular area. However, consideration should be given to a single dedicated entry and exit point to enable parental/guardian control and supervision. Fencing at a minimum height of 1.2m can often discourage casual entry, provide a safe clean play area and reduce damage to the equipment.

If existing hedgerow is likely to form any rear or side garden boundaries, then it must be fit for purpose. They should be of sufficient height and depth to provide both a consistent and effective defensive boundary as soon as residents move in. If additional planting is required to achieve this then temporary fencing may be required until such planting has matured. Any hedge must be of a type which does not undergo radical seasonal change which would affect its security function. Consideration must also be given to not diminishing the effectiveness of the existing boundaries of neighbouring properties. Additional deterrent features such as increasing the height of fencing, layered planting schemes or defensive planting may be considered as an alternative. A wide range of specimens can be planted along the boundary of a property, which offer attractive planting characteristics of colour and form, whilst containing sharp thorns to dissuade intruders. Many species are available which may be trained to any shape, size or height.

Pedestrian links require careful consideration, as from an offenders perspective, these will provide a legitimate excuse for being in the area without fear of being challenged or noticed. Research

confirms that inappropriate access can create hiding places and give anonymity to offenders enabling them to familiarise themselves with an area, search for vulnerable targets, offend and escape. Crime is always easier to commit where there is little or no chance of an offender being challenged or recognised. Levels of anti-social behaviour will also be correspondingly high in designs that reduce residential influence. It is preferable that routes for pedestrians, cyclists and vehicles should be integrated and assist easy, intuitive wayfinding through the application of inclusive design by increasing activity and therefore natural surveillance, a proven deterrent to crime and anti-social behaviour. It is also recommended that public footpaths should not run to the rear of, and provide access to gardens, rear yards or dwellings as these have been proven to generate crime.

Where a segregated footpath is considered unavoidable, for example a public right of way, an ancient field path or heritage route, designers should consider making the footpath a focus of the development and ensure that they are: as straight as possible, wide, well lit, devoid of potential hiding places, overlooked by surrounding buildings and activities, well maintained so as to enable natural surveillance along the path and its borders.

Where it is expected that a footpath will be in constant use, it should have all the required attributes as listed above and be lit in accordance with BS 5489-1:2020. However, if such attributes are absent along a footpath, it may be advisable to discourage its use in some circumstances by not illuminating it during the hours of darkness, with pedestrians/cyclists directed to safer more appropriate routes.

The proposed parking strategy would appear adequate. From a designing out crime and disorder perspective it is vital that the parking provision is both sufficient, when balanced against the schedule of accommodation, as even a one bedroom dwelling could attract 2 vehicles and designed so it is convenient and practical to use, as this will encourage its use by residents and reduce the level of unplanned/inappropriate parking elsewhere. It is the elsewhere that can introduce a source of conflict and animosity amongst residents, generally due to inconsiderate or obstructive parking and chaotic and vehicle dominated streets.

It is recommended any communal parking courts be lit to the relevant levels as recommended by BS 5489-1:2020

### **Devon Wildlife Trust: 13 July 2023**

We object to the planning application because we consider that the proposals do not provide sufficient evidence to satisfy the requirements relating to biodiversity in paragraphs 180a and 180d of the National Planning Policy Framework.

The comments provided below are based on a Proposed Drainage Statement produced by PFA Consulting (January, 2023). We consider that insufficient evidence has been provided because – Condition 7 of the approval for outline planning for the site is as follows:

‘The Reserved Matters for a particular phase must include full details of a surface water drainage management plan relating to the relevant phase. The surface water drainage management plan must be designed in accordance with the principles of the approved Flood Risk Assessment (Report Ref. C698-DOC3 FRA Issue 2, Rev. 2, dated 21st November 2014) so that there is no increase in the rates and volumes of surface water runoff from the site resulting from the development, whilst also providing PEMOUZ benefits to water quality, visual amenity and biodiversity. For the avoidance of doubt, the surface water drainage management plan(s) must take into account the impact of the development of the relevant Phase on the sub catchment area in which the Phase is situated.

No development on a Phase shall commence until the full details of the relevant surface water drainage management plan have been approved in writing by the Local Planning Authority, in consultation with Devon County Council as Lead Local Flood Authority. The development shall thereafter be carried out and maintained in accordance with the approved details.’

The report produced by PFA Consulting states that ‘Surface water runoff from the Phase 2 residential parcels drains into a ditch upstream of the Tidcombe Fen SSSI via the on-site “central” surface water drainage network and two detention basins, namely Basins C1B and C1A. These

two basins were granted planning permission by Devon County Council on 29th November 2018, under Application No. 18/00978/MFUL'

Tidcombe Fen SSSI is a nationally protected site designated for wetland habitat that is now scarce nationally and rare in Devon. Only one other undisturbed example of this habitat type is known to remain in the county. We are concerned that the cumulative burden on SuDS will not be sufficient to ensure no detrimental impact to the favourable conservation status of Tidcombe Fen SSSI. It is critical that the SuDS is maintained and monitored in perpetuity to ensure it is fit for purpose. We would like to see current clarification relating to how protection of the integrity of the SSSI will be ensured taking each reserved matters stage into account. Robust evidence that the SuDS is being constructed and will be maintained, operated and monitored in line with the consented details including the SuDS Maintenance and Monitoring Strategy should be provided, taking into account the cumulative impact of each reserved matters stage. We would advise that additional SuDS features within the development should be created in order to provide a satisfactory level of assurance that the SSSI will be protected in the long-term.

For the reasons given above, we object to the planning application and recommend that it is refused.

#### **Devon Wildlife Trust: 21<sup>st</sup> March 2023**

We object to the planning application because we consider that the proposals do not provide sufficient evidence to satisfy the requirements relating to biodiversity in paragraphs 174d of the National Planning Policy Framework.

The comments provided below are based on Detailed On Plot Landscaping Proposals produced by EDP (January 2023). We consider that insufficient evidence has been provided because –

1. The planting scheme for the site includes a propensity of non-native species and is a missed opportunity for a much greater wildlife benefit. The planting scheme should be designed to include a diversity of native species which can be used by native fauna post-development; this would have a much greater biodiversity benefit than the current proposal. The planting should be designed to form ecological networks throughout the built environment, which are of benefit to both nature and the establishing community of residents, providing the community with everyday contact with nature. The following specific comments are provided on the planting scheme:

- Native species should be utilised in the street tree planting scheme in order to provide permeable pathways through the development for native insect species. Lines of street trees should be under sown with wildflower grassland in order to strengthen green links through the development. Native bulb planting should also be included within these grassland strips.
- Rolawn Medallion Turf should be replaced with a species-rich mix which is appropriately managed post-development.

For the reasons given above, we object to the planning application and recommend that it is refused.

#### **National Highways 15 November 2024**

We were previously consulted on application 23/00394/MARM in March 2023 and offered no objections as set out in our response dated 30 March 2023. The amendments primarily relate to layout with no changes proposed to the quantum or description of the development. We are satisfied the revisions will not result in an adverse impact on the safe operation of the strategic road network and therefore continue to offer no objections to reserved matters application 23/00394/MARM, as revised.

#### **Public Health 30 March 2023**

We have considered this reserved matters and do not anticipate any environmental health concerns.



**DCC Climate Change, Environment and Transport: 23 May 2023 & 3 December 2024**

We do not have any comments to make on this application. Although the site is in a waste consultation zone, there is no requirement to consult us regarding this on a reserved matters application.

**DCC Flood and Coastal Management Team 24 January 2025**

We have no in-principle objections to the above planning application, from a surface water drainage perspective, subject to the designs of the proposed source control features being submitted via a condition.

The applicant has proposed to incorporate rain gardens and a swale into the proposals. Further details of these features will be required prior to commencement of the site. The applicant has submitted an impermeable area plan to confirm the maximum future impermeable areas (from future phases) which can connect into the proposed pipework. This plan will be referred to should future phases be applied for. Surface water will need to be managed appropriately during the construction stage.

**DCC Flood and Coastal Management Team 30 March 2023**

Although we have no in-principle objection to the above planning application at this stage, the applicant must submit additional information, as outlined below, in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered. Observations: The applicant has proposed to manage surface water within 2 detention basins. Previously, a swale was proposed within the western parcel for the site to drain into. The proposals then progressed further and moved the swale into the parcel to the north. However, this swale does not appear to have been carried forward. Swales were also proposed within the western area of the northern parcel. The applicant should confirm whether above-ground features can be constructed throughout these two parcels for treatment and interception losses. The applicant should provide an impermeable area plan to demonstrate the area applied for within this Reserved Matters application. The basins are designed for further parcels to drain in. Therefore, the applicant must ensure that they do not go above their allotted area. The applicant must confirm when they will change the flow control to increase the discharge rate (relevant to the increased area draining into the basins).

**RSPB 31 March 2023 x2**

The RSPB was pleased to see Ecological Design Measures of the Habitat Assessment and Mitigation Plan (Reserved Matters Application) dated February 2023.

The proposed development is designed to include measures to enhance biodiversity and will incorporate features for a variety of species. This will include: An increase in the amount of dormouse habitat and an additional dormouse nest box provision on site. Additional nesting and roosting habitat for birds and bats. Hedgehog holes in solid fencing. Creation of species-rich hedgerow, scrub and grassland within the site boundary that will increase habitat/ botanical diversity and provide features for a range of species, and includes a mitigation plan showing that the equivalent of one integral bat/bird box would be installed per residential unit.

We believe that in this case equal numbers of bird boxes/batboxes are not impossible to justify on an ecological basis.

This time last year BS42021 (integral bird boxes) was published, this is based on the equivalent of one bird box per residential unit, we are confident that the occupation rates from our monitoring program fully justifies this number, the same is not true of "bat boxes/tubes"; best practice assumes that in due course appropriate numbers will be recommended in addition to bird boxes, in the meantime we recommend installing "Universal boxes" see attached which were initially

designed for swifts but are used by most bird species that nest in cavities in older buildings and mature trees.

### **DCC Ecology: 3 December 2024**

#### Landscape Proposals

The symbol in the Key for the species rich meadow grass does not appear to be in the plans.

There is a symbol consisting of crosses on the plan not in the Key, so I assume this is the meadow grassland? Please could this be confirmed?

Other than this, I am satisfied with the revised landscape plans from an ecology perspective.

#### GE Consulting Technical Note

This Technical note provided updated survey information requested previously by DCC. It included an updated ecology walkover, badger survey, ground level tree assessment and an assessment of the current baseline habitat with regards to reptiles and bats. Bat activity survey updates from September and October 2024 were also provided, as well as aerial inspection of the trees.

**Bat Activity:** The update surveys provide a small snapshot to compare to the previous survey work conducted 10 years ago. Comparisons are difficult as the area surveyed is smaller and bat recording technology has improved over the last 10 years. The Technical Note concludes that the results are comparable with the previous surveys which I generally agree with. While the level of survey work update is not ideal, my view is that it would be disproportionate to refuse this application on the grounds of lack of up-to-date surveys since the results suggest a level of bat activity and species diversity that is typical for the location. Light sensitive bats including greater horseshoe, lesser horseshoe and barbastelle were recorded, and I agree with the previous DCC response that a sensitive lighting strategy is conditioned that makes every effort to minimise lighting along the retained hedgerows and newly created green space.

**Bat Roosts:** An aerial inspection was conducted at a tree in the northeast corner likely to be impacted by the proposals, but it is not clear which tree the report is referring to. Is it T46 (ash) in the AIA? Please could the technical note be updated to show this tree. Baseline was the same for other trees, and those with bat roost potential are retained.

**Dormouse:** DCC previously raised concern over fragmentation of the hedgerows for access suggesting the creation of hopovers. DCC also questioned the suitability of the location selected for dormouse boxes. The updated information highlights that most of the removal for the spine road has already taken place under a European Protected Species Mitigation License granted by Natural England. The information also notes that the boxes are required for the license that will be required for the remainder of the removal required for Phase 2. My view is that there is no legitimate reason to conclude that Natural England would be unlikely to grant a licence for Phase 2, and therefore have no further comment on dormice.

**Reptiles:** The reporting notes the habitat in the northern field compartment has become tussocky and is now suitable for reptiles. The Technical note states: Prior to enabling and construction a reptile survey will be undertaken which will progress to a translocation to a suitable receptor site outside of the application boundary in the wider site if reptiles are found to be present on Site. This will be undertaken between April and October when reptiles are active. Government advice is that conditioning ecological surveys is only acceptable in exceptional circumstances. My view is, however, that given reptiles were not recorded onsite in 2014 and as this is the result of a change in baseline conditions, it is reasonable to regard this survey as part of the precautionary mitigation. Habitat Assessment and Mitigation Plan (Reserved Matters Application) (submitted 13th March 2023). This document has been labelled superseded, but my understanding is that this contains the pre, during and post construction ecological mitigation / management detail. An aspect that is lacking is the long-term management and protection of the retained and newly created habitats.

The Habitat Assessment and Mitigation Plan postpones the submission of this via the following statement: At the end of the five-year establishment period, an updated Landscape and Ecology Management Plan will be produced, which will be submitted to Mid Devon District Council for approval prior to implementation. My view is that a LEMP should be secured via a condition as suggested below.

#### Suggested Conditions

1. A condition securing accordance with the Habitat Assessment and Mitigation Plan (GE Consulting, February 2023 REF: 1458-HAMP-LW) and Ecological Technical Note (GE Consulting, November 2024 REF: 1458-LW) during the enabling, construction and post construction period.
2. A condition securing a Landscape and Ecological Management Plan to be submitted and approved by the local authority either as a pre-completion standalone condition or attached to condition 1 e.g. This includes the submission after 5-years of if that is acceptable).
3. Lighting Strategy for agreement with the authority, prior to works commencing, that minimises impacts from lighting associated with pre-construction, construction, and operational activities on sensitive ecological features. The strategy must highlight the most sensitive ecological features and demonstrate through a lux contour plan, lighting specification and timing schedule that every effort has been made to minimise lighting to ensure the site continues to support commuting and foraging bats within the site and the wider landscape.

#### **DCC Ecology: 1 April 2023 (2 reports)**

DCC is satisfied that the updating walkover habitat surveys, badger survey and ground level assessment of trees for potential roosting bats undertaken in October 2021 and October 2022 were sufficient to assess any changes to baseline conditions recorded during ecological surveys conducted in 2013 and 2014.

#### Habitats

The development will result in the loss of 4.5ha of modified grassland and 50m of hedgerow although it is not clear whether the particular hedgerow sections are from 'Important' hedges, classed as such under the Hedgerow Regulations and the information is not set out in a quantified loss and gain assessment which confirms that the proposed planting will adequately mitigate these losses. Whilst the proposed planting of native species-rich hedges, native shrubs, trees, and meadow is welcome, quite how effective this will be in providing mitigation for habitat loss and for protected species is unclear. The scheme drawings appear to show sections of hedges and discrete areas of native planting which will not provide replacement like-for-like ecological function, which is currently provided by contiguous and connected, undisturbed habitats. These areas also seek to accommodate residential recreation situated within public open space which include paths, ornamental planting as well as native planting to mitigate habitat losses. It is notable that in the wider area, priority habitat in the form of traditional orchards is present, the nearest being just off the south-west boundary of the site. It would therefore be appropriate and desirable to see the public areas include blocks of community orchard planting which will also provide wider ecological benefits for receptors such as badgers recorded on-site.

#### Protected Species

Hazel dormice - the proposed planting prior to construction is welcome however it is acknowledged within the Habitat Assessment and Mitigation Plan that it will take years for these habitats to become capable of supporting dormice, there will therefore be a significant delay to mitigation. It is therefore essential that the scheme incorporates hop-overs to provide continued connectivity for dormice and for bats. Tree planting that delivers aerial connectivity, either side of gaps or innovative dormice bridges will need to be included in strategic locations. In the absence of maintaining connectivity throughout the phases of development, the proposed dormouse boxes whilst welcome are unlikely to provide successful mitigation. Retained hedgerows and those providing ecological mitigation for the species (and bats) must be in the public realm, suitably

buffered with defensive planting, connected to other suitable habitats and free from the impacts from artificial lighting. It would be desirable to see hedgerows include species recorded in the original surveys which provide foraging and nesting resources for dormice such as elder, native honeysuckle, oak and bramble and butchers broom (the latter if appropriate for site conditions) which will also act as defensive planting. This would also deliver a more considered eco-tone within these green corridors.

Badgers - are clearly active both within the site and the adjacent development areas with an active sett recorded during the updated surveys on-site. In addition to the potential requirement to close the sett under licence, precautionary mitigation should be included during construction, as per hedgehogs below, to prevent badgers becoming trapped in trenches etc.

Hedgehogs - precautionary mitigation (in addition to the proposed permeable fencing) for hedgehogs should be put in place. Typically this includes:

- Removal of suitable vegetative cover during the winter or phased removal of vegetation only after a hand search for hogs by an ecologist.
- Dismantling of log and debris piles by hand by an ecologist.
- Open trenches, pits, ditches, ponds and drains must be covered over or fitted with ramps to allow for escape. Netting must be kept off the ground to avoid entanglement and any slack netting tied up. Rubbish must be kept contained in a designated area to avoid animals becoming trapped in litter.
- Provision of refuge such as log piles

Reptiles and amphibians - the updating surveys noted the development of tussocky grass and tall ruderals in the north-east of the site. Whilst this is discussed under birds and reptiles the same terrestrial habitat is likely to be suitable for amphibians. Precautionary mitigation for all three receptors is advised.

Bats - mitigation set out under Hazel dormice above will contribute to continued connectivity for foraging and commuting bat species. As highlighted in the Habitat Assessment and Mitigation Plan, a suitable lighting strategy will be key in successfully mitigating impacts upon bats and other protected wildlife.

Recommended conditions:

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

### **Natural England: 3 April 2023**

No objection subject to mitigation

### **Tidcombe Lane Fen Site of Special Scientific Interest (SSSI)**

This application site is within 300m of the Tidcombe Lane Fen SSSI and has triggered Natural England's Impact Risk Zones<sup>2</sup> including discharges to surface water. The SSSI is notified for its fen, marsh and swamp communities. Further information on the SSSI and its special interest features can be found at [www.magic.gov.uk](http://www.magic.gov.uk)

Given the proximity of the development site to the SSSI, impacts on water quality and water quantity during construction and operation are possible and, without appropriate mitigation, the proposal could damage or destroy the interest features for which Tidcombe Lane Fen SSSI has been notified.

The information provided (Drainage Statement / drainage plan PFA consulting January 2023) indicates that the surface water drainage from the development links in to the Tiverton East Urban Extension site allocation SuDS (18/00978/MFUL) ensuring protection of the SSSI in terms of water quality which is in line with Local Plan policy TIV3.

There do not appear to be any SuDS features on the development site itself and consideration should be given to whether the treatment train is sufficient before reaching the attenuation basins. The requirement for water quality monitoring was secured through the permission for the SuDS attenuation basins. The LPA has proposed to include an informative referring to the monitoring on the permission for any relevant applications. This is welcome and will ensure that this element of the wider development remains visible and secures the long term protection of the SSSI.

Based on the information provided and subject the measures outlined in the Habitat Assessment and Mitigation Plan (GEConsulting February 2023) being secured via condition, specifically:

- securing best practice measures during construction for pollution prevention control through a construction environment management plan;
- management of the SuDS being included in any ecological management plan (as maintenance of these features is key to a properly functioning system);
- habitat management of the wider site;

plus consideration being given to further SuDS features on site, Natural England is satisfied that the proposed development will not damage or destroy the interest features for which the SSSI has been notified and has no objection.

### **Biodiversity Net Gain**

Development provides opportunities to secure a net gain for nature as outlined in paragraphs 174 and 179 of the NPPF, the Defra 25 year Environment Plan and Mid Devon's Green Infrastructure Plan (Policy GI/3 biodiversity net gain).

We advise you first to follow the mitigation hierarchy as set out in paragraph 180 of the NPPF and consider what existing environmental features on and around a site can be retained or enhanced before considering what new features could be incorporated into a development proposal.

An evidence based approach to biodiversity net gain can help LPAs demonstrate compliance with their duty to have regard for biodiversity in the exercise of their functions<sup>3</sup> (under Section 40 NERC Act, 2006). Biodiversity metrics<sup>4</sup> are available to assist developers and local authorities in quantifying and securing net gain. Local Authorities can set their own net gain thresholds but the Environment Act sets a 10% threshold.

When delivering net gain, opportunities should be sought to link delivery to relevant plans or strategies e.g. Biodiversity Action Plans, Green Infrastructure Strategies or Local Nature Recovery Strategies where they are being developed.

We would recommend incorporating nest sites for swallow, house martin, house sparrow, swift boxes and bat boxes into the design of new buildings and using native plants in landscaping schemes as they provide better nectar and seed sources for bees and birds. The RSPB recommends a minimum of one bird box per dwelling.

The use of SuDS to manage surface water run-off can also contribute towards green infrastructure by increasing biodiversity value. Amenity value can also be increased with careful design to manage risk (CIRIA). The RSPB/WWT<sup>5</sup> has produced a guide for developers and planners on designing and managing SuDS features that are also good for wildlife.

### **Soils and Land Quality**

Based on previous applications covering the site, the proposed development affects approximately 5 ha of Grade 2 agricultural land classified as 'best and most versatile' (Grades 1, 2 and 3a land in

the Agricultural Land Classification (ALC) system). Agricultural Land Classification information is available on the Magic website on the Data.Gov.uk website.

We consider this application falls outside the scope of the Development Management Procedure Order (as amended) consultation arrangements, as the proposed development would not lead to the loss of over 20 ha 'best and most versatile' agricultural land (paragraph 170 and 171 of the National Planning Policy Framework).

For this reason we do not propose to make any detailed comments in relation to agricultural land quality and soils except to advise that if the development proceeds, the developer uses an appropriately experienced soil specialist to advise on and supervise soil handling, including identifying when soils are dry enough to be handled and how to make best use of the different soils on site. Further guidance is available in the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites (including accompanying Toolbox Talks) and we recommend that this is followed.

### **Ancient woodland and veteran trees**

Natural England and the Forestry Commission have produced standing advice for planning authorities in relation to ancient woodland and veteran trees.

The Arboricultural Impact Assessment (November 2022) does not identify any ancient woodland or veteran trees within the site but the survey does identify several mature trees which have the potential to become veteran or ancient trees. The standing advice includes measures to protect ancient and veteran trees which should also be applied to future ancient and veteran trees e.g. root protection zones.

Woodland and tree buffers should be sufficient to allow trees to continue to age and to avoid future impacts on development from aging trees such as falling limbs and allowing space for spreading root systems. This would include siting footpaths to avoid root protection zones.

### **Protected**

We have not assessed this application and associated documents for impacts on protected species.

Natural England has produced standing advice<sup>6</sup> to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

It is the LPA's responsibility to ensure that protected species, as a material consideration, are fully considered and that ecological surveys have been carried out where required and appropriate mitigation is secured.

Lighting should be as low as guidelines permit and if lighting is not needed it should be avoided.

The Institute of Lighting Professionals has partnered with the Bat Conservation Trust and ecological consultants to provide practical guidance on avoiding or reducing the harmful effects which artificial lighting may have on bats and their habitats Guidance Note 8 Bats and Artificial Lighting and we recommend this is followed when designing lighting schemes. Following submission of this advice to the LPA we are able to consider offering advice to the developer through our Discretionary Advice Service.

### **Tiverton Town Council: 3 December 2024**

Design is out of character with the surrounding area. Three storey building not in keeping with rest of the development. Concerns on drainage. Concerns on access through southern portion of the site and concerns of lack of cycleway provision. Loss of habitat. Unable to support.

### **Tiverton Town Council: 4 April 2023**

No plans are shown for sustainable footways or cycle paths as per the Tiverton Neighbourhood Plan. No mention of Tiverton Neighbourhood Plan in any of the documents. Council feels that the design of properties is not in line with design requirements outlined in the Neighbourhood Plan.

The council would like to see a clause implemented stating that the infrastructure for this development is put in at a far earlier stage of the development. Tiverton Town council is therefore unable to support the Reserved Matters plan for this development.

#### **DCC Highway Authority: 18 April 2023**

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

#### **DCC Education 22 May 2023**

The Education requirements are already set out in the S.106 that accompanies the original application 14/00881/MOUT

#### **DCC Waste 23 May 2023 & 3 December 2024**

We do not have any comments to make on this application. Although the site is in a waste consultation zone, there is no requirement to consult us regarding this on a reserved matters application.

### **REPRESENTATIONS**

One objection has been received:

This application goes very substantially against both the requirements and expectations of the MDDC adopted Tiverton Neighbourhood Plan. A plan adopted by MDDC on the 14th December 2022.

The MDDC decision to make the Tiverton Neighbourhood Plan part of the statutory development plan for Mid Devon. District in accordance with Regulation 19 of The Neighbourhood Planning. (General Regulations 2012).

That the Tiverton Neighbourhood Plan now forms part of the development plan for the Tiverton Neighbourhood Area (the parish of Tiverton). In accordance with Section 38(6) of the Planning and Compulsory Purchase Act (2004).

That the determination of planning applications in the Tiverton Parish will need to be made in accordance with the development plan (i.e., the adopted Mid Devon Local Plan 2013-2033, the adopted Devon Minerals and Waste Plans, and the 'made' Tiverton Neighbourhood Plan), unless material considerations indicate otherwise.

#### **OBJECTION 1 - DETRIMENT TO THE AREA**

That the applicant by proposing to build a 3-story block of flats and including in the most prominent and in a landmark location and on rising ground. This as shown in the General Arrangement Plan drawing R439/21

Additionally the applicant is proposing the erection of 3 terraces of 3 story houses a total of 12 houses and again on rising ground. This also as shown in the General Arrangement Plan drawing R439/21.

The heights of the buildings identified, can be referenced in the Building Heights Plan Drawing No. 1112 2

That the applications proposal does not conserve the character of the Blundells Road or Post Hill area and in fact is very seriously to its detriment. No other developer in the Tiverton EUE is attempting to build blocks of flats out of respect to the area. This includes for the proposed seventy (70) social houses to be built by MDDC themselves.

That in submitting their Reserved Matters Application on the 24th February 2023 and after the Tiverton Neighbourhood Plan was adopted by MDDC The applicant has failed to comply with

Policy T4 Character of Development and Policy T5 Design of development of the Tiverton Neighbourhood Plan.

In doing so the applicant is failing and substantially to honour the Tiverton Neighbourhood Plan policy requirements. A failure which should be considered material consideration in any planning decision.

#### POLICY T4; - CHARACTER OF DEVELOPMENT

States: "Development should conserve and where practicable enhance the character area in which it is located".

#### POLICY T5: - DESIGN OF DEVELOPMENT

States: "Development proposals should incorporate high quality of design which responds and integrates well with its surroundings" – "minimizes the impact on the natural and historic environment".

OBJECTION 2. – Vehicles reversing onto or off the heavily used spine road. Pedestrian and cyclist safety.

That the applicant is proposing to construct houses that have driveways that will require either reversing of vehicles into or out off and immediately onto the main development spine road. A spine road that will serve a planned extension of the Tiverton EUE and with between it is estimated an extra 750 to 1000 houses but also importantly will service 5 planned football pitches including for community use.

Eight (8) of these houses will have tandem parking and with limited visibility in terms of viewing pedestrians walking along the pavement. This given how close the property building line is to the pavement itself. Something as shown in the General Arrangement Plan drawing R439/21. A further four (4) houses will have dual drives.

It is important to state that it is planned for a 420 place Primary School and Nursey to be built, plus a Community Center and shops. That the pavement in question WILL BE used by vulnerable pedestrians and is likely to see relatively heavy use. It should be stated that the MOORHAYES Development is an exemplar and where no drives were permitted to access the LEA ROAD, and which is a similar SPINE ROAD. Why can't this developer do the exact same.

That in submitting their Reserved Matters Application on the 24th February 2023 and after the Tiverton Neighbourhood plan was adopted by MDDC The applicant has failed to comply with Policy T5 Design of Development and T16 Encouraging Safe and Sustainable Movement of the Tiverton Neighbourhood Plan.

In doing so the applicant is failing and substantially to honour the Tiverton Neighbourhood Plan policy requirements. A failure which should be considered material consideration in any planning decision.

#### POLICY T5: - DESIGN OF DEVELOPMENT

States: "The layout and design of parking provision does not adversely affect vehicular and pedestrian access and safety".

#### POLICY T16: ENCOURAGING SAFE AND SUSTAINABLE MOVEMENT.

States: Development proposals to improve cycling and walking opportunities will be supported. In particular, provision of cycle and pedestrian routes that are physically separated from vehicular traffic and from one another will be strongly supported.

#### OBJECTION 3 – Visitor Parking Spaces

The applicant is proposing to have 4 visitor parking spaces on the spine road, and which will be the most heavily used road on the overall Tiverton EUE development. Visitor parking spaces that do not even feature any form of parking bay etc. Visitor parking arrangements which will cause both traffic flow issues plus elevate risk to cyclist given no separation.

Visitor parking proposals as shown on Parking Plan Drawing No. 1116.



That in submitting their Reserved Matters Application on the 24th February 2023 and after the Tiverton Neighbourhood plan was adopted by MDDC The applicant has failed to comply with Policy T5 Design of Development and T16 Encouraging Safe and Sustainable Movement of the Tiverton Neighbourhood Plan.

#### **POLICY T5: - DESIGN OF DEVELOPMENT**

States: "The layout and design of parking provision does not adversely affect vehicular and pedestrian access and safety".

#### **POLICY T16: ENCOURAGING SAFE AND SUSTAINABLE MOVEMENT.**

States: 4 Development proposals to improve cycling and walking opportunities will be supported. In particular, provision of cycle and pedestrian routes that are physically separated from vehicular traffic and from one another will be strongly supported.

Given the above objections and which all relate to the objectives of the Tiverton Neighbourhood Plan policies I fully consider there is material reason to refer the applicants proposed design back to them, this in order to make the necessary project design changes. To do otherwise would fully question the validity of the MDDC adopted Tiverton Neighbourhood Plan and at the very first time it is tested.

### **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

- 1) Policy background and principle for development.**
- 2) Flood risk and surface water drainage.**
- 3) Design and impact on the character and appearance of the surrounding area.**
- 4) Street network and parking.**
- 5) Landscape, open space and biodiversity net gain (including responses to Devon Wildlife Trust's objection).**
- 6) Affordable Housing.**
- 7) Conclusions and planning balance.**

#### **1.0 Policy Background and Principle of Development**

- 1.1 Section 70(2) of the Town and Country Planning Act and S38(6) of the Planning and Compulsory Purchase Act 2004 requires local planning authorities to determine planning applications in accordance with the policies of the Development Plan (Mid Devon Local Plan 2013–2033) unless material planning considerations indicate otherwise. Consideration should also be given to the content of the National Planning Policy Framework (NPPF) which is a material consideration in all planning decisions and to the National Planning Practice Guidance together with any other relevant policy guidance such as Supplementary Planning documents (SPD) and the relevant weight of emerging policy.
- 1.2 The high level policy considerations relevant to this application site were considered at outline application stage (Application No. 14/00881/MOUT). The Officer's Report for the 2014 application provides detailed consideration.
- 1.3 The proposed residential development is located on land that falls within the settlement limit of Tiverton and is acceptable in principle to the strategic aims of Policies S1, S2, S3 and S4 of the Adopted Mid Devon Local Plan 2013-2033 (Local Plan) and Policies T1 and T2 of the Tiverton Neighbourhood Plan 2020 to 2033.

- 1.4 The site also forms part of the more extensive 153ha site of the Tiverton Eastern Urban Extension (EUE) and so is subject to policies TIV1-TIV5 of the Local Plan. Development management policies of the Adopted Local Plan apply further detailed considerations.
- 1.5 A site layout plan and supporting information has been submitted as part of this application. Together they seek to establish that up to 122 dwellings can be accommodated on the site.

## **2.0 Flood risk and Surface water Drainage**

- 2.1 Policy S9 requires the provision of measures to:
- reduce the risk of flooding to life and property;
  - requiring sustainable drainage systems including provisions for future maintenance;
  - guiding development to locations of lowest flood risk; and
  - avoiding an increase in flood risk elsewhere.

Policy DM1 requires appropriate drainage including Sustainable Drainage Systems (SUDS) and arrangements for future maintenance.

This application is supported by a Drainage Statement (dated 14 Nov 2024 and 10 Jan 2025 including a surface water drainage masterplan (R402-06 J), Drainage Plan (R439/23 Rev F) and Exceedance Flow Routes Plan (R439/30 Rev E).

- 2.2 The proposed development site is wholly located within Flood Zone 1, according to the Environment Agency Flood Map. The site is therefore at a low risk of fluvial flooding.
- 2.3 The Drainage Statement confirms that the infiltration devices (soakaways) are not, alone, a viable means for the disposal of surface water and therefore flow balancing methods have been incorporated into the scheme as the preferred means of disposal. These include connection to the existing attenuation ponds (application 18/00978/MFUL) that have been constructed to include allowance for this site. Officers are assured that the discharge rates to the Ailsa Brook will be maintained as close as possible to existing greenfield rates. Following further detailed discussion with the Flood Authority a swale and raingardens have also been incorporated into the scheme (Drainage Plan R439/23 Rev F) to ensure the quality of water discharged from the site is retained.
- 2.4 South West Water has confirmed it is able to provide foul sewerage services from the existing public foul or combined sewer in the vicinity of the site. Following amendments to the detailed plans and confirmation provided by the applicant, the Lead Flood Authority are able to support this application. On this basis, Officer's advise that the application accords with Policies S1, S9, TIV10, TIV1, TIV3 and DM1 of the Adopted Mid Devon Local Plan and policies T7 and T9 of the Tiverton Neighbourhood Plan.

## **3.0 Design and impact on the character and appearance of the surrounding area**

- 3.1 Central to the NPPF is the requirement for the effective and efficient use of land (para 124) and the delivery of high quality, beautiful and sustainable buildings and places (para 131). Local Plan strategic policy S1 states that all development will be expected to support the creation of sustainable communities with a development focus towards Tiverton as one of Mid Devon's most sustainable settlements. Development should deliver a wide choice of high quality homes through a diverse housing mix, good design that respects local character, a reduced need to travel by car and a strong sense of place. Strategic Policy S9 requires high quality sustainable design that reinforces the character and distinctiveness of Mid Devon's built environment, mitigates and adapts to climate change and creates attractive

places. This is reflected in Development Management Policies, DM1 and DM25 that require the design of new development to be of high quality, demonstrating a clear understanding of the site characteristics, its wider context and making efficient and effective use of the site. This is further supported by Policies T1, T4 and T5 of the Tiverton Neighbourhood Plan.

- 3.2 The NPPF requires the effective and efficient use of land. The site layout plan submitted in support of the application establishes the developable area of the site. The Planning Statement (para 3.8) submitted in support of the application, states that this scheme for up to 122 dwellings has a residential development area of 4.08ha which equates to a density of approximately 30 dwellings per hectare. This compares to a low to medium density of development. The Tiverton EUE Design Guide promotes the concept of a centre-to-edge form of development where the highest density and mix of uses are focused at the centre of the development (at the neighbourhood centre and residential core) and lower densities towards the edge. The EUE Design Guide (pg 94) defines the most southerly land parcel of this application as 'parkland edge'; lower density larger properties with strong frontage and generous spacing between buildings. Page 64 of the Design Guide acknowledges the need for sensitivity along the western boundary of the parkland edge and makes reference to the need for a strong sense of identity due to its visibility, relationship with Blundell's School and setting to the conservation area. In contrast to the southerly land parcel, the Design Guide identifies the more northerly land parcel as residential core; an area for higher density residential development, capable of accommodating 3 storey properties (EUE Design Guide, pg 80).
- 3.3 The centre-to-edge concept of density is not especially evident in the proposed layout. Your Officers calculations confirm that the southern parcel makes provision for 48 units (21.82 per hectare) and the northern land parcel 73 units (27 per hectare). This equates to a low density of development across both land parcels. This does not conform to para 124 of the NPPF or Policy S1(j) of the Local Plan that encourage the effective use of land. Whilst this may be to some extent due to the constraints of the two land parcels; imposed by the existing hedgerows, planned public open space to the south of the southern land parcel and the existing West Manley Lane and Spine road that provide firm boundaries to the development land, this proposal nonetheless represents a low density of development that does not conform to the Tiverton EUE Design Guide or represents an efficient use of land.
- 3.4 Needless to say, the proposal does reinforce a layout focused around the perimeter block, a principle promoted through the Design Guide (p.32). In addition, the larger detached properties served by a private drive, set behind the mature hedge bank of West Manley Lane that characterise the western boundary of the southern land parcel, have the ability to create a strong sense of identity and setting as required of a parkland edge and its proximity to the Blundell's conservation area. The properties on the eastern edge of the southern land parcel have been designed to provide a similar identity along the GI associated with the spine road; both of which are accepted in principle. However, it results in the need for focused attention on boundary treatments in the public domain, particularly along the northern and southern boundaries.
- 3.5 Boundary treatments in the public domain will be brick or hedge. High quality boundary treatments ensure the long term design integrity of the scheme whilst supporting the principle of a garden neighbourhood. The topography is such that there is a minimal need for retaining walls and where required are designed so that there will not be a loss of amenity value to existing or proposed residents.
- 3.6 The proposed dwellings are organised into a pattern of streets and perimeter blocks defined by buildings. The internal road layout has been designed to allow emergency and refuse

vehicles to access the site with adequate turning facilities provided in appropriate locations. On this basis, Officers have sought alterations to the red line boundary of the application to ensure turning heads are available within the application area. Nonetheless, as confirmed by the Design Review Panel (2021) the layout could be *'further improved if the street network were differentiated a bit further. In particular, the tertiary streets could be looser and more organic ... with shared surfaces'*. When reviewed again in 2022 the Design Review Panel confirmed that the *'character areas need to be more nuanced and articulated. The (Design Review) Panel were not convinced that the analysis of Tiverton has informed the house types being promoted, but rather that character references have been found to justify a particular housing style. It is acknowledged that Redrow wish to complement the housing design used in phase one, but the Panel ask that a perspective is given to differentiation that will allow distinctiveness to arise in a place that will have c 700 new homes – not least for wayfinding'*. Officers have consistently been advising the applicant to introduce character and identity into the scheme with a need for more variety between phases. Officers advise that in terms of this application, this is particularly important for the most northerly land parcel. The Tiverton EUE Design Guide identifies this area as higher density residential core. Street typology, elevational and architectural detail that complements but differentiates from Phase 1 is particularly important here. On this basis, Officer advise that the proposed application has not been successful.

- 3.7 Officers have consistently strived for properties to front on to the community centre land as a means to enhance the sense of place, provide informal surveillance and sense of ownership of this community asset. This has not been possible partly due to the confines of the land parcel by its established hedgeline boundaries in combination with the recognised importance of the northern hedgeline as an important bat flight corridor. A buffer strip of c2.m in addition to the rear gardens has therefore been included within the proposed layout as a means to provide an additional small margin of distance between the rear elevation of properties and bat flight corridor. The Landscape Environmental Management Plan will make provision for the management of the hedgeline to support the recognised ecology. Officers also sought revisions to introduce a mews style street of integral parking and shared surfacing into the centre of the northern parcel as a means to introduce character and sense of place. Detailed discussions took place but its inclusion was not possible on this occasion.
- 3.8 The integration of the spine road and its associated GI is pivotal to the continuity of the overall design. Whilst the spine road benefits from detailed planning consent under application 21/00454/MARM this proposal has included a large part of the spine road within it. This is to allow a shared cycle and pedestrian route to be provided through the linear GI of the spine road, separated from vehicular traffic. The Detailed Public Open Space Landscape Proposals (Sheets 1-8) provide detail of this positive change including a hoggin surface to the path. The alignment of the spine road has not been altered to accommodate this change. However, in discussion with DCC Highway Authority, Officers have introduced further changes by means of a raised table and a change in the road surface material adjacent to the Apartment block (Plots 165-176).
- 3.9 It was recognised that the introduction of these traffic calming measures, where pedestrians and cyclists using the main east / west pedestrian and cycle corridor may require to cross the spine road would be able to do so whilst being given greater priority. The raised table and imprint surfacing also introduces a change to the character of the area; changing the driver experience to prioritise other modes of transport. Such traffic calming measures will also be beneficial to those accessing the proposed neighbourhood centre and its associated community assets from across the EUE. The neighbourhood centre will be serving all age groups within the local community.

- 3.10 Contrary to the objection (No.2: detailed within the representations above) Officers have been concerned throughout this application process for the need for a strong frontage of development on to the spine road – seeking to ensure that there is a clear sense of the spine road being a ‘street’ rather than simply a ‘vehicular corridor’. Properties on the western boundary of the northern land parcel have been designed to front on to the spine road (Plot No.s 192-195; 210-217) with front gardens and access to on-plot parking taken from the spine road. This is acceptable to the highway authority. The apartment block – that has been redesigned at your Officers request to include three principle elevations to enhance street frontage and facilitate informal surveillance - is proposed at the most north westerly corner of the northern land parcel. The apartment block was given detailed consideration by the Design Review Panel (Sept 2021) and during the production of the Urban Design and Architectural Principles document (UDAP; approved Jan 2023 under the requirements of Condition 2i of Application 14/00881/MOUT). Contrary to objection No.1 (detailed within the representations above) the Design Review Panel confirmed that the apartment block was located in an appropriate location responding well to the civic focused uses to the north. Officers advise that as a three storey property it has the ability to form a landmark building at the transition between the neighbourhood centre and residential core with an ability to provide informal surveillance of the community centre land, spine road and residential street. It’s height, scale and massing is not out of keeping for the form of development at the residential core. It will be constructed from a variety of materials to reflect the character of the area set out in the UDAP (Section 2). The vertical emphasis to the apartment block is an appropriate solution; giving the appearance of town houses whilst providing nine, 1 and 2 bed, affordable rent accommodation (Planning Layout; Dwg No. 1100). The three principle elevations support place making principles. Objection No. 1 also makes reference to 3 terraces of 3 storey homes. These no longer form part of the application with just 2 dwellings (Plots 218 and 238) being 3 storey in addition to the apartment block (Dwg No. 1112 Rev A).
- 3.11 There are nineteen house types (and 1 apartment block) proposed across the application area. The range of housing is taken from the ‘Heritage Collection’ with the exterior design inspired by Arts and Crafts architecture. Whilst elements of their detailing can be found in the immediate Post Hill area, they remain standard house types and not homes that distinctly reflect the eclectic mix of house types characteristic of Post Hill. There is neither a particular pattern to the dispersal of the house types to develop character areas or as a means to provide variety between phases or parcels of development. Post Hill might be characterised for its large detached dwellings with large front and rear gardens allowing mature planting but this contrasts to the present need for a greater density and efficiency in the use of land. Whilst Blundell’s Grange cannot, on this basis, adopt the character of Post Hill there remains a strong need to ensure a clear sense of place (NPPF, para 135) within the new development. This is not apparent in the current spread of house types although it may be a little more conspicuous through the dispersal of the materials proposed (natural stone, red and buff brick, white and ivory roughcast render) with the Post Hill area.
- 3.12 Blundell’s Grange Phase 1 is a development characterised by its red, russet and brown roof tiles. Typical of the Arts and Craft movement it is also reflective of a number of the neighbouring homes on Blundell’s Road. However, Officers have sought revisions to this application, to minimise their use, as a public response has been that they were too conspicuous in the landscape. Officers have retained brown and mixed russet tiles to acknowledge their association with Blundell’s Grange Phase 1, have removed the red tile in its entirety and integrated grey roof tiles into the scheme (Dwg No. 1121 Rev B).

- 3.13 Brick details found throughout the wider area are to be reflected in the proposed dwellings including voussoir headers, soldier courses and diamond features. Also but to a lesser extent, details such as red hung tiles. A very limited amount of timber cladding is proposed (as a porch detail). House type drawings indicate that front elevational windows will appear multi paned and side opening in uPVC. Projecting bay windows form part of the design of some house types. Hipped roof lines are introduced to add definition, features that are evident both in the immediate area and elsewhere around the town. On balance, your Officers advise that the proposed dwellings are acceptable.
- 3.14 The Adopted Masterplan SPD and Tiverton EUE Design Guide champion the concept of defined character areas. This element is difficult to appreciate through the proposed distribution of the house types; there being no obvious arrangement to their distribution as a means to define character areas. This also applies to the distribution of materials across the development. This lack of definition does not aid legibility, place making, character or distinctiveness. A concern that becomes heightened when considered in combination with the existing Redrow development (Application 21/00454/MARM) that is constructed in the same Heritage Range.
- 3.15 The site whilst undulating has a distinct band of steeper ground running from north east to south west. The need for retaining walls or gravel boards (Levels Plan, R439/22 Rev E) is required. All are restricted to rear or side garden boundaries. The southern land parcel has a relatively even mix of their use. Gravel Boards being used in a height range of between 75mm-300mm and retaining Walls between 375-725mm. The northern land parcel has a greater use of retaining walls owing to the band of steeper ground. However, Gravel Board heights range between 75mm-300mm and Retaining Walls between 300-1700mm. In all instances their height including in association with additional fence or screen wall is not considered intrusive or overbearing within private gardens.
- 3.16 Important to the principles of the garden neighbourhood that lies at the heart of the Adopted Masterplan SPD is the delivery of street trees. A significant number of trees have been introduced since the initial proposed scheme and whilst a number of trees are proposed along the tertiary streets they are all located within private gardens. To ensure their long term retention, Officers advise that they are the subject of a Tree Preservation Order. This recommendation has been attached as an informative. A TPO would be applied on approval of this application and would be based on the approved drawings. Officers also secured additional trees (including a small orchard) along both sides of the spine road. Perceived as a tree lined boulevard both within the Adopted Masterplan SPD and Design Guide, Officers have achieved a significant increase in the number of trees both along the spine road and tertiary streets of climate resilient semi mature trees. Early submissions included Magnolia tree planting representing c.67% of all new trees proposed in gardens. Greater diversity has been achieved both within front and rear gardens.
- 3.17 In summary, Officers would advise that there is little obvious definition across the development parcels submitted to date through changing density, house type or materials. Whilst it is acknowledged that the applicant wishes to complement the house design used in Phase 1 (Application 21/00454/MARM) it remains that there is little distinction within the proposed scheme or across the wider development that will have circa 285 dwellings. However, efforts have been made including 'wrapping' the elevational treatment of the Redrow housing product with natural stone to support characterisation including part elevations and plinths. This has been introduced to key buildings and / or at junctions to aid legibility. Boundary treatments have been given similar consideration along with an increase

and a greater diversity of tree species. Officers would advise that whilst there may not be obvious definition through changing density or house type there have been some positive changes introduced to the scheme, that will bring greater definition to the streets. The Design Review Panel (May 2022) didn't disagree with this conclusion that was prior to further changes being brought to the scheme by your Officers. The DRP panel in 2022 confirmed that the layout was clear and well organised and on that basis, including properties backing on to the community centre, was acceptable. Acknowledging this conclusion and the improvements Officers have achieved since the DRP in 2022 Officers consider the scheme acceptable. On this basis, Officer's advise that the application accords with Policies S1, S9, TIV1, TIV3, DM1 and DM26 of the Adopted Mid Devon Local Plan and policies T1, T4, T5 and T9 of the Tiverton Neighbourhood Plan.

#### **4.0 Street Network and Parking**

- 4.1 The NPPF (para 135) requires new development to create inclusive and accessible places ensuring connectivity and legibility. This is supported by Policies S1 and DM1 of the Adopted Local Plan and Policy T16 of the Tiverton Neighbourhood Plan. This is relevant both to vehicular and other modes of transport. Concerns have been raised regarding the single point of access on to the spine road, serving Blundell's Grange Phase 1 (application 21/00454/MARM) and this application; a single point of access serving 112 units. Blundell's Grange Phase 1 was designed with this in mind. The Blundell's Road junction and spine road have also been designed to accommodate all the traffic movements for both Area A and B and on this basis DCC Highway Authority have raised no objection to the junction arrangements. The DRP at their meeting (Sept 2021) confirmed their approval of this with the number of dwellings envisaged. Officers however were and continue to remain concerned about the street network for the northern land parcel.
- 4.2 As outlined at paragraph 3.7 Officers have sought to deliver a street network that would front dwellings on to the community centre land as a means to create a safer and more inclusive community asset as required by the NPPF. Whilst this has been achieved through the design of the apartment block, it has not been achieved with the dwellings (Plots 176 – 183). The applicant's ecologist cited ecological (bat) constraints. The applicant also advises that the scheme proposed, delivers a safe and legible network of streets that supports the delivery of the same for future phases of development. The DRP (2022) confirmed that this scheme presents a layout that is clear and well organised.
- 4.3 Nonetheless, the DRP (2022) recognised that there was an opportunity to enhance the tertiary streets as green streets; streets designed to incorporate trees, permeable pavements, bio-retention and swales. This was on the basis that these streets will be traffic free through large parts of the day. The DRP considered that there was an opportunity to prioritise pedestrian circulation and open space over other transport uses. Whilst Officers acknowledge the comments of the DRP there is no requirement within the Adopted Masterplan SPD for the inclusion of home zones within the residential quarters. As a means to assist the east-west pedestrian / cycle corridor (developed through Blundell's Grange Phase 1), a 3m wide pavement for shared pedestrian and cycle movement has been incorporated into the northern parcel of the scheme (Road 26). A significant increase in the number of trees within the tertiary streets has also been introduced. On this basis, whilst a formal landscape-led place where walking and cycling is a core feature, akin a to home zone has not been specifically included within proposal, Officers advise that the network of streets does take advantage of delivering a development sympathetic to establishing a distinctive, strong and safe sense of place (NPPF, para 135).

- 4.4 As previously confirmed the spine road and associated green infrastructure has been included in this reserved matters application. This is to allow the inclusion of a shared cycle and pedestrian route through the green infrastructure of the spine road. Crossing points have been adjusted to allow improved connections over the spine road including to the future neighbourhood centre and for the east-west pedestrian cycle corridor that is being delivered through application 21/00454/MARM. Road 26 has a shared cycle / pedestrian path on its north side to allow an extension of the east-west corridor into future phases of the development of the EUE. Traffic calming measures in the form of pedestrian priority design, with level junction crossings and shared streets to slow vehicle speeds are proposed within the southern land parcel. (General Arrangement Plan R439/21 Rev E). Future phases of development will further enhance pedestrian and cycle links provided through this application to the former railway line, Grand Western Canal and beyond.
- 4.5 Parking standards across the proposed development meet those required by Policy DM5 and the Provision of Parking in New Development SPD. All properties are provided with an allocated parking space. 225 spaces are identified for the detached / terrace units either on-plot or adjacent to the property it is serving. The apartment block, which makes provision with a parking court, provides an additional 12 spaces. The proposal offers 12 visitor spaces. The parking provision is compliant with Principle 8 of the Adopted Parking SPD (June 2013). All the visitor spaces are located within the development; changes introduced to remove the four spaces that were proposed on the spine road.
- 4.6 Tandem on-plot parking is generally accepted as a suitable parking solution as confirmed and accepted by the DRP (May 2022). DCC have raised no objection to tandem parking or the means of entry / egress from them on to the highway, including the spine road. Tandem parking is evident within the approved Blundell's Grange Phase 1 scheme and is accepted as a parking solution. Electric vehicle charging points are provided for all properties, regardless of tenure. This is in conformity with Policy DM5 of the Adopted Mid Devon Local Plan and more recent Building (Amendment) Regulations 2021: circular 01/2021). An additional 15 detached garages and 61 integral garages are provided. Due to the low usage of garages for parking, their provision is not included within the 225 parking space provision detailed above. A mixture of tree planting, ornamental shrub planting to separate parking into parking groups of 4 and 5 is proposed. This is beneficial to the detailed design of the street network.
- 4.7 In summary, the scheme before the planning committee has elected to front the housing closest to the proposed community centre land, on to the estate road to the south of the dwellings, rather than to overlook the community centre itself. Whilst Officers continue to remain concerned that the proposed dwellings do not front on to the community centre land, as a means to natural surveillance to create a safer and more inclusive community asset, the scheme nonetheless represents a well-considered network of streets. Further, the layout of the neighbourhood centre, which will include a primary school and associated play facilities, together with opportunities for a community building and play areas has not yet been defined. While a case can be made, that surveillance and an active relationship to the public community building and associated open space is a good design outcome, the nearby school playing fields, that whilst representing "open space" are not publically accessible. Any opportunity to access them will be very much managed by the school itself. Given the range of uses and differing needs for accessibility for the wider neighbourhood centre, it is not considered that a preference to achieve public overlooking of the community centre land, is a determining design issue at this boundary edge. The parking proposals conform to policy requirements and parking does not to dominate the street scene. On this basis the proposal is considered acceptable and accords with Policies S1, S8, S10, TIV1, TIV2, DM1, DM3 and DM5 of the Adopted Mid Devon Local Plan and policies T4 and T5 of the Tiverton Neighbourhood Plan.



## **5.0 Landscape, Open Space and Biodiversity Net Gain**

- 5.1 A guiding principle to the Adopted Masterplan SPD is the establishment of a garden neighbourhood with landscape integrated into development as a defining feature.
- 5.2 The Tiverton EUE Design Guide supports the Adopted Masterplan SPD to ensure a seamless, coherent delivery of well-connected routes and buildings across land ownerships and land parcels regardless if they are built over a phased period of time. It develops the concept of the garden neighbourhood and of character areas based on a 'centre-to-edge' concept linked through a hierarchy of green routes and open spaces. The Tiverton EUE Design Guide supports and supplements the guiding principles as set out in the Tiverton EUE Adopted Masterplan SPD.
- 5.3 A key landscape feature of this application is the north–south green infrastructure incorporating new tree planting, wildlife rich meadow planting, tree and orchard planting, informal 'play-on-the-way' space, pedestrian and cycle ways and wildlife corridors as a means to support the principle of a garden neighbourhood. Changes have been introduced during the application process, evidenced within the Ecological Technical Note Rev 1 to respond to consultee comments including the RSPB that requested a bird / bat box ratio equivalent to the number of dwellings and those of the MDDC Arboricultural officer relating to a greater diversity of tree species. Other landscape features such as the inclusion of street trees, tree planting and ornamental shrub planting to separate groups of parking have been addressed at paragraph 3.16 of this report. Raingardens and a swale (as set out in para 2.3) of this report have also been introduced. Together, these provide greater opportunity to deliver a more biodiverse development. Whilst it is noted that the proposed street trees are located within private gardens, Officers advise that each new street tree will be the subject of a Tree Preservation Order to ensure their long term contribution to the streetscene. This will be implemented following planning permission for this application. DCC Ecology requested 'hopovers' for dormice particularly associated with the spine road. However, having consulted DCC Highway Authority 'hopovers' were not possible. Continuous hedgerows to act as corridors for movement have been retained elsewhere within the proposal and on the outer boundary of this application area.
- 5.4 Following the DRP of 2021 and 2022 efforts have been made to introduce and consolidate the landscape planting throughout the scheme including the use of planting to soften the impact of the spine road from the pedestrian / cycle network and for residential amenity. A greater variety of tree species has been introduced for climate resilience, ecology and location to respond to consultee comments. Biodiversity Net Gain is not a requirement of this Reserved Matters application; this application being subject to Application 14/00881/MOUT that pre-dated the requirements of Biodiversity Net Gains. Whilst this proposed development affects approximately 5 ha of Grade 2 agricultural land (classified as 'best and most versatile' land) contrary to the NPPF (para 188 and footnote 65) that supports development on poorer quality land, the weight that can be afforded to this issue is significantly outweighed by the fact that this is an allocated site within the Adopted Mid Devon local Plan. As such the principle and overall scale of development is established subject to the determination of the details reserved by the outline planning consent, for subsequent resolution (the Reserved Matters).
- 5.5 In summary, changes have been introduced through the course of the application to minimise the impact of the proposal on landscape, and mitigation has been achieved for biodiversity assets. On this basis, Officers advise that the application accords with policies S1, S9, TIV1, TIV3, DM1, DM26 of the Adopted Mid Devon Local plan and policy T5 of the Tiverton neighbourhood Plan.

## 6.0 Affordable Housing

- 6.1 The NPPF (para 63) supports the provision of different tenure mixes to support housing need. This is reflected in Policy S3 of the Adopted Mid Devon Local Plan. This application makes provision for 27 affordable rent and affordable shared units (Housing mix and Tenure, 1113 Rev B). These will be in a mix of 1 bed apartment (x No. 3), 2 bed apartment (x No. 6), 1 bed flat (x2), 1 bed dwelling (x No. 3), 2 bed dwelling (x No. 4), 3 bed dwellings (x No. 7) and 4 bed dwelling (x No. 2) as taken from the Planning Layout, Dwg No. 1100 Rev N. As a Reserved Matters application, the S106 agreement to application 14/00881/MOUT (Schedule 1, Part 1, para 1.1 – 1.6.6) establishes the requirement for 22.5% affordable units. This equates to 27.45 units for a development of 122 units. The S106 agreement attached to the Outline application requires 60% affordable rent and 40% intermediate. The proposed tenure mix is 17 affordable rent and 11 affordable shared (a comparable tenure to intermediate). The proposed tenure mix is compliant with the requirements of the S106 agreement and is acceptable. All house types meet Nationally Described Space Standards with private gardens. The apartment block benefits from a small area of dedicated communal space. All of the affordable accommodation is located within the northern land parcel. The timing of their delivery will be directed by the phasing plan; to be a condition of this application. Meeting Housing Needs SPD requires affordable housing to be provided broadly in step and inter-mixed across the site with the proposed open market housing (para 2.28).
- 6.2 Whilst the first affordable housing units are unlikely to be constructed in the earlier phase of development, Officers advise that, the application accords with policies S3 and S10 of the Adopted Mid Devon Local Plan and policies T2 and T3 of the Tiverton Neighbourhood Plan.

## 7.0 Conclusions and Planning Balance

- 7.1 This is a Reserved Matters application to hybrid application 14/00881/MOUT for the construction of up to 122 residential units. The site forms part of the strategic Local Plan allocation, TIV1.
- 7.2 Comprehensive consideration has been given to the overall design, scale and layout of the proposal. The scheme provides well integrated green infrastructure including public open space and opportunities for biodiversity net gain. The development can be accommodated without an unacceptable impact on the highway network with necessary infrastructure able to be delivered in a predictable, timely and effective manner whilst safeguarding a future vehicular route through site allocation. The design and layout includes a variety of house types that meet Nationally Described Space Standards. For these reasons the proposal is considered to comply with the NPPF, the Adopted Mid Devon Local Plan 2013-2033 policies S1, S8, S9, S10, TIV1, TIV2, TIV3, DM1, DM3, , DM5 and DM26 and with the guiding principles of the Adopted Tiverton EUE Masterplan SPD and Tiverton EUE Design Guide. Also the Tiverton Neighbourhood Plan policies T1, T2, T3, T4, T5, T7 and T9.

## CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
2. The development shall proceed in accordance with the Written Scheme of Investigation prepared by Isca Archaeology (document ref: R01-0050-1, dated March 2023) and submitted in support of this planning application. The development shall be carried out at all times in accordance with the approved scheme.

3. The development shall not be occupied until
  - (i) the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation; and
  - (ii) that the provision made for analysis, publication and dissemination of results, and archive deposition, has been confirmed in writing to, and approved by, the Local Planning Authority.
4. Prior to commencement of development all Tree Protection Fencing is to be checked and its acceptability confirmed in writing by the appointed contracted Arboriculturalist. A written copy of its acceptability and any associated recommendation is to be provided to the Local Planning Authority with photo evidence of the tree and hedgerow protection measures and notices erected prior to development.

Should the Tree Protection Fencing be removed or adjusted this is to be checked and confirmed in writing by the appointed contracted Arboriculturalist. A written copy of its acceptability and any associated recommendation is to be provided to the local planning authority.

5. Should damage to the trees on site occur this is to be reported immediately to the contracted Arboriculturalist and to the Local Planning Authority. Any unscheduled inspections carried out and reported by the appointed contracted Arboriculturalist with associated recommendation is to be confirmed and made available in writing to the local planning authority.
6. The development shall proceed in accordance with the Habitat Assessment and Mitigation Plan (GE Consulting, February 2023 REF: 1458-HAMP-LW) and Ecological Technical Note (GE Consulting, December 2024 REF: 1458-ETN-LW) during the enabling, construction and post construction period. The recommendations in the Habitat Assessment and Mitigation Plan and Ecological Technical Note shall be adhered to throughout the construction period and the development shall be operated thereafter only in accordance with the management provisions set out within them.
7. A Landscape Environmental Management Plan (LEMP) shall be submitted for written approval by the planning authority prior to any works commencing. The content of the LEMP shall accord with the structure and content detailed in the BS42020:2013 Biodiversity: Code of Practice for Planning and Development and shall incorporate a species mitigation strategy, including advance planting for Hazel dormice and habitat mitigation measures.
8. Prior to the commencement of development a Lighting Strategy shall be submitted to and agreed in writing by the Local Planning Authority, to minimise the impact of lighting associated with pre-construction, construction, and operational activities on sensitive ecological features. The strategy must highlight the most sensitive ecological features and demonstrate through a lux contour plan, lighting specification and timing schedule that every effort has been made to minimise lighting to ensure the site continues to support commuting and foraging bats within the site and the wider landscape.
9. The development hereby approved shall not be carried out otherwise than in accordance with a phasing programme which shall previously have been submitted to and approved by the Local Planning Authority in writing.

10. First occupation of any dwelling shall not take place until details of street furniture to be provided within the public areas have been submitted to and approved in writing by the Local Planning Authority. Such details shall include benches or other seating, dog waste and litter bins and handrails where required, together with a timescale for their delivery. Following their provision, such facilities shall be permanently retained and maintained for their purpose at all times.
11. All planting, seeding, turfing or earthworks comprised in the approved details of landscaping as shown on the submitted plans, shall be carried out within 9 months of the substantial completion of the development (or phase thereof) whichever is the sooner; and any trees or plants which within a period of 5 years from the implementation of the scheme (or phase thereof), die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
12. No part of the development hereby approved shall begin until:
  - A. The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 metres back from its junction with the public highway;
  - B. The ironwork has been set to base course level and the visibility splays required by this permission laid out;
  - C. The footway on the public highway frontage required by this permission has been constructed up to base course level; and
  - D. A site compound and car park have been constructed in accordance with a Construction Environmental Management Plan to be approved under Condition 14 of this application.
13. First occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been approved in writing by the Local Planning Authority and constructed and made available for use:
  - A. The access road and cul-de-sac carriageways including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
  - B. The access road and cul-de-sac footways and footpaths which provide direct pedestrian routes to an existing highway maintainable at public expense in any phase have been constructed up to and including base course level;
  - C. The cul-de-sac visibility splays have been laid out in accordance with current approved standards;
  - D. The street lighting for the access road and cul-de-sac and footpaths has been erected and is operational;
  - E. The car parking and any other vehicular access facility required for the dwellings by this permission has/have been completed;
  - F. The verge and service margins and vehicle crossings on the road frontage of the dwelling have been completed with the highway boundary properly defined;
  - G. The street nameplates for the access road and cul-de-sacs have been provided and erected; and
  - H. A site compound and car park have been constructed in accordance with a Construction Environmental Management Plan to be approved under Condition 14 of this application.
14. A Construction Environmental Management Plan (CEMP) shall be submitted for written approval by the planning authority prior to any works commencing.
  - (a) the timetable of the works;
  - (b) daily hours of construction;

- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc: 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works;
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site;
- (k) details of wheel washing facilities and obligations;
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes;
- (m) Details of the amount and location of construction worker parking; and
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.

In accordance with details that shall previously have been submitted to, and approved by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway

15. First occupation of any dwelling shall not take place until the boundary treatments for that dwelling have been installed in accordance with the Enclosures Plan 1114 Rev B. Only such approved boundary treatments shall be installed.
16. Prior to the occupation of any part of the development hereby permitted, detailed drawings of all play equipment shown on drawing number edp7268\_d004g (Sheet 2 of 8) shall be submitted to and agreed in writing by the Local Planning Authority.
17. Prior to their use on site, samples of materials to be used for all external surfaces of the buildings shall have been submitted to and approved in writing by the Local planning Authority. Materials will include natural stone. Such approved materials shall be so used and retained.
18. The first occupation of any dwelling shall not take place until bin stores for that dwelling have been provided in accordance with the approved details.
19. Prior to the construction of any dwelling, in any agreed phase of the development, details of the tree pits and their location shall be submitted to and approved in writing by the Local Planning Authority.
20. Prior to the commencement of development the following details shall be submitted to and agreed in writing by the Local Planning Authority:
  - Cross-sections of each rain garden (this should show inlet and overflow);

- Plans showing the pipework connecting into the rain gardens (as well as the features upstream of the pipework, e.g. gullies, slotted drains, downpipes). The rain gardens should have inlets separate from the overflows;
  - Plans showing the catchment for each rain garden;
  - Planting for rain gardens; and
  - The maintenance details and schedules for each rain garden and its pipework.
- The approved details shall be operated thereafter.

21. No development hereby permitted shall commence until details of the surface water drainage including its management and maintenance during the construction stage has been submitted to and agreed in writing by the Local Planning Authority. The approved details shall be operated thereafter.

## **REASONS FOR CONDITIONS**

1. To ensure the timely delivery of development in the complex delivery of the Tiverton East Urban Extension.
2. To ensure, in accordance with Policy DM25 of the Mid Devon Local Plan and paragraph 211 of the National Planning Policy Framework (2023), that an appropriate record is made of archaeological evidence that may be affected by the development.
3. To comply with Paragraph 211 of the NPPF (2023), which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.
4. To ensure the protection of ecological and landscape assets during the period of construction in accordance with Policies S1 and DM1 of the Adopted Local Plan 2013 – 2033.
5. To ensure the protection of ecological and landscape assets during the period of construction in accordance with Policies S1 and DM1 of the Adopted Local Plan 2013 – 2033.
6. To ensure the protection of ecological and landscape assets in accordance with Policies S1 and DM1 of the Adopted Local Plan 2013 – 2033.
7. To ensure the protection of ecological and landscape assets in accordance with Policies S1 and DM1 of the Adopted Local Plan 2013 – 2033.
8. To ensure the protection of fauna in accordance with Policies S1 and DM1 of the Adopted Local Plan 2013 – 2033.
9. To provide certainty in the interests of the proper development of the site.
10. To provide certainty in the interests of good planning.
11. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with Policies S1, S9, TIV3 and DM1 of the Adopted Mid Devon Local Plan 2013 – 2033.

12. To ensure that adequate on-site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents.
13. To ensure that adequate access and associated facilities are available for the traffic attracted to the site.
14. To ensure a good standard of residential amenity and security for residents.
15. To ensure a good standard of residential amenity and security for residents.
16. In the interests of good planning and residential amenity.
17. To ensure the use of materials are appropriate to the development in order to safeguard the visual amenities of the area in accordance with Policies S1 and DM1 of the Adopted Mid Devon Local Plan 2013-2033.
18. To ensure adequate facilities for waste management are provided on site to protect the residential amenity and visual qualities of the area.
19. To ensure that the development makes a positive contribution to the character and amenity of the area whilst ensuring the long term survival of the proposed trees.
20. To ensure that the SUDs will be constructed effectively and managed to make a positive contribution to the character, amenity and biodiversity of the area in accordance with policy DM1 and DM26 of the Mid Devon Local Plan 2013 - 2033. The condition should be pre-commencement to ensure that surface water during the construction stage is well managed in the interest of proper planning.
21. To ensure that surface water drainage during the construction stage will be managed effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG. The condition should be pre-commencement to ensure that surface water during the construction stage is well managed in the interest of proper planning.

## **INFORMATIVES**

1. Should the development proceeds, the developer is advised to use an appropriately experienced soil specialist to advise on and supervise soil handling, including identifying when soils are dry enough to be handled and how to make best use of the different soils on site. Further guidance is available in the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites (including accompanying Toolbox Talks).
2. The applicant is advised of the guide produced by the Royal Society for the Protection of Birds and Wildfowl and Wetlands Trust as guide for developers and planners on designing and managing SuDS features that are good for wildlife.
3. A Tree Preservation Order will be applied on approval of this application; based on the approved drawings as a means to ensure their long term contribution to the quality and character of the area.

## **BNG – Biodiversity Net Gain**

Is BNG Required? No

Is a S106 agreement required? No

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

Comprehensive consideration has been given to the overall design, scale and layout of the proposal. The scheme provides well integrated landscaping and areas of green infrastructure providing opportunities for biodiversity mitigation and enhancement. The development can be accommodated without an unacceptable impact on the highway network with necessary infrastructure able to be delivered in a predictable, timely and effective manner. The design and layout including house types are acceptable meeting Nationally Described Space Standards. The Independent DRP concluded that the proposed scheme was clear, well organised and acceptable. Changes have been introduced throughout the course of the application to deliver a development that respects the principles for connectivity, character and place making. For these reasons the proposal is considered to comply with the Adopted Mid Devon Local Plan 2013 – 2033 S1, S8, S9, S10, TIV1, TIV2, TIV3, DM1, DM3, , DM5 and DM26 and with the guiding principles of the Adopted Tiverton EUE Masterplan SPD and Tiverton EUE Design Guide. Also the Tiverton Neighbourhood Plan policies T1, T2, T3, T4, T5, T7 and T9.

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



Application No. 24/01248/PNCOU

Grid Ref: 307803 : 108310

Applicant: Mr Michael Poynton

Location: Land at NGR 307810 108319  
(Lower Moneysland)  
Kentisbeare  
Cullompton

Proposal: Prior notification for the change of use of 2 agricultural buildings to 4 dwellings  
under Class Q

Date Valid: 23rd August 2024



## **APPLICATION NO: 24/01248/PNCOU**

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

This application is required to be considered by the Planning Committee, in line with the Council's adopted Scheme of Delegation, as the applicants are the parents of a District Councillor, and that District Councillor has an interest in the land and buildings.

### **RECOMMENDATION**

Prior approval required and approved

### **PROPOSED DEVELOPMENT**

Prior notification for the change of use of 2 agricultural buildings to 4 dwellings under Class Q

Prior notification for the change of use of two agricultural buildings to create four dwellings under Class Q. The proposal comprises conversion to create:

- One larger dwelling of 383.84 sq. m (8-bed)
- Three smaller dwellings (88.69 sq. m 3-bed and two 99.20 sq. m 2-bed units)

The development includes the demolition of several surrounding agricultural buildings as shown on the block plan, with others retained for storage and machinery use.

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

- Application form
- Design & Access Statement
- Structural surveys for both barns by Andrew Oliver (X-Consulting Engineers Ltd)
- Ecological surveys including bat emergence surveys by Western Ecology
- Existing and proposed plans/elevations
- Site location and block plan showing demolition of surrounding buildings
- Details of package sewage treatment system location

### **RELEVANT PLANNING HISTORY**

No relevant history

### **DEVELOPMENT PLAN POLICIES**

Schedule 2, Part 3 Class Q(a) and (b), of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), and Paragraph W

National Planning Policy Framework

National Planning Practice Guidance

### **CONSULTATIONS**

#### PUBLIC HEALTH

Raised concerns regarding:

1. The barns are central within an agricultural holding with other barns and buildings around. No information has been uploaded which indicates what these other buildings are used for and whether there is still farming activity associated with them that might impact on the new dwellings.
2. If connection to the mains sewer is not available, the applicant is advised to consider package treatment plants to serve the dwellings.
3. There is potential for noise transmission between the new dwellings, both airborne and via the shared structure.

#### DEVON COUNTY COUNCIL MINERALS AND WASTE

No objection as the development would not constrain nearby mineral resources.

#### DEVON STONE FEDERATION

No objection regarding mineral safeguarding.

#### **REPRESENTATIONS**

This planning application has been advertised by means of a site notice erected by the applicant, by notifying immediately adjoining neighbours in writing and by advertising in a local newspaper in accordance with the legal requirements for publicity on planning applications, and the Council's Adopted Statement of Community Involvement July 2020.

The following properties were written to:

Wayland Kentisbeare Cullompton Devon EX15 2HG  
Higher Moneysland Kentisbeare Cullompton Devon EX15 2HG  
Stoford House Blackborough Cullompton Devon EX15 2HG

No representations received from neighbours.

#### **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

1. **Principle of development**
2. **Assessment of permitted development criteria**
3. **Assessment of prior approval matters**
4. **Conclusion**

#### **1. Principle of development**

- 1.1 This application seeks Prior Approval for the change of use of agricultural buildings to 4 dwellings under Part 3, Class Q (a) and (b) and paragraph W of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (The GPDO). The application has therefore been assessed against the key considerations listed under Part Q (a) and (b) which have been outlined in detail below, for ease of reference:

Part Q (a) and (b) of The Town and Country Planning (General Permitted Development) (England) Order 2015 permits development consisting of -

a) a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order.

b) Building operations reasonable necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.

1.2 As this is an application for permitted development, the principle of development is established subject to meeting the necessary conditions and limitations identified within Part 3, Class Q (a) and (b) and paragraph W of the GPDO.

1.3 In applying to exercise these permitted development rights under both Class Q (a) and (b), a developer is required to first apply to the Local Planning Authority for a determination as to whether the prior approval of the authority will be required as to:

- (a) transport and highways impacts of the development;
- (b) noise impacts of the development;
- (c) contamination risks on the site;
- (d) flooding risks on the site;
- (e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;
- (f) the design or external appearance of the building; and
- (g) the provision of adequate natural light in all habitable room of the dwellinghouses.

These are the only matters that should be considered in the determination of the application.

1.4 Changes to the Class Q legislation came into effect on 21<sup>st</sup> May 2024, revising some of the conditions and limitations. In doing so however, a transitional period was introduced until 20<sup>th</sup> May 2025, in which applicants can choose to apply under the old or new rules. In this case, the application is made under the old rules. As such, the starting point is to determine whether the proposed development meets the necessary permitted criteria, after which a determination is made in respect to the prior approval matters identified above.

## **2. Assessment of permitted development criteria**

2.1 The following permitted development conditions and limitations need to be considered. In doing so it is noted that development is not permitted under Class Q, where:

2.2 *(a) Site was in agricultural use as part of an established agricultural unit on 20 March 2013, or if the site was not in use on that date, when it was last in use, or if the site was brought into use after that date, 10 years before the date development begins.*

The Design and Access Statement confirms that these agricultural buildings have been solely used for agricultural purposes as storage buildings for machinery, tools and equipment alongside being used for livestock. The buildings were in agricultural use on the relevant date and no change of use has occurred since this date.

2.3 *(b) Within the agricultural unit the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; or the cumulative floor space of the existing building or buildings changing use under Class Q exceeds 465 square meters.*

The existing floorspace changing will be 442 sq. m complying with conditions (b). As part of the scheme one larger dwelling house is proposed at 383.84 square metres. There are no dwellings under Class Q that have been developed on the holding previously.

- 2.4 *(c) Within the agricultural unit the cumulative number of separate smaller dwellinghouses developed under Class Q exceeds 5, or the floorspace of any one separate smaller dwellinghouse having a use falling within Class C3 exceeds 100sqm.*

Three smaller dwellinghouses are proposed. The first is an 88.69 sq. m dwelling with two further dwellings of 99.20 sq. m that are both two storey. None of these exceed the 100 sq. m threshold.

- 2.5 *(d) The development under Class Q (together with any previous development under Class Q) within an established agricultural unit would result in either or both of the following-*

*(i) a larger dwellinghouse or larger dwellinghouses having more than 465 square metres of floor space having a use falling within Class C3 of the Schedule to the Use Classes Order;*  
*(ii) the cumulative number of separate dwellinghouses having a use falling within Class C3 of the Schedule to the Use Classes Order exceeding 5;*

This proposed change of use will provide one larger dwelling at 383.84 square metres and one smaller dwelling at 88.69 sq. m and two further smaller dwellings at 99.20 square metres. The total number of units (4) does not exceed 5, and the proposal therefore complies with conditions (c) and (d).

- 2.6 *(e) The site is occupied under an agricultural tenancy, unless the express consent of both the landlord and tenant has been obtained;*

It is advised that the site is not occupied under any agricultural tenancy and therefore no notices need to be served. The LPA does not have any contrary evidence and therefore it is considered that this criterion is satisfied.

- 2.7 *(f) Less than 1 year before the date development begins-*

*(i) An agricultural tenancy over the site has been terminated, and*  
*(ii) The termination was for the purpose of carrying out development under Class Q, unless both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural use;*

Mindful the site is not occupied under any agricultural tenancy, and the LPA does not have any contrary evidence, it is considered that this criterion is satisfied.

- 2.8 *(g) Development under Class A(a) or Class B(a) of Part 6 (agricultural buildings and operations) has been carried out on the established agricultural unit-*

*(i) Since 20th March 2013; or*  
*(ii) Where development under Class Q begins after 20th March 2023, during the period which is 10 years before the date development under Class Q begins;*

The planning history shows that no new agricultural buildings have been constructed under permitted development rights afforded by Part 6 of the GPDO, on this established agricultural unit since 20th March 2013.

- 2.9 (h) *The development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;*

The proposed development sits within the constraints of the existing structure.

- 2.10 (i) *The development under Class Q(b) would consist of building operations other than-*

*(i) The installation or replacement of-*

*(aa) Windows, doors, roofs, or exterior walls, or*

*(bb) Water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and*

*(ii) Partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i);*

Paragraph 105 of Planning Practice Guidance 'When is permission required' states:

*"Building works are allowed under the right permitting agricultural buildings to change to residential use: Class Q of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. However, the right assumes that the agricultural building is capable of functioning as a dwelling. The right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission. This includes the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house; and partial demolition to the extent reasonably necessary to carry out these building operations. It is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.*

*For a discussion of the difference between conversions and rebuilding, see for instance the case of Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin).*

*Internal works are not generally development. For the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls, which are not prohibited by Class Q."*

The High Court judgement dated 9th November 2016 Hibbitt and Another [2016] EWHC 2853 (Admin), relating to Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, as referred to in the Planning Practice Guidance, supports the conclusion of the planning inspectorate for the case in that Class Q allows for a "conversion", but does not allow a "rebuild" or "fresh build". The application building in the case of the referenced High Court judgement presented itself as an open sided metal framed farm building with corrugated sheet roof. While both the planning inspectorate and the High Court judgement acknowledged and made no dispute that a) the building amounted to an agricultural building, b) the building was used for agriculture on the prescribed date, c) the structure of the building would be sufficient to bear the load of the proposed development, or d) the proposed works are reasonably necessary for the building to function as a dwellinghouse, both the planning inspectorate and the High Court judgement concluded that the proposed works would not amount to a "conversion" as

required by the overarching provisions of Class Q. The High Court judgement accepted that while substantial works could fall under the scope of Class Q, they presuppose that the works comprise “conversion”. It was concluded that such significant works would be required to the skeletal structure to allow the building to function as a dwelling, that the works would be considered a “rebuild” or “fresh build” which is not allowable under Class Q.

Having regard to the Hibbitt case which set a distinction between a 'conversion' and a 'rebuild', it is considered on the basis of fact and degree and taking into account the applicants submissions that the development would fall within the scope of a 'conversion'.

The structural surveys prepared by X-Consulting Engineers Ltd confirm that both buildings are structurally sound and capable of conversion. For Barn 1, the survey confirms the primary structure consists of purlins, timber trusses and concrete/steel columns which are all in good condition and can support the conversion. Only minor repairs to secondary elements are needed (some corrosion to door columns which can be repaired with steel plates). For Barn 2, while there is a crack in the hybrid block/brick/concrete wall requiring repair using helical ties and a failed timber purlin requiring replacement, these are considered minor repairs. The proposed conversion works include: installation of new windows and doors within existing openings, installation of insulated timber studwork for internal walls, utilising the existing concrete slab with new damp proof membrane and insulation, installation of first floors using suspended timber joists spanning between new floor beams, and installation of services (water, drainage, electricity). The existing roof materials can be retained with insulation added. All these works fall within the scope of operations permitted under Class Q as they represent the installation or replacement of windows, doors, roofs, walls and services reasonably necessary for the buildings to function as dwellinghouses, without requiring substantial rebuilding. The structural integrity of both buildings allows for conversion without significant structural alterations.

Overall, it is accepted that a sufficient amount of the external materials would be retained and the buildings are substantial enough to accommodate the proposed residential conversion scheme. No other concerns are raised in respect to the works proposed. As such, it is considered that the buildings would be suitable for conversion and the amount of works required to convert the buildings are reasonable.

2.11 *(j) The site is on article 2(3) land;*

2.12 *(k) The site is, or forms part of-*

- (i) A site of special scientific interest;*
- (ii) A safety hazard area;*
- (iii) A military explosives storage area;*

2.13 *(l) The site is, or contains, a scheduled monument; or*

2.14 *(m) The building is a listed building.*

The buildings are not a listed buildings and the site does not include any of the above designations.

### **3. Assessment of prior approval matters**

3.1 As discussed earlier in this report, in applying to exercise Class Q permitted development rights under both Class Q (a) and (b), a developer is required to first apply to the Local

Planning Authority for a determination as to whether the prior approval of the authority will be required as to the following matters:

- (a) transport and highways impacts of the development;
- (b) noise impacts of the development;
- (c) contamination risks on the site;
- (d) flooding risks on the site;
- (e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;
- (f) the design or external appearance of the building; and
- (g) the provision of adequate natural light in all habitable room of the dwellinghouses.

Each is assessed in turn below:

### 3.2 (a) *Transport and highways impact*

The site and agricultural buildings have an existing agricultural access which leads onto the local highway network. The access/egress point is considered sufficiently wide for residential use. The updated block plan demonstrates adequate parking provision for all four units with formalized hardstanding areas. Vehicle turning is possible within the site. The impact of four residential units would not give rise to unacceptable levels of traffic movement in this location.

### 3.3 (b) *Noise impacts*

There are no noise or contamination issues identified as a result of the development.

Internal noise transmission between units can be addressed through appropriate sound insulation measures which will be secured by condition.

### 3.4 (c) *Contamination risks*

The buildings have been used for agricultural purposes, and it is considered that there is no significant risk of contamination. The package treatment plant shown on the updated block plan is appropriately positioned and will require separate Building Regulations approval to ensure environmental standards are met.

### 3.5 (d) *Flooding risks*

The site is within flood zone 1 and therefore at low risk of flooding. The proposal is not likely to result in any significant surface water drainage issues given there are no substantial changes proposed to hard surfacing across the site.

### 3.6 (e) *Whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order.*

Having regard for the above there are no concerns raised in respect to the location or siting of the building that would make it otherwise impractical or undesirable to carry out the development.



There were some initial concerns raised in respect to the close proximity of existing buildings around the proposed development, and the potential impact on the residential amenity of future residents, should these buildings be used for agricultural purposes. These buildings are however to be demolished as part of the proposal, addressing these concerns. There are no concerns in relation to the remaining buildings to be retained for storage and machinery use, as they are appropriately separated from the proposed dwellings.

The demolition of surrounding agricultural buildings and clear definition of residential curtilage ensures appropriate separation of uses. Therefore, the proposal is not considered impractical or undesirable.

### 3.7 (f) *The design or external appearance of the building*

The design and external appearance would be acceptable. The existing roof, frame and external walls can be utilised alongside using the existing openings as shown on the submitted proposed plans. The conversion approach maintains the agricultural character while providing appropriate residential amenity.

### 3.8 (g) *The provision of adequate natural light in all habitable rooms of the dwellinghouses*

The accompanying proposed plans show that there is provision of adequate natural light provided in all of the habitable rooms for the proposed dwellings through appropriately positioned windows and doors.

3.9 While not strictly a prior approval matter, the developer is required to comply with the Wildlife and Countryside Act 1991, and the Conservation of Habitats and Species Regulations 2010, in respect to ecology and protected species. In that respect, Regulation 9 (5) of the Conservation of Habitats and Species Regulations 2010 (“the Regulations”) provides that, “A competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions”. As such, as the competent authority, it remains the legal responsibility of the Local Planning Authority to give consideration to the impact on ecology. Where it is considered that the proposal would result in a detrimental impact and those impacts cannot be mitigated through the imposition of conditions the proposal may be refused.

3.10 The application is supported by a bat emergence surveys report, providing details of internal and external inspection of the buildings, and subsequent bat emergence surveys. The results of the inspection and surveys identified at least 1 common pipistrelle bat day roosting in one of the buildings. As such, the works would lead to the loss of at least one bat roosts in the long-term

3.11 The recommendations within the report, identify the need to apply for and obtain a European Protected Species Licence from Natural England, in addition to suggesting mitigation and compensatory measures. These include ecological supervision during works, and addition of new roosting provision in the form of bat boxes. On this basis, the applicant has demonstrated that despite there being a detrimental impact on roosting opportunities for a protected species, this impact will be able to be satisfactorily mitigated against. As such, the proposed development is considered to be acceptable in respect to ecology.

## 4. **Conclusions**

4.1 Following assessment of the proposed development against the relevant conditions, limitations and restrictions of Part 3 Class Q (a) and (b) and W of the GPDO, and having

assessed the prior approval matters, it is considered appropriate to recommend that prior approval be granted.

## **CONDITIONS**

1. The development must be completed within a period of 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice and the submitted supporting information.
3. The development shall be carried out in accordance with the recommendations detailed in the submitted Bat Emergence Surveys Report, dated 2<sup>nd</sup> August 2024, covering avoidance of harm to protected species, mitigation against the loss of roosting opportunities and enhancement.
4. The dwellinghouses hereby permitted shall not be occupied until the buildings and structures shown to be demolished on the approved plans (AJP/SLP/24 REV 2) have been removed in their entirety and all materials removed from site.

## **REASONS FOR CONDITIONS**

1. In accordance with Part 3 paragraph Q.2 (3) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
2. For the avoidance of doubt and in the interests of proper planning.
3. For the conservation and protection of legally protected species and for the enhancement of biodiversity, in accordance with policies S1, S9 and DM1 of the Mid Devon Local Plan (2013-2033), the provisions of the National Planning Policy Framework, and to ensure compliance with The Wildlife and Countryside Act 1981 (as amended).
4. To safeguard the living conditions of future occupiers of the dwellings hereby permitted, in accordance with policy DM1 of the Mid Devon Local Plan (2013-2033).

## **INFORMATIVES**

1. The applicant is advised that this decision has been made reflecting on the information submitted, and should therefore be carried out in accordance with those details. It does not allow for the complete demolition of the existing building and/ or the implementation of a totally new build project.
2. The applicant is advised that in carrying out the conversion it will be necessary to comply with the Wildlife and Countryside Act 1991, and the Conservation of Habitats and Species Regulations 2010.
3. The applicant has three years from the date of this notice to complete the conversion.
4. Please note that buildings changing under Class Q do no benefit from permitted development rights for alterations, additions and extensions and development within the curtilage of a dwellinghouse under Classes A to F of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development Order 2005 (as amended)).

5. If a private water supply is to be used by more than one property or has a commercial function, The Private Water Supply (England) Regulations 2016 as amended will apply. A risk assessment and sampling regime will be necessary. The supply must not be used until the Local Authority (Mid Devon District Council) is satisfied that the supply does not constitute a potential danger to human health, including single domestic use. You must also register with the Local Authority (Mid Devon District Council) any private water supply. Failure to do so may result in a Section 85 Notice, with which failure to comply is an offence. Please contact Public Health at Mid Devon District Council on completion of proposal.

### **BNG – Biodiversity Net Gain**

N/A

### **REASON FOR GRANT OF PRIOR APPROVAL**

The proposed change of use of the agricultural buildings to four dwellings is considered to be acceptable under Class Q of the GPDO. The proposal by virtue of its siting and design complies with all relevant criteria of Class Q, with the buildings being structurally capable of conversion without substantial rebuilding. The development would have no unacceptable impact on the private amenities of neighbouring properties, highway safety, ecology or flood risk. Following demolition of surrounding agricultural buildings as shown on the approved plans, the location is considered suitable for residential use. Appropriate conditions will ensure the success of the development in this location. The proposal therefore accords with the requirements of Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). It is considered that Prior Approval is required, however the submitted details are acceptable and Prior Approval is therefore granted subject to conditions.

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

Application No. 24/01535/FULL

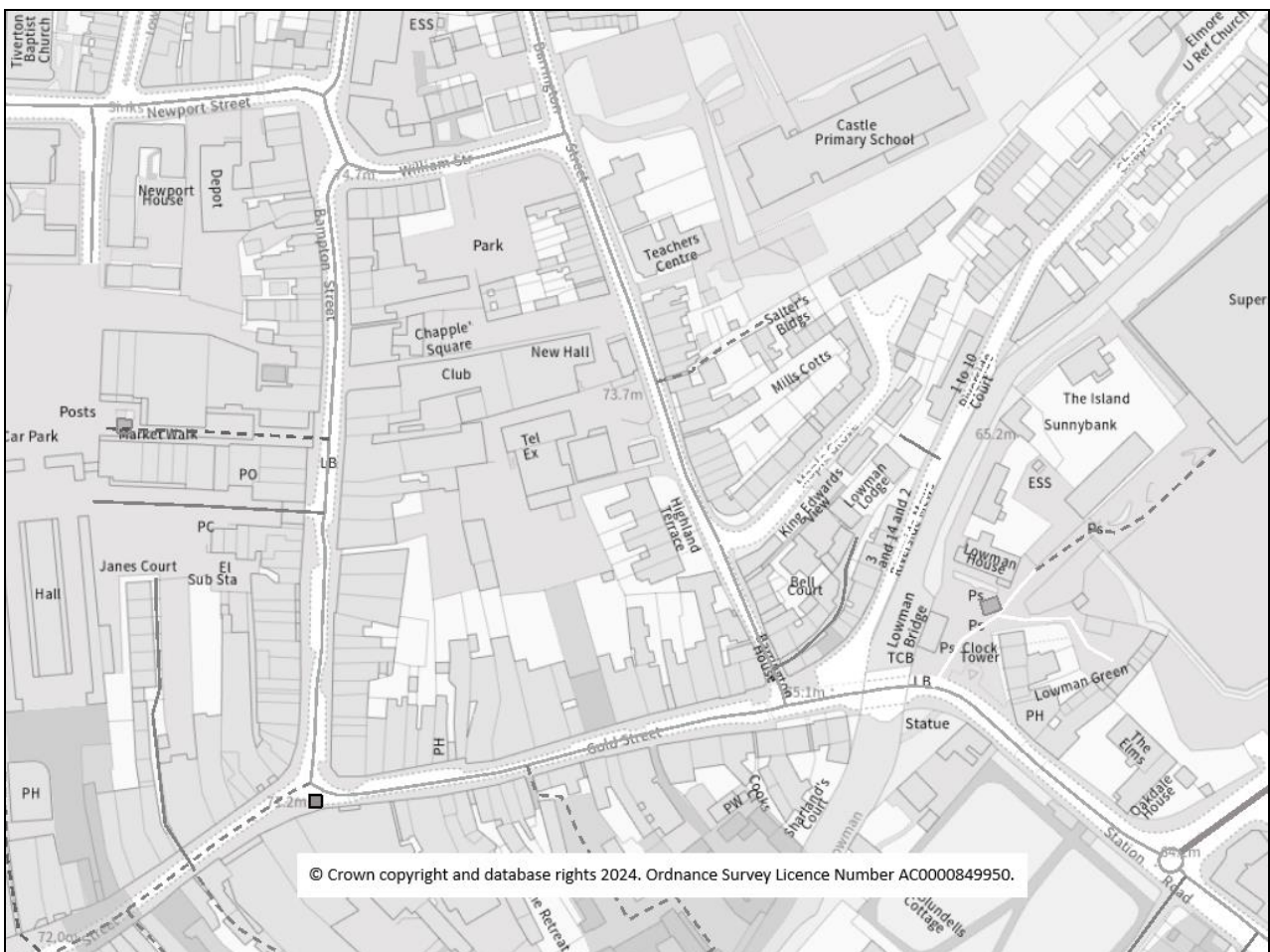
Grid Ref: 295588 : 112560

Applicant: C/o Mr David Phillips (Agent)

Location: Market Walk, Bampton Street and Outside Lowman House, Lowman Green, Tiverton

Proposal: Installation of Pulse Smart Hub with integrated digital screens at 2 locations within Tiverton

Date Valid: 18th October 2024



## **APPLICATION NO: 24/01535/FULL**

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

This application is required to be considered by the Planning Committee, in line with the Council's adopted Scheme of Delegation, as the proposed development would be sited on land owned by Mid Devon District Council.

### **RECOMMENDATION**

Grant permission subject to conditions

### **PROPOSED DEVELOPMENT**

This application for Planning Permission is made jointly by Urban Innovation Company (UIC) and Tiverton Town Council, for the installation of two 'Pulse Smart Hubs', at locations within Tiverton Town Centre. A concurrent application has been made for Advertisement Consent.

The smart hubs are multi-functional units comprising two large digital screens capable of displaying moving advertisements. The side of each smart hub also contains a user interface with touchscreen. Each unit measures 2.54m high, 1.28m wide and 0.35m deep, and are constructed using black and red fibreglass. The digital screens measure 1.66m by 0.93m.

The smart hubs have a range of features, including the provision of digital information, advertising (including free community advertising), communication, public WI-FI, free phone calls, phone charging functionality, emergency health support and contact (including a defibrillator and 999 calls), local information and local maps/wayfinding.

The proposed smart hubs are to be located at Market Walk (Location 002) and Lowman Green (Location 3). A third smart hub to be located at Becks Square Car Park (001) has since been removed following feedback from consultees.

An existing information board at Lowman Green is to be removed as part of the proposals, being replaced by a smart hub.

A further application for Planning Permission and Advertisement Consent has been submitted for the installation of a further nine smart hubs in other locations around Tiverton, on Devon County Council land. These applications are pending consideration, and due to be determined under delegated authority, at the time of writing this committee report.

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

Completed Application Form, Plans, Covering Letter, Planning Statement, Design, Management and Operational Statement, Heritage Impact Assessment Flood Risk Assessment, Wildlife Trigger Table, Ownership Notice Certificate, BNG Statement for Validation, BNG Exemption Form

### **RELEVANT PLANNING HISTORY**

24/01520/ADVERT - Advertisement Consent for the installation of Pulse Smart Hub with integrated digital screens at 9 locations within Tiverton - PENDING CONSIDERATION

24/01533/FULL - Installation of Pulse Smart Hub with integrated digital screens at 9 locations within Tiverton - PENDING CONSIDERATION

24/01539/ADVERT - Advertisement Consent for the installation of Pulse Smart Hub with integrated digital screens at 3 locations within Tiverton - PENDING CONSIDERATION

## **DEVELOPMENT PLAN POLICIES**

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

S1 - Sustainable development priorities  
S7 - Town Centres  
S9 - Environment  
S10 - Tiverton  
DM1 - High quality design  
DM3 - Transport and air quality  
DM4 - Pollution  
DM25 - Development affecting heritage assets

### **Tiverton Neighbourhood Plan 2020 to 2033**

T4 - Character of development  
T7 - Minimising the risk of flooding

National Planning Policy Framework

National Planning Practice Guidance

## **CONSULTATIONS**

### TIVERTON TOWN COUNCIL - 17.12.2024

Support

### DEVON COUNTY HIGHWAY AUTHORITY - 30.10.2024

There are a number of locations within this application and I will comment on them individually, although as these will be on the public highway, we would ask all the locations to have a safety audit carried out to ensure any impact these will have, can be mitigated.

Site 1. St Georges Way, next to the Car Park ' No objections ' the marked spot looks to replace the pay and display machine in MDDC car park. Therefore, the drawing may be wrong, and the location next to the machine is Highway Maintained at Public Expense and this location would be acceptable.

Site 2. Market Walk ' from the Market to Bampton Street ' None of this area is HMPE therefore no comment on this location.

Site 3. No Objection ' although you should be assured this will not block vehicle accesses here. It should stay behind the bollards by the Police Station which looks to be in MDDC land.

These also should be subject to a Safety Audit to ensure these do not pose a highway safety issue to all road users.

11.12.2024

Site 1. The new proposed location is acceptable.

The County Highway Authority is happy for the Safety Audits to be carried as part of a planning condition.

MDDC ECONOMIC DEVELOPMENT OFFICER - 18.11.2024

Economic Development recognise that the proposed smart hubs, where sited at key entry points and areas of high footfall, have the potential to support wayfinding and the display of community/visitor information, as well as offering improved digital connectivity in the town centre environment.

The Mid Devon District Council's Corporate Plan (2024-2028) and current Economic Strategy (2019-2024) both highlight town centre regeneration and the proposal aligns with the strategic economic projects identified in The Tiverton Regeneration Strategy (November 2022), notably:

7.1 Town Centre public realm improvements, including the visibility of the Pannier market and regeneration of Phoenix Lane; and

7.6 Improve the promotion of activities and experiences available in the town to both locals and visitors.

The applicant is asked to ensure that the sites selected and the positioning of the smart hubs does not conflict with other wayfinding strategies or impair sight lines to businesses, including window displays, entrances and outdoor amenity space. Equally there are many residential properties within the town centre and care must be taken to ensure that the proposed smart hubs do not impede access to and from residential properties and that they are not illuminated to an extent that they are detrimental to residential environments.

In terms of the use of the smart hubs for advertising, if possible and feasible, it would further support the local economy if the advertising content reinforced the local offer. It is noted that the Pulse Smart Hubs have the potential to be used for commercial advertising; this could include the promotion of food and drink that is high in fat, sugar and/ or salt. If used for this purpose, consideration should be given to a restriction of the locations away from schools and areas where young people meet.

Devon County Council, as Highways Authority, have provided comments in relation to each of the sites, Economic Development support the proposals once these issues have been addressed to the satisfaction of the Highways Authority.

Location 1: Outside Becks Square Car Park, Beck's Square, Tiverton EX16 6PJ

We support the proposal in principle as a key entry point; it is a good location to capture footfall. However, Devon County Council, as Highways Authority, have queried this proposed location as drawn on the location map provided due to its proximity to the parking meter. We echo these concerns. The suggestion, made by Devon County Council to site the Pulse Smart Hub on the adjacent Highway near to the machine (and on Highway maintained at Public Expense) instead would be supported.

If permission is granted for the proposed location (not the suggested alternative), then please note that as this is Mid Devon District Council owned land, the applicant will need to liaise with Mid Devon District Council's Car Parking and Property Services Team to ensure that the proposed

Pulse Smart Hub can be installed in an appropriate location/ position. We will be happy to put the applicant in contact with these services. Installation at this site will be subject to these Services' agreement. Formal land owner consent must be obtained prior to installation, note that there may be ongoing cost implications relating to these agreements.

Location 2: Market Walk, Bampton St, Tiverton EX16 6BL

Support - key entry point; a good location to capture footfall

This location is used for pop-up stalls during town centre events, therefore installation in this location should ideally avoid conflicting with this.

As this is Mid Devon District Council owned land, please liaise with Mid Devon District Council's Car Parking and the Market Management Team to ensure that the proposed Pulse Smart Hub can be installed in an appropriate location/ position. We will be happy to put the applicant in contact with these services.

Installation at this site will be subject to Mid Devon District Council's Property Services Team agreement. Formal land owner consent must be obtained prior to installation, note that there may be ongoing cost implications relating to these agreements.

Location 3: Outside Lowman House, Lowman Green, Tiverton EX16 4LA

Support - key entry point; a good location to capture footfall

As this is Mid Devon District Council owned land, please liaise with Mid Devon District Council's Property Services Team to ensure that the proposed Pulse Smart Hub can be installed in an appropriate location/ position. We will be happy to put the applicant in contact with this service.

Installation at this site will be subject to Mid Devon District Council's Property Services Team agreement. Formal land owner consent must be obtained prior to installation, note that there may be ongoing cost implications relating to these agreements.

It is noted that there is already an existing information board in situ at this location. Mid Devon District Council would be happy to work with the applicant to arrange the removal of the existing information point (monolith/totem sign) where it is considered appropriate to do so.

### MDDC PROPERTY SERVICES

There has been no contact from Pulse as to landowner agreement for installations at Beck Square, Market Walk and Lowman Green. Any installation will be subject to licence/ lease setting out terms to include operator responsibilities, advertisement content and rent.

Beck Square as proposed is considered to inappropriately located/ orientated being in a position at kerb edge that is vulnerable to being hit by a vehicle, requiring users to stand in the road, exposing users to risk of level difference at the kerb (possible particularly compromising those with a mobility impairment) – further it is an obstruction to pedestrian traffic to and from the car park and the town centre (possibly forcing those into vehicle traffic on the car park access road) and a conflict to those using the pay and display parking ticket machine. It's suggested that the users of Beck Square car park are generally local people and not visitors to the town so probably not needing the use of such an interactive local information board. Given the proximity of the highway it's suggested that this installation will be subject to a Highway Safety Audit.

Lowman Green as proposed is vulnerable to being hit by a vehicle and given the proximity of the highway it's suggested that the Lowman Green installation will be subject to a Highway Safety Audit.



Market Walk no material observation

#### MDDC MARKET MANAGEMENT TEAM

Looking at the map, it looks like that is right outside of the pharmacy?

If so, from a market point of view we have no objections as we do not tend to overflow into that area.

#### MDDC PARKING SERVICES TEAM

I have no issue from a parking perspective here as it is not located in any parking bay or even in relative proximity to it. I have seen proposals for one located at Beck Square and I do have concerns in relation to that one.

#### MDDC PUBLIC HEALTH

We have considered the application and do not anticipate any environmental health concerns. These hubs are not known to be responsible for excess noise or for causing light glare or pollution which can be concerns of local residents not familiar with these hubs.

#### DEVON, CORNWALL & DORSET POLICE - 06.12.2024

' Location 1: Outside Becks Square Car Park, Beck's Square, Tiverton EX16 6PJ

' Location 2: Market Walk, Bampton St, Tiverton EX16 6BL

' Location 3: Outside Lowman House, Lowman Green, Tiverton EX16 4LAL

Thank you on behalf of Devon and Cornwall Police for the opportunity to comment on this application, 1 of 2 applications relating to the installation of 12 hubs in total across the town.

Having reviewed the application pack and completed site visits, met with the applicant, local neighbourhood policing and Vision Zero (road safety) teams and representatives from the National Cyber Security Centre, I have no objections in principle to the proposals.

In the year October 2023 - October 2024, the Tiverton Town Centre, West Exe and Lowman neighbourhoods, where the proposed sites for the Pulse Smart Hubs are located, police recorded 356 crimes such as criminal damage, acquisitive crime, drug possession, robbery and violence as well as anti-social behaviour (ASB) and incidents relating to public safety.

Therefore, it is vital that opportunities for reducing the potential for both are considered and that national and local planning guidance relating to designing out crime and creating safe spaces is adhered to.

With the above in mind, I make the following observations, comments and recommendations for your consideration.

It is appreciated the Design, Management & Operational Statement details efforts that have been made to address the issue of crime and ASB and some measures have been considered to reduce the potential for such issues.

However, concerns remain that such hubs could attract misuse, crime and ASB such as unwanted congregation, an increase in thefts, be used to facilitate drug dealing, hamper surveillance, be susceptible to criminal damage etc, concerns that have been acknowledged and documented in similar planning applications both regionally and nationally.

It is my understanding that the hubs are not tested/accredited to any specific security or safety standard, including the Secured By Design accreditation scheme and therefore cannot be described as meeting 'Police Preferred Specification'. I appreciate the detail within the Design, Management & Operational Statement and it is welcomed that crime preventative measures have been considered and developed. However, from a crime and anti-social behaviour reduction perspective, it is imperative that any service, maintenance or damage (accidental or intentional) issues are reported and resolved expeditiously to avoid further damage or incidents.

It must be ensured that the impact on both natural surveillance, for example, lines of sight for both pedestrians and drivers and formal surveillance such as the existing CCTV coverage within the town, to ensure neither are adversely affected by the hubs. Furthermore, given the size of the hubs and the narrow nature of some pavements, do the chosen locations ensure unrestricted access and a free flow of pedestrian traffic, particularly for any vulnerable members of the community?

Internet of Things (IoT) security ' Whilst I appreciate it may not be a planning issue, it would be remiss of me not to raise it. As connected devices, hubs must comply with the requirements of PSTI legislation. In addition, given their functionality, ISO 27001 certification would further demonstrate the hubs information security management system is satisfactory.

The National Cyber Security Centre offers the following advice regarding Public Wi-Fi, AKA Hot Spots

"When you use public Wi-Fi hotspots there is no way to easily find out who controls the hotspot, or to prove that it belongs to who you think it does. If you connect to these hotspots, an unknown third party could access:

' What you're working on whilst connected.

' Your private login details that many apps and web services maintain whilst you're logged on.

I am reassured that should issues associated with WI-FI use arise, system management can control availability or switch off this function altogether.

Whilst fully maintained, integrated and equipped hubs have the potential to make a positive impact on the local community, failure to properly maintain and manage the systems could have an equally negative affect. I would suggest the local authority considers a review period to allow this to be fully assessed by interested parties.

#### ENVIRONMENT AGENCY - 11.11.2024

Environment Agency position

We have no objection to the proposed development as submitted.

Reason

We have reviewed the application and note the various sites of the proposed smart hubs. Location 3 is within the flood zone and therefore at risk of being flooded. However, the structure does not increase flood risk at its location or elsewhere. We would recommend that the applicant ensures that the design/construction of the hub is made as resilient as possible and therefore recommend that the following is included as an Information on any decision notice:

Flood resistance and resilience - advice to LPA/applicant

The FRA provided does not include details of resilience and resistance measures of the Pulse Hubs. We strongly recommend the use of flood resistance and resilience measures. Raised electrical fittings and special construction materials are just some of the ways you can help reduce

flood damage. As they are at risk from flooding, without resistance and resilience measures, they are likely to be damaged and incur cost to repair or replace.

#### Advice to the LPA

On a different note, the design and access statement refers to the Pulse Hubs being able to display messages from emergency services and enforcement. We would suggest that it may be beneficial to have them be able to display emergency flood warnings in the event that they are issued in the area, and potentially show more information regarding them - especially those in the area of highest flood risk.

#### SOUTH WEST WATER - 24.10.2024

##### Surface Water Services

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

1. Water re-use (smart water butts, rainwater harvesting, grey flushing toilets)
2. Discharge into the ground (infiltration); or where not reasonably practicable,
3. Discharge to a surface waterbody; or where not reasonably practicable,
4. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
5. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

Having reviewed the applicant's current information as to proposed surface water disposal for its development (domestic roof and driveway run off only) Please note that discharging to the public combined sewerage network is not an acceptable proposed method of disposal, in the absence of clear evidence to demonstrate why the preferred methods listed within the Run-off Destination Hierarchy have been discounted by the applicant.

For Highway run off please contact the Highway Authority to agree disposal method.

#### HEALTH & SAFETY EXECUTIVE (HAZARDOUS SUBSTANCES) - 15.11.2024

No objections raised. HSE have noted their consultation criteria, which confirm that the proposed development does not fall into the type of proposals requiring consultation.

#### WALES & WEST UTILITIES - 15.11.2024

Wales and West Utilities have provided records showing gas pipes that it owns in its role as a Licensed Gas Transporter (GT), as well as indications of gas pipes owned by other GTs, or otherwise privately owned, which may be present in this area. They note that some service pipes, valves, syphons, stub connections, etc. may not be shown but their presence should be anticipated.

No objections are raised but the applicant should be aware of any obligations they have should planning permission be granted.

## REPRESENTATIONS

This planning application has been advertised by means of site notices erected at each location by the Planning Officer, by notifying immediately adjoining neighbouring residents and businesses, in writing, and by advertising in a local newspaper in accordance with the legal requirements for publicity on planning applications, and the Council's Adopted Statement of Community Involvement July 2020.

One letter of support was received in relation to the concurrent Advertisement Consent application, from a business owner located in Market Walk, who made the following comment:

*"These information interactive community points would be a huge benefit to Tiverton. Many towns now have these access points and they not only support residents but visitors to a town. Given that there is no cost to any of the councils and maintenance will be carried out by the installing company, it's a win win improvement to the Town. Let's get Tiverton ahead of the game as far as technology is concerned."*

## MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main material considerations in respect of this proposal are:

1. Principle of development
2. Design and impact on the character and appearance of the surrounding area
3. Flooding and drainage
4. Residential amenity
5. Highway safety
6. Biodiversity Net Gain
7. Other issues
8. Planning balance

### 1. Principle of Development

- 1.1 S.38[6] of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The National Planning Policy Framework is noted as one such material consideration. The National Planning Policy Framework outlines three dependant objectives of sustainable development; economic, social and environmental.
- 1.2 The proposed development comprising two 'Pulse Smart Hubs', is located within the defined settlement limits of Tiverton. The unit at Location 002 (Market Place), is within the designated Town Centre, and the unit at Location 003 (Lowman Green) is just outside the designated Town Centre. Whilst the cost of installing and maintaining the smart hubs is funded by advertising on the digital screens, the units offer a range of public benefits, such as links to emergency services, built in defibrillator, connectivity features, public interface, community advertising, local mapping and wayfaring, amongst other features. The provision of these smart hubs therefore have the potential to be a positive benefit to the compliment the enhancement and regeneration of the town centre.
- 1.3 The further relevant planning matters of the development are considered further below.

2. **Design and impact on the character and appearance of the surrounding area, including heritage impact**

2.1 Policy DM1 of the Local Plan seeks high quality design that demonstrates a clear understanding of its context.

2.2 Both locations are sited within the Tiverton Conservation Area. The unit proposed at Location 002 (Market Walk) is in a largely modern environment, although it is close to the grade II listed Pannier Market. The unit proposed at Location 003 (Lowman Green) is close to a wider range of listed buildings, including the grade II Clock Tower, nos. 3 and 4 Lowman Green, the K6 Telephone Kiosk, Lowman Bridge and the Statue of King Edward VII. Paragraph 207 of the NPPF advises that “in determining applications, local planning authorities should take account of:

a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and

c) the desirability of new development making a positive contribution to local character and distinctiveness.”

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

a) Apply a presumption in favour of preservation in situ in respect of the most important heritage assets

b) Require development proposals likely to affect heritage assets and their settings, including new buildings, alterations, extensions, changes of use and demolitions, to consider their significance, character, setting and local distinctiveness, and opportunities to enhance them.

c) Only approve proposals that would be likely to substantially harm heritage assets and their settings if substantial public benefit outweighs that harm or the requirements of the NPPF are met.

d) Where a development proposal would lead to less than substantial harm, that harm will be weighed against any public benefit, including securing optimum viable use; and

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

2.4 In considering applications affecting heritage designated heritage assets, the council also has a duty set out in section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66 relates to having special regard to the

desirability of preserving the listed building, its setting and features of special architectural or historic interest which it possesses, and have given it considerable importance and weight in the planning balance. Section 72 requires the decision to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area, and have given it importance and weight in the planning balance.

- 2.5 In considering the proposals generally, the scheme was subject to pre-application discussions, involving the Planning Officer and Conservation Officer. This reviewed the potential location of the smart hubs, including those being considered in the separate application for those sited on Devon County Council land. As a result of these discussions, several proposed sites were excluded, mainly due to the greater potential for impact on more significant listed buildings. The remaining locations, including those proposed as part of this application were considered to be generally acceptable in principle, although it was noted that some had the potential to cause less than substantial harm to the significance of heritage assets, those being the conservation area and listed buildings within the locality. In such cases, National Planning Policy Framework paragraphs 212, 213 and 215, state the following:

“212. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

213. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

215. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”

An assessment of the impact of each location will be carried out below, with any required assessment against the public benefits carried out in the planning balance section towards the end of this considerations section.

- 2.6 In general design terms, the smart hubs comprise a modern yet fairly typical item of street furniture of similar height and size as a kiosk phone box, although due to its reduced width, has a footprint approximately 66% smaller than a standard kiosk. The appearance would be of black and red design. Overall, the smart hubs would not appear out of place in a typical town centre location, notwithstanding further assessment in regard to impact on heritage assets.
- 2.7 The smart hub proposed at Market Walk (Location 002) would be sited to the western end of the precinct, close to the car park. The site is close to the listed Pannier Market and Market Booths, however there is limited intervisibility between the proposed site and these heritage assets. Whilst the site is within the conservation area, it is acknowledged that the location in this part of the precinct will be seen in the context of the 1960s buildings and more modern shopfronts. On this basis, it is not considered that the unit would lead to any harm to the significance of the heritage assets in the immediate vicinity, with the proposed development preserving the character and appearance of the conservation area.

- 2.8 Location 003 (Lowman Green) is more sensitive, noting the plethora of listed buildings in close proximity. The proposed smart hub will however be set back from the roadside, just in front of the Police Station within the pedestrianised section linking Gold Street to the Tesco store and car park. It will therefore be less prominent in the wider street scene and largely seen in the context of the Police Station and supermarket. The assessment carried out in the submitted Heritage Impact Assessment document suggest that the unit would be located out of the contextual setting of any of the heritage assets, and therefore such that it would have a neutral impact on character and appearance of the conservation area. Despite this assessment, it is noted that the smart hub will still be visible in relation to the nearby heritage assets, which together with the illuminated displays, has the potential to cause some minor harm. Generally, illuminated advertisements tend to be resisted in conservation areas as they can often be visually prominent and intrusive features. The impact of the illumination would be limited by the siting back from the road, but it would be noticeable. It is also acknowledged that the timing of the displays can be controlled, and it is proposed to switch off the digital displays between the hours of 12:00am and 06:00am, which would reduce the impact further. On this basis of the impacts identified above, it is felt that there would be some low level harm, limited to less than substantial harm caused to the significance of the heritage assets. On this basis the level of harm must be weighed against the public benefits.
- 2.9 The proposed works at Lowman Green also include the removal of an existing information board in the same location, ensuring that there is no increase in street clutter at this point. A scheme for the removal of this information board will be conditioned, should planning permission be granted.

### 3. **Flooding and drainage**

- 3.1 The NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Policy S9 of the Mid Devon Local Plan 2013-2033 guides development to locations with the lowest flood risk and seeks to ensure development does not increase the risk of flooding elsewhere.
- 3.2 In this case, the Market Walk location is within Flood Risk Zone 1, which includes areas at the lowest risk of flooding. The Lowman Green site is however in Flood Risk Zone 3, which is a high risk of flooding. Notwithstanding this however, the Environment Agency have commented, raising no objection on the basis that due to the small scale of the proposal, it would not increase the risk of flooding elsewhere. They do however recommend that the smart hub is made as resilient as possible, taking into account flood resistance and resilience measures to limit the risk of damage, should a flood event occur.
- 3.3 South West Water have commented in respect to drainage, noting that it is proposed to drain into the existing surface water drainage system, which would lead to a public sewer, or onto the highway. They have advised that the surface water should be drained as high as possible in the surface water run-off destination hierarchy, however in this case it is noted that the existing locations are already hard surfaced and the proposed smart hubs would not lead to any increase in impermeable surfacing. Due to the small scale nature of the proposals and limited ground space taken up, there is insufficient scope for providing alternative drainage options. As such, the proposed drainage provision is considered to be acceptable.
- 3.4 Overall, there will not be any impact on flood risk or increased pressure on existing surface water drainage provision.

#### **4 Residential amenity**

- 4.1 Policy DM1 of the Mid Devon Local Plan 2013 - 2033 which sets out that new development should respect the privacy and amenity of neighbouring residents.
- 4.2 In this case, the greatest potential for impact on residential amenity is as a result of the digital display screens, and users of the facilities late at night. In this case, both smart hubs are located in areas where they do not immediately adjoin residential properties. Notwithstanding this however, the Council's Environmental Health Officer has commented, advising that these type of hubs are not known to be responsible for excess noise or for causing light glare or pollution which can be of concern to local residents who are not otherwise familiar with the equipment. It is also noted that the submitted Design, Management & Operational Statements sets out that the illuminance levels from the hub screens would always remain within the Institute for Lighting Professionals guidelines. In order to further reduce the risk of disturbance to local residents, it is agreed that the displays will be turned off between 12:00am and 06:00am, which can be conditioned.
- 4.3 Overall, it is considered that the proposed development would not lead to unacceptable harm to residential amenity, in accordance with Local Plan policy DM1 and the aims and objectives of the NPPF.

#### **5. Highway safety**

- 5.1 Policy DM1 of the Local Plan states that new development should be safe and accessible and policy DM3 of the Local Plan requires development to ensure safe access to the transport network.
- 5.2 The proposed development does not directly impact upon the public highway, with the Highway Authority raising no objection to the proposed locations. The Highway Officer has requested that all smart hubs are subject to a highway safety audit to ensure their safe operation but this is not a fundamental constraint to the development, and can be conditioned prior to installation.
- 5.3 In commenting, Mid Devon District Council's Property Services Team have suggested that the unit at Lowman Green may be vulnerable to being hit by a vehicle, noting its location adjacent to the vehicular access to the side and rear of the Police Station. They do not object however, suggesting that a highway safety audit take place, something that has already been agreed following the Highway Authority comments. This smart hub would be located level with the bollards protecting the pedestrian area, whereby it would not directly block any access.
- 5.4 Overall, the proposed development is deemed to be acceptable from a highway safety point of view, subject to the carrying out of a highway safety audit prior to installation.

#### **6. Biodiversity Net Gain**

- 6.1 Due to the scale of development and its siting on existing sealed hard surfaces, with no material impact on any habitat, the development is exempt from mandatory requirements for 10% Biodiversity Net Gain (BNG).



## **7. Other issues**

- 7.1 The scheme has been considered by the Police Designing Out Crime Officer. They have not objected to the proposals, however have made comments with suggestions in regard to ensuring that the smart hubs do not lead an increase in, or become a target for, anti-social behaviour, and that they do not have a negative impact on lines of sight for drivers and pedestrians, formal surveillance measures, or restrict free flow of pedestrians. It is noted that the smart hubs are not currently accredited to any specific security or safety standard, including Secure By Design accreditation, however it is noted that crime preventative measures are identified within the Design and Operational Management Statement, which is welcomed. It is considered vital that any service, maintenance or damage issues are able to be reported and resolved quickly to avoid becoming a target for further damage and/or incidents.
- 7.2 The above comments have been noted, and the applicant has confirmed that they had previously spoken to the Designing Out Crime Officer and were aware of the comments. It is confirmed that the applicant will continue to work with the Designing Out Crime Officer and the neighbourhood police to ensure that any anti-social behaviour and other misuse is dealt with properly. They also advise that they are currently working directly with Designing out Crime at a national level to achieve formal certification for the smart hubs, although this a lengthy process that is not yet complete. The applicant has advised that in granting planning permission for a similar scheme recently, a condition was used, requiring a management & maintenance strategy to be submitted prior to operation. The applicant is therefore agreeable to a similar condition being imposed should planning permission be granted.

## **8. Planning balance**

- 8.1 The application should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF and the Mid Devon Local Plan, taken as a whole. In this case, the main area of concern was the impact of the proposed smart hubs on the significance of local heritage assets. It is considered that the unit proposed at Market Walk (Location 002) is acceptable, preserving the character and appearance of the conservation area and having no adverse impact on any listed buildings. The unit at Lowman Green (Location 003) was considered to cause some very minor harm to the setting of the conservation area and nearby listed buildings, however as the NPPF and requirements of Local Plan policy DM25 require any instances of less than substantial harm to be weighed against the public benefits of the proposal, such assessment must be carried out.
- 8.2 The public benefits have been identified earlier in this report, and include such benefits information sharing features, digital mapping and wayfinding, access to defibrillator, an emergency safety button, emergency services call button, free Wi-Fi and phone calls, phone charging features and guaranteed community advertising. On the basis that only minor harm has been identified, and there are numerous public benefits as a result of the proposal, it is considered that these public benefits outweigh the less than substantial harm, demonstrating compliance with the requirements of the NPPF and Local Plan policy.
- 8.3 Otherwise, there are considered to be no technical reasons why the application should not be approved. The proposal respects the character, of the area, and will not significantly impact on any neighbouring properties, highway safety interests, flood risk or surface water management.

- 8.4 On the basis of the above considerations, the proposed development is acceptable in principle, subject to the imposition of conditions, under Local Plan policies S1, S7, S9, S10, DM1, DM3, DM4 and DM25. Furthermore, it is consistent with the policies of the Tiverton Neighbourhood Plan.

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

## **CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Prior to commencement of any work in relation to the installation of any of the Pulse Smart Hubs hereby permitted, a Highway Safety Audit shall have first been carried out. Each Pulse Smart Hub shall thereafter not be installed until such time as the County Highway Authority have confirmed the acceptability of each location, and the developer has received written approval from the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and any recommendations of the Highway Safety Audit.
4. Prior to commencement of any work in relation to the Pulse Smart Hub at Location 003 (Lowman Green), a scheme for the removal of the existing information board at this location, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:
  - (a) timetable for removal of the information board;
  - (b) details of the manner in which the board will be removed, and;
  - (c) details of the manner in which the ground will be made good (including surfacing materials).

The development shall thereafter be carried out in accordance with the approved details.

5. Prior to any of the Pulse Smart Hubs hereby permitted becoming operational, a scheme for the management, maintenance, repair, and removal, if the Smart Hubs cease to operate, for each of the hubs, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be maintained and retained in accordance with the approved details.
6. The screens located on elevations 'A' and 'D' of each of the Pulse Smart Hubs, as identified on the Proposed Elevations/Technical Specification drawings 'Tiv-MW/2024/04' and 'Tiv-LG/2024/04', hereby approved, shall be fully turned off and shall not be operational between the hours of 12:00am and 06:00am Monday to Sunday.
7. The screens located on elevations 'A' and 'D' on each of the hubs as identified on the Proposed Elevations/Technical Specification drawings 'Tiv-MW/2024/04' and 'Tiv-

LG/2024/04', hereby approved, shall be operated and maintained in strict accordance with the approved 'Lighting level' section of the submitted Design, Management & Operational Statement 'DMOS-Tiv' (page 39).

## **REASONS FOR CONDITIONS**

1. In accordance with provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt as the development hereby proposed and in the interests of proper planning.
3. In the interests of highway safety, in accordance with policy DM3 of the Mid Devon Local Plan 2013 and the aims and objectives of the National Planning Policy Framework. This pre-commencement condition is required to ensure that the Smart Hubs meet the necessary highway safety standards prior to their installation.
4. In the interest of ensuring that the street furniture clutter is not increased as a result of the development within a setting of listed buildings and in Conservation Areas, in accordance with policies S9, DM1 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework. This pre-commencement condition is required to ensure that details relating to the removal of existing signage is agreed before the permitted development is installed to avoid an extended period of time where both items of street furniture are present.
5. In the interest of ensuring that the hubs remain in good working order for the benefit of the public and to ensure that their appearance is maintained, in accordance with policies S9, DM1 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
6. In the interest of mitigating against disturbance to residential amenity and harm to the significance of local heritage assets, resultant from illumination of the digital screens, in accordance with policies S9, DM1, DM4 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.
7. In the interest of mitigating against disturbance to the residential amenity of the surrounding properties resultant from illumination of the digital screens, in accordance with policies S9, DM1, DM4 and DM25 of the Mid Devon Local Plan 2013-2033 and the aims and objectives of the National Planning Policy Framework.

## **INFORMATIVES**

1. The applicant/agent should note the comments received from South West Water (SWW), dated 24<sup>th</sup> October 2024, and Wales and West Utilities (WU), in respect to these utility providers' apparatus in the vicinity of the proposed development, and the developer's obligations in respect to development in close proximity to these assets.
2. The applicant/agent should note the comments received from the Environment Agency (EA), dated 11<sup>th</sup> November 2024, recommending the use of flood resistance and resilience measures, and noting the opportunities to display emergency flood warnings, and additional flood information, on the displays.

3. In accordance with paragraph 39 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission.

### **BNG – Biodiversity Net Gain**

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be Mid Devon District Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will **not** require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply.

#### *Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.*

Development below the de minimis threshold, meaning development which:

- i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
- ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

### **REASON FOR APPROVAL OF PERMISSION**

The proposed development comprising the installation of two Pulse Smart Hubs within Tiverton Town Centre, is considered to be acceptable. The proposal by virtue of siting and design will appropriately respect and relate to the character and appearance of the surrounding development. In locations where a minor level of less than significant harm to the significance of heritage assets has been identified, clear and convincing justification has been made for the proposals, and it has been demonstrated that there are public benefits that outweigh the minor level of harm identified. Additionally, the proposal is not considered to cause demonstrable harm to residential amenity or highway safety, or increase the risk of flooding locally. It is considered appropriate to recommend approval with conditions necessary to ensure the success of the development in this location. As such, it is considered that the proposed development is in accordance with policies S1, S7, S9, S10, DM1, DM3, DM4 and DM25 of the Mid Devon Local Plan 2013-2033, policies T4 and T7 of

the Tiverton Neighbourhood Plan 2020-2033 and the aims and objections of the National Planning Policy Framework.

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

Application No. 24/01539/ADVERT

Grid Ref: 295588 : 112560

Applicant: C/o Mr David Phillips (Agent)

Location: Market Walk, Bampton Street and Outside Lowman House, Lowman Green, Tiverton

Proposal: Advertisement Consent for the installation of Pulse Smart Hub with integrated digital screens at 2 locations within Tiverton

Date Valid: 18th October 2024



## **APPLICATION NO: 24/01539/ADVERT**

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

This application is required to be considered by the Planning Committee, in line with the Council's adopted Scheme of Delegation, as the proposed development would be sited on land owned by Mid Devon District Council.

### **RECOMMENDATION**

Grant advertisement consent

### **PROPOSED DEVELOPMENT**

This application for Advertisement Consent is made jointly by Urban Innovation Company (UIC) and Tiverton Town Council, for the installation of two 'Pulse Smart Hubs', at locations within Tiverton Town Centre. A concurrent application has been made for Planning Permission.

The smart hubs are multi-functional units comprising two large digital screens capable of displaying moving advertisements. The side of each smart hub also contains a user interface with touchscreen. Each unit measures 2.54m high, 1.28m wide and 0.35m deep, and are constructed using black and red fibreglass. The digital screens measure 1.66m by 0.93m. This application relates to this digital display component of the equipment.

The proposed smart hubs are to be located at Market Walk (Location 002) and Lowman Green (Location 3). A third smart hub to be located at Becks Square Car Park (001) has since been removed following feedback from consultees.

A further application for Planning Permission and Advertisement Consent has been submitted for the installation of a further nine smart hubs in other locations around Tiverton, on Devon County Council land. These applications are pending consideration, and due to be determined under delegated authority, at the time of writing this committee report.

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

Completed Application Form, Plans, Covering Letter, Planning Statement, Design, Management and Operational Statement, Heritage Impact Assessment Flood Risk Assessment, Wildlife Trigger Table, Ownership Notice Certificate, BNG Statement for Validation, BNG Exemption Form

### **RELEVANT PLANNING HISTORY**

24/01535/FULL - Installation of Pulse Smart Hub with integrated digital screens at 2 locations within Tiverton - PENDING CONSIDERATION

24/01533/FULL - Installation of Pulse Smart Hub with integrated digital screens at 9 locations within Tiverton - PENDING CONSIDERATION

24/01539/ADVERT - Advertisement Consent for the installation of Pulse Smart Hub with integrated digital screens at 2 locations within Tiverton - PENDING CONSIDERATION

## **DEVELOPMENT PLAN POLICIES**

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

S1 - Sustainable development priorities  
S7 - Town Centres  
S9 - Environment  
S10 - Tiverton  
DM1 - High quality design  
DM3 - Transport and air quality  
DM4 - Pollution  
DM25 - Development affecting heritage assets

### **Tiverton Neighbourhood Plan 2020 to 2033**

T4 - Character of development  
T7 - Minimising the risk of flooding

The Town and Country Planning (Control of Advertisements) (England) Regulations 2007

National Planning Policy Framework

National Planning Practice Guidance

## **CONSULTATIONS**

### TIVERTON TOWN COUNCIL - 17.12.2024

Support

### DEVON COUNTY HIGHWAY AUTHORITY - 30.10.2024

There are a number of location within this application and I will comment on them individually, although as these will be on the public highway, we would ask all the locations to have a safety audit carried out to ensure any impact these will have, can be mitigated.

Site 1. St Georges Way, next to the Car Park ' No objections ' the marked spot looks to replace the pay and display machine in MDDC car park. Therefore, the drawing may be wrong, and the location next to the machine is Highway Maintained at Public Expense and this location would be acceptable.

Site 2. Market Walk ' from the Market to Bampton Street ' None of this area is HMPE therefore no comment on this location.

Site 3. No Objection ' although you should be assured this will not block vehicle accesses here. It should stay behind the bollards by the Police Station which looks to be in MDDC land.

These also should be subject to a Safety Audit to ensure these do not pose a highway safety issue to all road users.



11.12.2024

Site 1. The new proposed location is acceptable.

The County Highway Authority is happy for the Safety Audits to be carried as part of a planning condition.

MDDC ECONOMIC DEVELOPMENT OFFICER

Economic Development recognise that the proposed smart hubs, where sited at key entry points and areas of high footfall, have the potential to support wayfinding and the display of community/ visitor information, as well as offering improved digital connectivity in the town centre environment. The Mid Devon District Council's Corporate Plan (2024-2028) and current Economic Strategy (2019-2024) both highlight town centre regeneration and the proposal aligns with the strategic economic projects identified in The Tiverton Regeneration Strategy (November 2022), notably:

7.1 Town Centre public realm improvements, including the visibility of the Pannier market and regeneration of Phoenix Lane; and

7.6 Improve the promotion of activities and experiences available in the town to both locals and visitors.

The applicant is asked to ensure that the sites selected and the positioning of the smart hubs does not conflict with other wayfinding strategies or impair sight lines to businesses, including window displays, entrances and outdoor amenity space. Equally there are many residential properties within the town centre and care must be taken to ensure that the proposed smart hubs do not impede access to and from residential properties and that they are not illuminated to an extent that they are detrimental to residential environments.

In terms of the use of the smart hubs for advertising, if possible and feasible, it would further support the local economy if the advertising content reinforced the local offer. It is noted that the Pulse Smart Hubs have the potential to be used for commercial advertising; this could include the promotion of food and drink that is high in fat, sugar and/ or salt. If used for this purpose, consideration should be given to a restriction of the locations away from schools and areas where young people meet.

Devon County Council, as Highways Authority, have provided comments in relation to each of the sites, Economic Development support the proposals once these issues have been addressed to the satisfaction of the Highways Authority.

Location 1: Outside Becks Square Car Park, Beck's Square, Tiverton EX16 6PJ

We support the proposal in principle as a key entry point; it is a good location to capture footfall. However, Devon County Council, as Highways Authority, have queried this proposed location as drawn on the location map provided due to its proximity to the parking meter. We echo these concerns. The suggestion, made by Devon County Council to site the Pulse Smart Hub on the adjacent Highway near to the machine (and on Highway maintained at Public Expense) instead would be supported.

If permission is granted for the proposed location (not the suggested alternative), then please note that as this is Mid Devon District Council owned land, the applicant will need to liaise with Mid Devon District Council's Car Parking and Property Services Team to ensure that the proposed Pulse Smart Hub can be installed in an appropriate location/ position. We will be happy to put the applicant in contact with these services. Installation at this site will be subject to these Services'

agreement. Formal land owner consent must be obtained prior to installation, note that there may be ongoing cost implications relating to these agreements.

Location 2: Market Walk, Bampton St, Tiverton EX16 6BL

Support - key entry point; a good location to capture footfall

This location is used for pop-up stalls during town centre events, therefore installation in this location should ideally avoid conflicting with this.

As this is Mid Devon District Council owned land, please liaise with Mid Devon District Council's Car Parking and the Market Management Team to ensure that the proposed Pulse Smart Hub can be installed in an appropriate location/ position. We will be happy to put the applicant in contact with these services.

Installation at this site will be subject to Mid Devon District Council's Property Services Team agreement. Formal land owner consent must be obtained prior to installation, note that there may be ongoing cost implications relating to these agreements.

Location 3: Outside Lowman House, Lowman Green, Tiverton EX16 4LA

Support - key entry point; a good location to capture footfall

As this is Mid Devon District Council owned land, please liaise with Mid Devon District Council's Property Services Team to ensure that the proposed Pulse Smart Hub can be installed in an appropriate location/ position. We will be happy to put the applicant in contact with this service.

Installation at this site will be subject to Mid Devon District Council's Property Services Team agreement. Formal land owner consent must be obtained prior to installation, note that there may be ongoing cost implications relating to these agreements.

It is noted that there is already an existing information board in situ at this location. Mid Devon District Council would be happy to work with the applicant to arrange the removal of the existing information point (monolith/totem sign) where it is considered appropriate to do so.

### MDDC PROPERTY SERVICES

There has been no contact from Pulse as to landowner agreement for installations at Beck Square, Market Walk and Lowman Green. Any installation will be subject to licence/ lease setting out terms to include operator responsibilities, advertisement content and rent.

Beck Square as proposed is considered to inappropriately located/ orientated being in a position at kerb edge that is vulnerable to being hit by a vehicle, requiring users to stand in the road, exposing users to risk of level difference at the kerb (possible particularly compromising those with a mobility impairment) – further it is an obstruction to pedestrian traffic to and from the car park and the town centre (possibly forcing those into vehicle traffic on the car park access road) and a conflict to those using the pay and display parking ticket machine. It's suggested that the users of Beck Square car park are generally local people and not visitors to the town so probably not needing the use of such an interactive local information board. Given the proximity of the highway it's suggested that this installation will be subject to a Highway Safety Audit.

Lowman Green as proposed is vulnerable to being hit by a vehicle and given the proximity of the highway it's suggested that the Lowman Green installation will be subject to a Highway Safety Audit.

Market Walk no material observation

### MDDC MARKET MANAGEMENT TEAM

Looking at the map, it looks like that is right outside of the pharmacy?

If so, from a market point of view we have no objections as we do not tend to overflow into that area.

### MDDC PARKING SERVICES TEAM

I have no issue from a parking perspective here as it is not located in any parking bay or even in relative proximity to it. I have seen proposals for one located at Beck Square and I do have concerns in relation to that one.

### MDDC PUBLIC HEALTH - 11.12.2024

We have considered the application and do not anticipate any environmental health concerns. These hubs are not known to be responsible for excess noise or for causing light glare or pollution which can be concerns of local residents not familiar with these hubs.

### SOUTH WEST WATER - 24.10.2024

#### Surface Water Services

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

1. Water re-use (smart water butts, rainwater harvesting, grey flushing toilets)
2. Discharge into the ground (infiltration); or where not reasonably practicable,
3. Discharge to a surface waterbody; or where not reasonably practicable,
4. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
5. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

Having reviewed the applicant's current information as to proposed surface water disposal for its development (domestic roof and driveway run off only) Please note that discharging to the public combined sewerage network is not an acceptable proposed method of disposal, in the absence of clear evidence to demonstrate why the preferred methods listed within the Run-off Destination Hierarchy have been discounted by the applicant.

For Highway run off please contact the Highway Authority to agree disposal method.

### HEALTH & SAFETY EXECUTIVE (HAZARDOUS SUBSTANCES) - 15.11.2024

No objections raised. HSE have noted their consultation criteria, which confirm that the proposed development does not fall into the type of proposals requiring consultation.

### WALES & WEST UTILITIES - 19.11.2024

Wales and West Utilities have provided records showing gas pipes that it owns in its role as a Licensed Gas Transporter (GT), as well as indications of gas pipes owned by other GTs, or otherwise privately owned, which may be present in this area. They note that some service pipes,

valves, syphons, stub connections, etc. may not be shown but their presence should be anticipated.

No objections are raised but the applicant should be aware of any obligations they have should planning permission be granted.

## **REPRESENTATIONS**

This application has been advertised by means of site notices erected at each location by the Planning Officer, by notifying immediately adjoining neighbouring residents and businesses, in writing, and by advertising in a local newspaper in accordance with the legal requirements for publicity on planning applications, and the Council's Adopted Statement of Community Involvement July 2020.

One letter of support was received from a business owner located in Market Walk, who made the following comment:

*"These information interactive community points would be a huge benefit to Tiverton. Many towns now have these access points and they not only support residents but visitors to a town. Given that there is no cost to any of the councils and maintenance will be carried out by the installing company, it's a win win improvement to the Town. Let's get Tiverton ahead of the game as far as technology is concerned."*

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

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

- 1. Principle of development**
- 2. Amenity**
- 3. Public safety**
- 4. Planning balance**

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

1.1 Applications for advertisement consent are determined in accordance with the Control of Advertisements regulations, Regulation 3 of which states that "a local planning authority shall exercise its powers under these Regulations in the interests of amenity and public safety, taking into account the provisions of the development plan, so far as they are material; and any other relevant factors.

1.2 In this regard, paragraph 141 of the NPPF expands further, stating:

"The quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts."

1.3 Therefore the issues to assess in respect to this application are the impact on amenity and public safety.

## 2. Amenity

- 2.1 Primarily, this will relate to the impact on the visual amenity of the area.
- 2.2 Both locations are sited within the Tiverton Conservation Area. The advertisement proposed at Location 002 (Market Walk) is in a largely modern environment, although it is close to the grade II listed Pannier Market. The advertisement proposed at Location 003 (Lowman Green) is close to a wider range of listed buildings, including the grade II Clock Tower, nos. 3 and 4 Lowman Green, the K6 Telephone Kiosk, Lowman Bridge and the Statue of King Edward VII. Paragraph 207 of the NPPF advises that “in determining applications, local planning authorities should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - c) the desirability of new development making a positive contribution to local character and distinctiveness.
- 2.3 The above requirements in respect to heritage assets are echoed in policy S9 of the Mid Devon Local Plan, which includes the requirement that “development will sustain the distinctive quality, character and diversity of Mid Devon’s environmental assets through...the preservation and enhancement of Mid Devon’s cultural and historic environment, and the protection of sites, buildings, areas and features of recognised national and local importance, such as listed buildings, conservation areas, scheduled monuments and local heritage assets.” Policy DM25 also states that “heritage assets and their setting which are irreplaceable resources accordingly the Council will:
- f) Apply a presumption in favour of preservation in situ in respect of the most important heritage assets
  - g) Require development proposals likely to affect heritage assets and their settings, including new buildings, alterations, extensions, changes of use and demolitions, to consider their significance, character, setting and local distinctiveness, and opportunities to enhance them.
  - h) Only approve proposals that would be likely to substantially harm heritage assets and their settings if substantial public benefit outweighs that harm or the requirements of the NPPF are met.
  - i) Where a development proposal would lead to less than substantial harm, that harm will be weighed against any public benefit, including securing optimum viable use; and
  - j) Require developers to make a proportionate but sympathetic assessment of the impact on setting and thereby the significance of heritage asset(s)”
- 2.4 In considering applications affecting heritage designated heritage assets, the council also has a duty set out in section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66 relates to having special regard to the desirability of preserving the listed building, its setting and features of special architectural or historic interest which it possesses, and have given it considerable importance and

weight in the planning balance. Section 72 requires the decision to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area, and have given it importance and weight in the planning balance.

- 2.5 In considering the proposals generally, the scheme was subject to pre-application discussions, involving the Planning Officer and Conservation Officer. This reviewed the potential location of the smart hubs and integrated advertisements, including those being considered in the separate application for those sited on Devon County Council land. As a result of these discussions, several proposed sites were excluded, mainly due to the greater potential for impact on more significant listed buildings. The remaining locations, including those proposed as part of this application were considered to be generally acceptable in principle, although it was noted that some had the potential to cause less than substantial harm to the significance of heritage assets, those being the conservation area and listed buildings within the locality. In such cases, National Planning Policy Framework paragraphs 212, 213 and 215, state the following:

“212. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

213. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

215. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”

An assessment of the impact of each location will be carried out below, along with any required assessment against the public benefits carried out too.

- 2.6 In general design terms, the smart hubs comprise a modern yet fairly typical item of street furniture of similar height and size as a kiosk phone box, although due to its reduced width, has a footprint approximately 66% smaller than a standard kiosk. The appearance would be of black and red design. The advertisement element would comprise digital screens measuring 1.66m by 0.93m Overall, these advertisements would not appear out of place in a typical town centre location, notwithstanding further assessment in regard to impact on heritage assets.
- 2.7 The advertisement proposed at Market Walk (Location 002) would be sited to the western end of the precinct, close to the car park. The site is close to the listed Pannier Market and Market Booths, however there is limited intervisibility between the proposed site and these heritage assets. Whilst the site is within the conservation area, it is acknowledged that the location in this part of the precinct will be seen in the context of the 1960s buildings and more modern shopfronts. On this basis, it is not considered that the advertisement would lead to any harm to the significance of the heritage assets in the immediate vicinity, with the proposed development preserving the character and appearance of the conservation area.

- 2.8 Location 003 (Lowman Green) is more sensitive, noting the plethora of listed buildings in close proximity. The proposed advertisement will however be set back from the roadside, just in front of the Police Station within the pedestrianised section linking Gold Street to the Tesco store and car park. It will therefore be less prominent in the wider street scene and largely seen in the context of the Police Station and supermarket. The assessment carried out in the submitted Heritage Impact Assessment document suggest that the unit would be located out of the contextual setting of any of the heritage assets, and therefore such that it would have a neutral impact on character and appearance of the conservation area. Despite this assessment, it is noted that the advertisement will still be visible in relation to the nearby heritage assets, which noting its illuminated displays, has the potential to cause some minor harm. Generally, illuminated advertisements tend to be resisted in conservation areas as they can often be visually prominent and intrusive features. The impact of the illumination would be limited by the siting back from the road, but it would be noticeable. It is also acknowledged that the timing of the displays can be controlled, and it is proposed to switch off the digital displays between the hours of 12:00am and 06:00am, which would reduce the impact further. On this basis of the impacts identified above, it is felt that there would be some low level harm, limited to less than substantial harm caused to the significance of the heritage assets. On this basis the level of harm must be weighed against the public benefits.
- 2.9 The public benefits of the smart hubs as a whole, have been identified earlier in this report, and include such benefits information sharing features, digital mapping and wayfinding, access to defibrillator, an emergency safety button, emergency services call button, free Wi-Fi and phone calls, phone charging features and guaranteed community advertising. While it would of course be preferable to not need the advertising element of the equipment, it is an essential component of the smart hubs, generating the revenue required to install and maintain the equipment. On the basis that only minor harm has been identified, and there are numerous public benefits as a result of the proposal, it is considered that these public benefits outweigh the less than substantial harm, demonstrating compliance with the requirements of the NPPF and Local Plan policy.

### 3. **Public safety**

- 3.1 The proposed adverts are in view of the public highway, and readily visible from numerous public viewpoints, however the proposed development does not directly impact upon the public highway, with the Highway Authority raising no objection to the proposed locations. The Highway Officer has requested that all smart hubs/advertisements are subject to a highway safety audit to ensure their safe operation. This is not however a fundamental constraint to the development, and will be conditioned prior to installation, as part of the concurrent planning permission, should it be granted.
- 3.2 In commenting, Mid Devon District Council's Property Services Team have suggested that the unit at Lowman Green may be vulnerable to being hit by a vehicle, noting its location adjacent to the vehicular access to the side and rear of the Police Station. They do not object however, suggesting that a highway safety audit take place, something that has already been agreed following the Highway Authority comments. This advertisement would be located level with the bollards protecting the pedestrian area, whereby it would not directly block any access.
- 3.3 Both advertisements are proposed to be sited in locations where there is sufficient width to the pedestrian areas to avoid obstructing access for pedestrians and other users.

3.4 Overall, the proposed development is deemed to be acceptable from a public safety point of view, subject to the carrying out of a highway safety audit prior to installation, which would be required in conjunction with the planning permission.

#### 4. **Planning balance**

4.1 The application should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF and the Mid Devon Local Plan, taken as a whole. As this is an application for advertisement consent, the only considerations when assessing are in respect to the impact on amenity and public safety.

4.2 In this case, the main area of concern in relation to amenity was the impact of the proposed advertisements on the significance of local heritage assets. It is considered that the advertisement proposed at Market Walk (Location 002) is acceptable, preserving the character and appearance of the conservation area and having no adverse impact on any listed buildings. The advertisement at Lowman Green (Location 003) was considered to cause some very minor harm to the setting of the conservation area and nearby listed buildings, however as the NPPF and requirements of Local Plan policy DM25 require any instances of less than substantial harm to be weighed against the public benefits of the proposal, such assessment must be carried out. In this regard, the assessment of these benefits have been carried out in the 'Amenity' section above.

4.3 On the basis that only minor harm has been identified, and there are numerous public benefits as a result of the proposal, it is considered that these public benefits outweigh the less than substantial harm, demonstrating compliance with the requirements of the NPPF and Local Plan policy.

4.4 The proposal is considered to be acceptable in respect to public safety, subject to the satisfactory completion of a highway safety audit.

4.5 On the basis of the above considerations, the proposed development is acceptable in principle, subject to the imposition of conditions, under Local Plan policies S1, S7, S9, S10, DM1, DM3, DM4 and DM25. Furthermore, it is consistent with the policies of the Tiverton Neighbourhood Plan.

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

#### **CONDITIONS**

1. This consent is granted for a period of five years and will expire five years after the date of the decision notice.
2. The advertisement hereby permitted shall be displayed in strict accordance with the application form and the following approved plans/documents:

Date Application Received: 18<sup>th</sup> October 2025



Tiv-MW/2024/01 - Location 2 Site Location Plan  
Tiv-MW/2024/03 - Location 2 Proposed Site Plan  
Tiv-MW/2024/04 - Proposed Elevations/Technical Specifications  
Tiv-LG/2024/01 - Location 3 Site Location Plan  
Tiv-LG/2024/03 - Location 3 Proposed Site Plan  
Tiv-LG/2024/04 - Proposed Elevations/Technical Specifications

3. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
4. No advertisement shall be sited so as to: endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military); obscure or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or, hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
5. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
6. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.
7. Where any advert is required to be removed in accordance with the Town and Country Planning (Control of Advertisement) Regulations, 2007 (or equivalent in any statutory instrument revoking and re-enacting these regulations with or without modifications) the site shall be left in a condition that does not endanger the public or impair visual amenity.

## **REASONS FOR CONDITIONS**

1. To comply with paragraph 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
2. In order to ensure compliance with the approved drawings.
3. In accordance with the requirements of Regulation 14(1)(a) of the Town and Country Planning (Control of Advertisement) Regulations 2007.
4. In accordance with the requirements of Regulation 14(1)(a) of the Town and Country Planning (Control of Advertisement) Regulations 2007.
5. In accordance with the requirements of Regulation 14(1)(a) of the Town and Country Planning (Control of Advertisement) Regulations 2007.
6. In accordance with the requirements of Regulation 14(1)(a) of the Town and Country Planning (Control of Advertisement) Regulations 2007.
7. In accordance with the requirements of Regulation 14(1)(a) of the Town and Country Planning (Control of Advertisement) Regulations 2007.

## **INFORMATIVES**

1. In accordance with paragraph 39 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission.

## **REASON FOR APPROVAL OF ADVERTISEMENT CONSENT**

It is considered that the proposed advertisements will not harm public safety and will not be of detriment to the amenity of the locality. Notwithstanding the identification of a minor level of less than significant harm to the significance of heritage assets, clear and convincing justification has been made for the proposals, and it has been demonstrated that there are public benefits that outweigh the minor level of harm identified. The proposal is therefore in accordance with policies S1, S7, S9, S10, DM1, DM3, DM4 and DM25 of the Mid Devon Local Plan 2013-2033, the aims and objectives of the National Planning Policy Framework and the Town and Country Planning (Control of Advertisement) (England) Regulations 2007 (as amended).

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

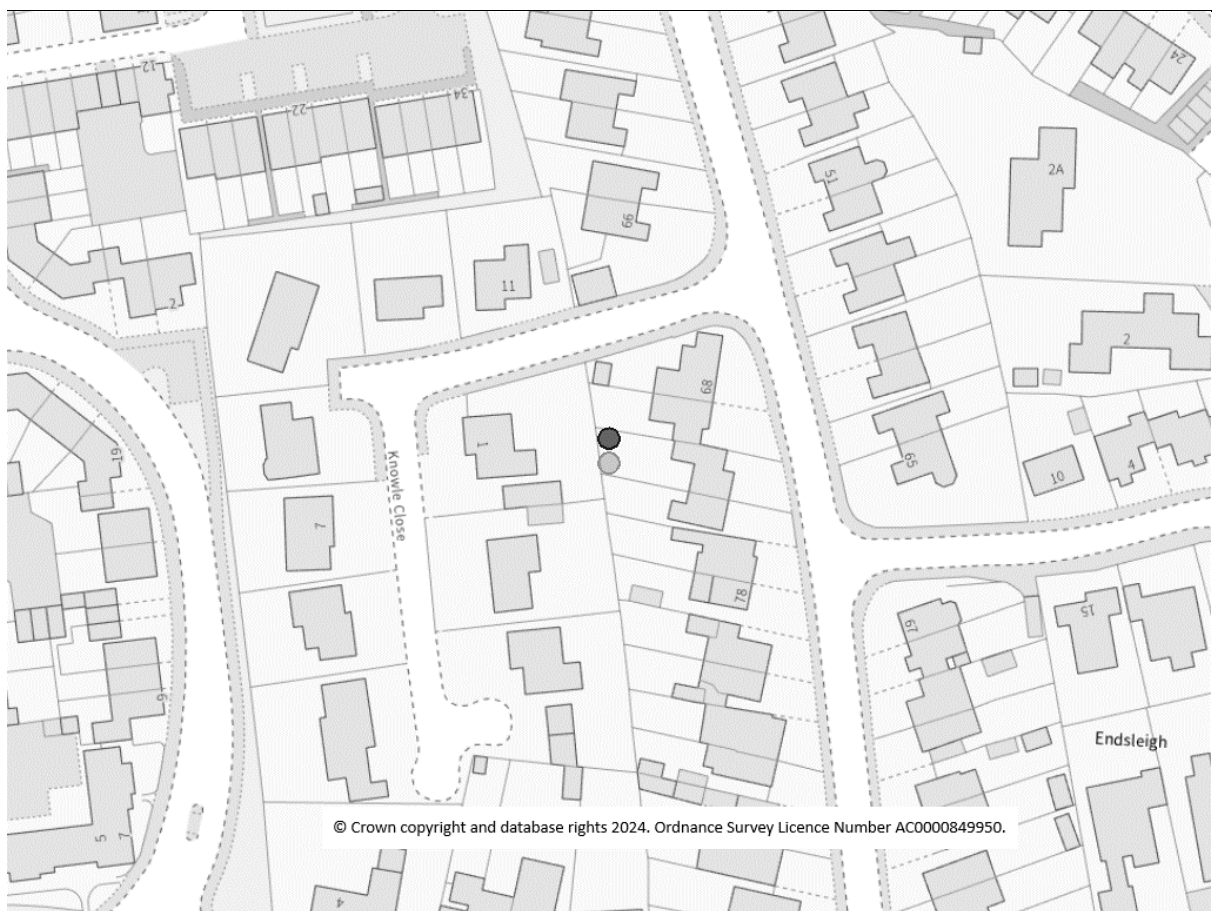
## Agenda Item 1

### Tree Preservation Order: 24/00009/TPO

Grid Ref: 301450 : 107134

Location: 72 Langlands Road  
Cullompton  
Devon  
EX15 1JB

Proposal: Tree Preservation Order for 2 Birch trees



## **TREE PRESERVATION ORDER: 24/00009/TPO**

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

#### **Reason for Report:**

Due to two objections received from Mr & Mrs Peach

#### **RECOMMENDATION**

That the Tree Preservation Order 24/00009/TPO is confirmed.

#### **Relationship to Corporate Plan:**

The proposal impacts upon the Corporate aim of 'Protecting the natural environment'

#### **Financial Implications:**

None

#### **Legal Implications:**

Tree Preservation Orders are made under the Town and Country Planning Act 1990 as amended by the Town and Country Planning (Tree Preservation) (England) Regulations 2012. Local Planning Authorities can make a Tree Preservation Order if it appears to them to be expedient in the interests of amenity to make provision for the preservation of trees or woodland in their area.

#### **Risk Assessment:**

None

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

1. The landowners have been notified of the imposition of the Tree Preservation Order and provided with the opportunity to object to its confirmation.

#### **PROPOSAL:**

Tree Preservation Order for 2 Birch trees

#### **RELEVANT SITE HISTORY/DESCRIPTION:**

**89/01312/FULL** - PERMIT date 24th July 1989  
Erection of extension

## AMENITY EVALUATION:

1. Size	Score	Notes
1 Very small 2-5m <sup>2</sup>	4.5	<p>The larger birch of the two is estimated to have a height of 12m and a crown spread of 8m.</p> <p>The smaller birch is estimated to have a height of 9m and a crown spread of 4m.</p> <p>As a result the two trees fall within two different size range in terms of amenity valuation.</p>
2 Small 5-10m <sup>2</sup>		
3 Small 10-25 <sup>2</sup>		
4 Medium 25-50m <sup>2</sup>		
5 Medium 50-100m <sup>2</sup>		
6 Large 100-200m <sup>2</sup>		
7 Very large 200m <sup>2</sup> +		

2. Life expectancy	Score	Notes
1 5-15 yrs	2	<p>The two trees were planted in 1978, thus nearly 50 years old and viewed as early-mature. It would be anticipated in their current situation they could continue to contribute to the local area for a further 40 years</p>
2 15-40 yrs		
3 40-100yrs		
4 100yrs +		

3. Form	score	Notes
-1 Trees which are of poor form	0.5	<p>The larger birch tree is viewed of average form, forming a twin stem from ground level. The main stem is of typical form and is upright. The second stem is viewed as inferior and noted with a lean of 20-30% Potentially would have benefited from being pruned/removed when the tree was younger.</p> <p>The smaller birch tree is inferior to the larger birch resulting in suppressed form. Informing the tree is below average from.</p>
0 Trees of not very good form		
1 Trees of average form		
2 Trees of good form		
3 Trees of especially good Form		

4. Visibility	Score	Notes
0 Trees not visible to public	3	<p>The trees are growing within the rear garden of 72 Langlands Road Cullompton and have good visibility from the highway scene of Knowle Close that services eleven properties. The upper crown can also be viewed along Langlands Road. A significant residential road that services many residential properties and connects to a main trunk Road.</p> <p>As the trees are visibly distinct in numerous views from the highway and stands well above most of the other garden trees. For these reasons it is awarded a higher visibility value than what would be typically associated.</p>
1 Trees only seen with difficulty or by a very small number of people		
2 Back garden trees, or trees slightly blocked by other features		
3 Prominent trees in well frequented places		
4 Principal features in a public area.		

5. Other trees in the area	Score	Notes
0.5 Wooded (70% = 100+ trees)	3	<p>There are a number of ornamental conifers and broadleaf shrubs that are visible in the immediate residential area. However, the presence of larger broadleaf trees that contribute to the wider street scene are few.</p>
1 Many (30% = 10+ trees)		
2 Some (10% = 4+trees)		
3 Few (<10% = 1+trees)		
4 None		

6. Suitability to area	Score	Notes
-1 Unsuitable	3	Trees are situated in the rear garden space of 72 Langlands Road Cullompton and provide pleasant buffering of a residential housing environment.
1 Just suitable		
2 Fairly suitable		
3 <b>Particularly suitable</b>		
4 Very suitable		

7. Future amenity value	Score	Notes
0 Potential already recognised	1	The two trees have some potential to put on further growth that may increase their visibility in the local setting.
1 <b>Some potential</b>		
2 Medium potential		
3 High potential		

8. Tree influence On Structures	Score	Notes
-1 Significant	1	No clear and obvious issue except for seasonal leaf and seed fall.
0 Slight		
1 <b>Insignificant</b>		

9. Added factors	Score	Notes
1 Rare	0	n/a
1 Screening unpleasant view		
1 Relevant to the Local Plan		
1 Historical association		
1 Considerable wildlife value		
1 Veteran tree status		

*If more than one factor relevant maximum score can still only be 2.*

10. Notes and total score	Score	Notes
Not / Reasonable for inclusion within the TPO (>15 Merits consideration)	18	Collectively the two trees merit protection with a score of 18.  Individually T1, the smaller birch if assessed on its own merit would score 16 and T2 the larger birch tree is assessed on its own merit would score 20. Informing a TPO would still be reasonable for both trees.

## REPRESENTATIONS:

The provisional Tree Preservation Order was made on the 09/10/2024 following the request by the owner of trees due to a letter requesting significant crown reductions works to the two trees that would ultimately result in their demise, also informing trespassing roots could be cut back. Following an amenity evaluation on the 21/08/24 it was determined the trees merited protection, and reviewing the letter requesting a level of tree works, it was deemed expedient to serve a Tree Preservation Order. Also the owner of the trees want to ensure they are protected once a time comes when they are no longer around.

Following notice of the provisional Tree Preservation Order two objections were received by Mr Peach and Mrs Peach, both dated 01/11/2024, whom are neighbours to 72 Langlands Cullompton and were the authors of the letter requesting significant tree works.

## MAIN ISSUES:

The issues raised in the two objection letters are summarised and addressed as follow:

1. The two trees are in the back garden of 72 Langlands Road and are hardly visible or accessible to the general public and do not provide any amenity value.

Response:

Though the two trees are in the back garden of 72 Langlands Road they are visibly distinct in numerous views from the highway as they stand well above most of the other garden trees in the local area.

2. Silver birch is totally unsuitable for an urban environment, The RHS state they could grow to 25m in height with a spread of 8m.

Response:

From a tree stand point, a tree growing in a residential garden setting would not be viewed as an urban environment unsuitable for Silver birch trees. Silver birch tree are a native to England and are quite a common tree in a residual housing estates. Though the tree have the potential to grow to 25m in height, they seldom achieve 20m in height from my experience. It is also worth noting, larger trees tend to provide the greatest benefits in terms of eco-system services and amenity value.

3. A Tree Preservation Order places a bureaucratic process on the owner to ask for permission to carry out suitable tree work on the tree.

Response:

It's important to recognise that a Tree Preservation Order should not be viewed as a bureaucratic tool to prevent tree works being carried out in a suitable timeframe. A Tree Preservation Order is there to ensure that proposed tree works are reasonable, suitable and adequately justified. The timeframe for a Tree Preservation Order application is only 8 weeks. It is also worth noting the owner of the tree is aware of the process and is supportive of Tree Preservation Order as they requested it.

4. A branch of the smaller tree crosses the trunk, so is not a good specimen. Where the trees were reduced in size it is felt wildlife if any would not be affected.

Response:

The form of the two trees has been addressed in the amenity evaluations and the small tree is noted as below average form. However, in taking into account other factors the tree meets the criteria of the Tree Preservation Order.

As the silver birch tree is a native to the UK its wildlife value is high providing habitat for more than 300 insect species as informed by the Woodland Trust. Pruning works could have a severe impact where it was to lead to the demise of the tree.

5. Seeds of the trees roots within gravel and the leaves create a compost in the gravel and litter the lawn.

Response:

Though it is recognised there is some seasonal nuisance from seed and leaf fall, these do not provide justification for reduction works as these would fall within seasonal garden maintenance, or a rationale for not protecting a tree. The effected

party may wish to review their garden surface to allow for easier maintenance.

**SUMMARY:**

The two birch trees provide good amenity value to the local landscape and are likely to continue contributing to the landscape in the medium-term. The issue raised by Mr and Mrs Peach whom are the neighbours who have objected to the Tree Preservation Order being confirmed, have been reviewed. The points raised are not sufficient to outweigh the contribution from the two trees. It is recommended that the TPO be made.

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



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

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

<i>Item No.</i>	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>	<i>Expected Decision Level</i>	
							<i>Delegated</i>	<i>Committee</i>
1	6	17/03/2025	24/01688/MFUL	Engineering works to reprofile redundant manege and associated landscaping works	Land at NGR 269828 103850 (Barons Wood Equestrian Centre) Zeal Monachorum Devon	Miss Helen Govier	DEL	
2	9	28/02/2025	24/01723/MFUL	Variation of condition 2 of 20/01263/MFUL (Erection of 22 dwellings with parking, landscaping and construction of new access) to allow substitution of approved plans for the alteration of the north western site boundary treatment and the removal the approved footpath link onto Tumbling Fields Lane	Allotments Tumbling Field Lane Tiverton Devon	Mr John Millar	DEL	

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## LIST OF APPEAL DECISIONS FROM 20<sup>th</sup> November 24 to 31<sup>st</sup> January 25

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
21/01576/MOUT	Outline for the extension of existing business park for up to 3.9ha of employment land and up to 150 dwellings with associated infrastructure and access with all other matters reserved	Land at NGR 298976 112882 (Hartnoll Farm) Tiverton Devon	Refuse permission	Committee Decision	Refuse permission	Public Inquiry	Appeal Dismissed
24/00493/FULL	Erection of an agricultural workers dwelling to replace static caravan	Greenacres Cheriton Bishop Exeter Devon EX6 6HW	Refuse permission	Delegated Decision	Refuse permission	Informal Hearing	Appeal Dismissed

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